

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

JUNE M. HAYES, etc.,)
)
Plaintiff,)
)
vs) Case No. 383210

JUDSON RETIREMENT)
COMMUNITY, et al.,)
)
Defendants.)
)

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DEPOSITION OF LISA ANN ATKINSON, M.D.

FRIDAY, MAY 5, 2000

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The deposition of LISA ANN ATKINSON, M.D.,
the Defendant herein, called by counsel on behalf
of the Plaintiff for examination under the
statute, taken before me, Vivian L. Gordon, a
Registered Diplomate Reporter and Notary Public
in and for the State of Ohio, pursuant to
agreement of counsel, at University Geriatric
Care Center, 12200 Fairhill Road, Cleveland,
Ohio, commencing at 1:00 o'clock p.m. on the day
and date above set forth.

1 APPEARANCES:

2
3 On behalf of the Plaintiff
4 Becker & Mishkind
5 BY: JEANNE M. TOSTI, ESQ.
6 Skylight Office Tower Suite 660
7 1220 W. 2nd Street
8 Cleveland, Ohio 44113

9
10 On behalf of the Defendant O'Toole
11 Roetzel & Andress
12 BY: R. MARK JONES, ESQ.
13 One Cleveland Center 10th Floor
14 1375 East Ninth Street
15 Cleveland, Ohio 44114

16
17 On behalf of the Defendant Judson Retirement
18 Community
19 Slater & Zurz
20 BY: BRUCE S. GOLDSTEIN, ESQ.
21 One Cascade Plaza Suite 2210
22 Akron, Ohio 44308-1135

23
24 On behalf of the Defendant Irvin
25 Davis & Young
26 BY: JAN L. ROLLER, ESQ.
27 1700 Midland Building
28 Cleveland, Ohio 44115

29
30 On behalf of the Defendant Atkinson
31 Weston, Hurd, Fallon, Paisley & Howley
32 BY: MARTIN J. FALLON, ESQ.
33 2500 Terminal Tower
34 Cleveland, Ohio 44113-2241

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1 LISA ANN ATKINSON, M.D., 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 LISA ANN ATKINSON, M.D.

7 BY MS. TOSTI:

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

10 A. Lisa Ann Atkinson.

11 Q. And your home address?

12 A. **38122** Dodd's Hill in Willoughby
13 Hills.

14 Do you want a zip?

15 Q. Yes.

16 A. **44094.**

17 Q. Is that a single-family home?

18 A. Yes.

19 Q. What is your current business address?

20 A. **12200** Fairhill Road, Cleveland, **44120.**

21 Q. And in November of **1997**, was your
22 business address the same?

23 A. The same.

24 Q. Who is your current employer?

25 A. Case Western Reserve University and

1 University Physicians, Inc.

2 Q. University Physicians, Incorporated is
3 a medical group practice that you belong to?

4 A. Yes.

5 Q. In November of 1997, were those two
6 entities your employers also?

7 A. No.

8 Q. In 1997, November of '97, who was your
9 employer?

10 A. University Primary Care Practices.

11 Q. Were you employed by Case Western
12 Reserve at all at that time?

13 A. No.

14 Q. Is University Primary Care Practices
15 related in any way to University Physicians,
16 Incorporated?

17 A. They are separate physician groups
18 affiliated with University Hospital.

19 Q. **So** they didn't change names or
20 anything?

21 A. No.

22 Q. And other than University Primary Care
23 Practice, in November of '97, did you provide
24 professional medical services for any other
25 entity?

1 A. No, I did not.

2 Q. Have you ever had your deposition
3 taken before?

4 A. Yes, I have.

5 Q. How many times?

6 A. Once.

7 Q. And why was your deposition being
8 taken?

9 A. There was a guardianship dispute in a
10 family and I was the physician for the patient.

11 Q. I am going to go through a few of the
12 ground rules for depositions. I am sure counsel
13 has had a chance to talk with you. This is a
14 question and answer session. It's under oath.

15 It's important that you understand the
16 questions that I ask you. If you don't
17 understand them, just ask me and I'll be happy to
18 repeat the question or to rephrase it. Otherwise
19 I'm going to assume that you understood my
20 question and that you are able to answer it.

21 It's important that you give all of
22 your answers verbally because our court reporter
23 can't take down head nods or hand motions.

24 At some point if you would like to
25 refer to the medical records that I see counsel

1 has provided you with, feel free to do so.

2 Also, at some point, one of the
3 defense counsel here may choose to enter an
4 objection. You are still required to answer my
5 question unless counsel instructs you not to do
6 so.

7 Do you understand those instructions?

8 A. Yes, I do.

9 Q. Now, in November of 1997, what was
10 your relationship with Judson Retirement
11 Community?

12 A. I provided coverage for patients
13 admitted there on a part-time basis.

14 MS. ROLLER: Doctor, I am going to ask
15 you to speak up.

16 (Thereupon, a discussion was had off
17 the record.)

18 Q. Were you a staff physician at Judson
19 Retirement Community?

20 A. Yes.

21 Q. Did you have any type of an employment
22 relationship with Judson Retirement Community?

23 A. No.

24 Q. Did Judson Retirement Community
2E provide any remuneration to you for the services

1 you were providing at Judson?

2 A. No.

3 Q. Did you receive payment through the
4 patients into your medical group practice or to
5 you directly for the services you provided?

6 A. At Judson?

7 Q. For the services that you provided at
8 Judson, were you paid?

9 A. In general?

10 Q. Yes.

11 A. I billed for the services.

12 Q. And billed the patients?

13 A. Right, billed the patients.

14 Q. Have you ever been named as a
15 defendant in a medical negligence case other than
16 in this one?

17 A. No, I have not.

18 Q. Have you ever acted as an expert in a
19 medical/legal proceeding?

20 A. No, I have not.

21 Q. Have you ever given trial testimony in
22 any type of a medical/legal case? Aside from the
23 guardianship case.

24 A. Well, I got subpoenaed in another
25 guardianship case on another patient.

1 MR. FALLON: She wants to know if you
2 testified at trial or in a courtroom.

3 THE WITNESS: I had to go to the court
4 for that.

5 Q. That was a guardianship proceeding?

6 A. Yes.

7 Q. Have you ever had your hospital
8 privileges called into question, suspended or
9 revoked?

10 A. Only for failure to complete medical
11 records.

12 Q. Well, tell me a little bit about that.
13 When did that occur?

14 A. This winter.

15 Q. What was the problem with the medical
16 records that were questioned?

17 MR. FALLON: Objection.

18 A. There are rules about the time -- let
19 me think.

20 There are rules about how frequently
21 you have to go in to sign the records if there
22 are unfinished or unsigned reports, and if you
23 can't make it in that time frame, they will
24 suspend you until you get there to sign them.

25 Q. How long were you suspended?

1 A. I can't remember.

2 Q. Was it more than a month?

3 A. No.

4 Q. What facility suspended your
5 privileges?

6 A. University Hospital.

7 Q. Other than that one instance, did you
8 ever have any other problems --

9 A. No.

10 Q. -- in regard to medical records and
11 getting them completed?

12 A. I think it's happened twice, medical
13 records.

14 Q. Were you suspended twice?

15 A. Yes.

16 Q. Are you in good standing now with
17 University Hospital?

18 A. Yes.

19 Q. Have you ever taught or given formal
20 presentations on the subject matter of pulmonary
21 emboli or deep vein thrombosis?

22 A. No.

23 **a.** Tell me what you have reviewed in
24 preparation for this deposition.

25 A. I read my notes and the admission

1 orders from the Judson charts and the depositions
2 of the other defendants.

3 Q. Now, I would like you to specifically
4 tell me which depositions you read. Did you read
5 Dr. O'Toole's?

6 A. No. I glanced through Dr. O'Toole's.

7 Q. Did you read Dr. Irvin's?

8 A. Yes, I read Dr. Irvin's.

9 Q. How about Nurse Thill?

10 A. I read half of Nurse Thill's.

11 Q. And Nurse Hayes'?

12 A. I read that one.

13 Q. Is there a reason why you read half of
14 Nurse Thill's and all of Nurse Hayes'?

15 A. Time.

16 Q. You had access then to the Judson
17 Retirement Community medical records of Mr.
18 Hayes; correct?

19 A. Yes.

20 Q. Did you have any additional records
21 from other institutions, such as the Hillcrest
22 Hospital records of Mr. Hayes from his knee
23 replacement surgeries?

24 A. No.

25 Q. Dr. Hissa's office records?

1 A. No.

2 Q. The Cleveland EMS records?

3 A. No.

4 Q. Any Cleveland Clinic records?

5 A. No.

6 Q. Death certificate?

7 A. No.

8 Q. Have you seen the autopsy on Mr.
9 Hayes?

10 A. No.

11 Q. Since this case was filed, have you
12 discussed this case with any physicians?

13 A. No.

14 Q. Have you talked to Dr. O'Toole or Dr.
15 Irvin?

16 A. Well, I have not spoken to Dr. Irvin,
17 and Dr. O'Toole and I talked about the fact that
18 the case exists, but not in any detail about the
19 facts of the case.

20 Q. And other than with counsel, have you
21 discussed this case with anyone else?

22 A. No.

23 Q. Aside from what is in the medical
24 records of Judson Retirement Community, **do** you
25 have any personal notes or personal file on this

1 case?

2 A. No.

3 Q. Have you ever generated any such
4 notes?

5 A. No.

6 Q. Do you limit your practice to any
7 particular area of medicine?

8 A. Geriatrics.

9 Q. Is there a textbook in your field of
10 medicine or practice that you consider to be the
11 best or the most reliable?

12 MR. FALLON: Objection.

13 A. No.

14 Q. As you sit here today, are there any
15 specific publications that you believe have
16 particular relevance to the issues in this case?

17 A. No.

18 Q. Have you ever participated in any
19 research dealing with pulmonary emboli or deep
20 vein thrombosis?

21 A. No.

22 Q. You are currently licensed to practice
23 medicine in the State of Ohio; correct?

24 A. Yes.

25 Q. And were you also so licensed in

1 November of 1997?

2 A. Yes.

3 Q. Are you currently licensed in any
4 other state?

5 A. No.

6 Q. Have you ever been licensed in any
7 other state?

8 A. Before I moved to Ohio, I worked in
9 Massachusetts, **so** I was licensed there.

10 Q. Has your license ever been suspended,
11 revoked or called into question in any state?

12 A. No.

13 Q. Doctor, could you give me just a
14 general overview or description of your current
15 medical practice?

16 A. Today?

17 Q. Yes.

18 A. I see patients in a primary care
19 capacity at the Elder Health Center, which is an
20 outpatient department of University Hospital. I
21 also do geriatric assessments at that same
22 clinic.

23 I see long-term care residents at
24 another nursing home, Eliza Bryant Village, and
25 on a rotating basis, for short periods of time, I

1 take care of inpatients at University Hospital.

2 Q. In November of 1997, could you give me
3 an overview of what your practice was like?

4 A. It was the same; at the Elder Health
5 Center, and at the hospital on a rotating basis.
6 And at that time, I saw patients, long-term care
7 patients at Keithly House and then occasional
8 patients at Judson.

9 Q. Now, doctor, I have a copy of your
10 curriculum vitae that counsel provided to me, and
11 I have marked it as Plaintiff's Exhibit 1.

12 I would just like you to look at it
13 and identify that document for us. Is that, in
14 fact, your curriculum vitae?

15 A. Yes, it is.

16 Q. And is it current and up to date or
17 are there any corrections or additions you would
18 like to make to it?

19 A. Well, under committee and program
20 appointments, I'm not on the advisory committee
21 for rehab services.

22 MR. FALLON: So she knows, you are
23 referring to page two?

24 THE WITNESS: Yes.

25 A. And also, Prudential senior care

1 quality improvement committee I think has been
2 renamed since Prudential and University no longer
3 have a relationship. But I am on a similar
4 committee.

5 Otherwise, no changes.

6 Q. Now, doctor, you graduated from
7 medical school in 1988; is that right?

8 A. That's correct.

9 Q. You did a three-year internship and
10 residency in internal medicine from '88 to '91;
11 is that correct?

12 A. That is correct.

13 Q. And I see between 1991 and '93, you
14 were pursuing another degree. What field was
15 that in?

16 A. Public health.

17 Q. Was there a particular reason why you
18 were pursuing a degree in public health?

19 A. It was part of my fellowship program
20 in geriatric medicine.

21 Q. And between 1991 and '93, according to
22 your curriculum vitae, you were also in a
23 geriatric medicine fellowship?

24 A. That's correct.

25 Q. And that was at Boston University

1 Medical Center.

2 A. Correct.

3 Q. Could you just describe generally the
4 training that you received in that program?

5 MR. FALLON: Objection. Go ahead.
6 Generally.

7 A. It's involved. It was a two-year
8 program. The outpatient experience was mostly
9 home based. So we made home visits on homebound
10 elders in the Boston area and provided primary
11 care.

12 I was also assigned to a
13 rehabilitation hospital for one year to take care
14 of the inpatients there, and then various other
15 outpatient experiences at different clinics to
16 get a wide variety of experiences. And at the
17 same time I was in the school of public health.

18 Q. Did you work with attending physicians
19 when you were in that program?

20 A. Yes, I did.

21 Q. When did you relocate to the Cleveland
22 area?

23 A. I moved in September of '94.

24 Q. What was the reason that you relocated
25 here?

1 A. My husband and I wanted to move back
2 to the Cleveland area. We were done with our
3 training.

4 Q. Are you originally from Cleveland?

5 A. My husband is.

6 Q. Do you currently have a professional
7 relationship with the geriatric fellowship
8 program at Case Western Reserve University School
9 of Medicine?

10 A. Yes.

11 Q. What is your relationship?

12 A. I'm an attending.

13 Q. Well, what is it that you do in regard
14 to the geriatric fellowship program?

15 A. Depending on the location of where the
16 care is being provided, you work with the fellow
17 in taking care of the patients. There are also
18 lectures.

19 Q. Do you work with any of the fellows at
20 Judson Retirement Community, currently?

21 A. No.

22 Q. In November of 1997, was your
23 relationship with the geriatric fellowship
24 program the same?

25 A. Yes.

1 Q. And at that time, were you working
2 with some of the fellows at Judson Retirement
3 Community?

4 A. Yes.

5 Q. In November of '97, did you have
6 admitting privileges to Judson Retirement
7 Community?

8 A. Yes.

9 Q. Now, doctor, you are board certified
10 in internal medicine; correct?

11 A. Correct.

12 Q. Did you pass that certification on the
13 first try?

14 A. Yes, I did.

15 Q. You also have additional
16 qualifications in geriatric medicine; is that
17 correct?

18 A. Yes.

19 Q. Was there any additional requirements
20 that you had to fulfill in order to obtain those
21 added qualifications in geriatric medicine?

22 A. In order to sit for the test, which is
23 how you get the certificate, you have to complete
24 a certified geriatric fellowship and then pass
25 the test, which isn't called a board, but it's

1 basically the same thing.

2 Q. Did you pass that on your first try?

3 A. Yes, I did.

4 Q. Aside from the publications listed on
5 your curriculum vitae, do you have any other
6 publications that are currently in progress?

7 A. No.

8 Q. Do any of the publications listed on
9 your curriculum vitae deal with deep vein
10 thrombosis or pulmonary emboli?

11 A. No.

12 Q. Doctor, what is deep vein thrombosis?

13 A. It's a clot in the vein in the leg, or
14 any deep vein.

15 Q. What would be the risk factors for
16 deep vein thrombosis?

17 A. Postsurgical, bed rest, infection.
18 Those are the main ones.

19 Q. Would you agree that total knee
20 replacement, not just surgery, but total knee
21 replacement is even an increased risk over just
22 surgery?

23 MR. FALLON: Objection.

24 A. How much increased risk?

25 Q. Is total knee replacement surgery

1 known to have increased risk for deep vein
2 thrombosis as compared to, say, an abdominal
3 surgery?

4 A. Yes.

5 Q. What is Homans' sign?

6 A. It's where you dorsiflex the foot and
7 ask if that elicits pain.

8 Q. If a patient has just had bilateral
9 total knee replacement and complains of pain in
10 one calf on elicitation of the Homans' sign,
11 should that raise a level of concern for deep
12 vein thrombosis?

13 MR. FALLON: Objection.

14 A. The Homans' sign is neither sensitive
15 nor specific for deep vein thrombosis.

16 Q. So you don't feel that it is an
17 appropriate assessment tool in evaluating a
18 patient for deep vein thrombosis?

19 A. No.

20 Q. What are the signs and symptoms of the
21 deep vein thrombosis?

22 A. In the lower extremity?

23 Q. Yes.

24 A. Swelling, redness, pain.

25 Q. Can a patient be asymptomatic and

1 still have a deep vein thrombosis?

2 A. Yes.

3 Q. And how is deep vein thrombosis in the
4 lower extremities diagnosed?

5 A. Usually by noninvasive tests called a
6 doppler or ultrasound.

7 Q. **So** doctor, would you agree that an
8 imaging study or a doppler study is necessary in
9 order to diagnose or rule out deep vein
10 thrombosis in a patient?

11 A. Yes.

12 Q. And you would agree that you can't
13 rule out deep vein thrombosis strictly on a
14 physical examination of the patient; correct?

15 A. Yes.

16 Q. How is deep vein thrombosis treated?

17 A. Usually if it's an acute thrombus,
18 it's treated with intravenous heparin followed by
19 coumadin.

20 Q. Any other methods?

21 A. **If** a person is unable to be
22 anticoagulated for other reasons, a filter can be
23 placed in the inferior vena cava.

24 Q. If a patient is diagnosed with deep
25 vein thrombosis, is there any limitation in

1 activity that's placed upon the patient
2 initially?

3 A. Usually a patient is at bed rest if
4 it's a diagnosis of acute thrombus.

5 Q. And why would they place a patient on
6 bed rest initially?

7 A. To prevent dislodging the pulmonary
8 embolus.

9 Q. And what's the purpose **of**
10 anticoagulation in treating **DVT**?

11 A. One, to resolve the clot, and to
12 prevent further clotting.

13 Q. Can thrombolytics be used with deep
14 vein thrombosis to resolve it?

15 A. Not that I'm aware of. I guess -- I'm
16 sorry, can you say the question again?

17 Q. I said, can thrombolytics be used in
18 some instances to resolve deep vein thrombosis in
19 the lower extremities?

20 MR. FALLON: Objection. Go ahead. If
21 that's in your area of expertise.

22 Q. If you know, doctor.

23 A. I don't know.

24 Q. Doctor, if you place a patient that
25 has deep vein thrombosis on thrombolytic -- I'm

1 sorry, on heparin therapy, is one of the purposes
2 to prevent extension of a clot?

3 A. That's what I said.

4 Q. And what are the complications
5 associated with deep vein thrombosis?

6 A. Did we ask that already too?

7 Q. No.

8 MR. FALLON: You can go ahead and tell
9 her again.

10 A. Pulmonary embolus is the major one.
11 You could get local problems, pain, swelling.

12 Q. What is a pulmonary embolism?

13 A. A clot that has dislodged from a deep
14 vein and lodged in the artery of the lungs.

15 Q. Doctor, isn't it true that deep vein
16 thrombosis sometimes can cause a single clot to
17 be dislodged or a shower of clots to be
18 dislodged?

19 A. Yes. Well, did you say can they cause
20 it?

21 Q. That was probably a poorly worded
22 question.

23 A. It can happen.

24 Q. In a patient that develops pulmonary
25 emboli from a deep vein thrombosis, in some

1 instances can that pulmonary emboli be a single
2 clot?

3 A. Yes.

4 Q. And in some instances can it be a
5 shower of clots?

6 A. Yes.

7 Q. Do you know what percentage of
8 untreated deep vein thrombosis progresses to
9 pulmonary emboli?

10 A. No, I do not.

11 Q. What would be the signs and symptoms
12 of a patient that was having a pulmonary emboli?

13 A. Chest pain and shortness of breath.

14 Q. Anything else?

15 A. Those are the main symptoms.

16 Q. Is hemoptysis ever associated with
17 pulmonary emboli?

18 A. It can be.

19 Q. If a patient is developing pulmonary
20 emboli, what effect would that have on the
21 patient's blood oxygen levels?

22 MR. FALLON: Objection.

23 A. They would be lower, the blood oxygen
24 would be lower.

25 Q. The appropriate term, would be that

1 hypoxia?

2 A. Yes.

3 Q. And in some instances, pulmonary
4 emboli can cause blood oxygen levels to fall
5 drastically; correct?

6 A. Yes.

7 Q. **Do** low blood oxygen levels have any
8 effect on a patient's mental status?

9 A. Yes.

10 Q. And what effect would that have?

11 A. 'Well, it can cause diminished capacity
12 for any cognitive activity.

13 Q. Can it sometimes cause irritability
14 and confusion in a patient?

15 A. It can cause delirium, yes.

16 Q. And you would agree that in some
17 instances pulmonary emboli can **be** lethal?

18 A. Yes.

19 Q. Doctor, unless I tell you differently,
20 for the balance of this deposition, I'm referring
21 to what happened and what was in effect in
22 November of **1997**. If I mean **a** different time
23 period, I'll tell you that. **So** my questions are
24 centered on November of **1997**.

25 **So** in November of **1997**, were **you**

1 making regular visits to Judson Retirement
2 Community as an attending staff physician?

3 A. Yes.

4 Q. How often did you go to Judson
5 Retirement Community in that time period,
6 approximately?

7 A. Once a week.

8 Q. And if you had patients in the rehab
9 area of Judson in that time period, you would see
10 those patients one time during the week?

11 A. Yes.

12 Q. Did you go on any particular day of
13 the week?

14 A. I believe I was there on Mondays.

15 Q. Now, if the patients needed something
16 during the week, after you visited on Monday,
17 what process were the nurses supposed to use in
18 order to obtain orders for a patient?

19 MR. FALLON: You are asking now about
20 orders? You said if that patient needs
21 something?

22 MS. TOSTI: Correct. That requires a
23 doctor's order. If it doesn't require a doctor's
24 order, I'm sure the nurses probably handle it
25 themselves. So something they need to consult a

1 doctor about.

2 MR. FALLON: All right.

3 A. They would either page me during the
4 day, sometimes at night, or page the on-call
5 physician, or because our group provided coverage
6 there, might ask the doctor or the nurse
7 practitioner who was there about any particular
8 problem.

9 Q. Now, the doctor that was there -- I'm
10 aware that there was geriatric fellows that had
11 on-call responsibilities. Was there someone else
12 that was assigned to Judson at that time that was
13 available to the nurses to provide care to the
14 patients?

15 A. Well, there have always been several
16 doctors who provided -- attending physicians who
17 provided care. I don't remember specifically
18 which ones were there in November of '97.

19 Q. So any attending could take care of a
20 problem that anybody else's patient was having at
21 Judson?

22 A. Yes.

23 Q. And were these other physicians in
24 your medical group practice?

25 A. Yes.

1 Q. So you kind of shared responsibility
2 for the patients that were at Judson?

3 A. Yes.

4 Q. Were you providing any type of
5 clinical supervision to the geriatric fellows
6 that were providing care at Judson in November of
7 '97?

8 MR. FALLON: Do you understand that
9 question?

10 THE WITNESS: Not really. Can you
11 rephrase it?

12 Q. Well, what is your understanding as to
13 the duties and responsibilities of the geriatric
14 fellows at Judson Retirement Community in
15 November of 1997?

16 A. And you are referring to the ones who
17 were assigned for a month rotation there?

18 Q. Let's break it down and talk about the
19 one month assignment.

20 A. I didn't do my fellowship here, so I
21 didn't do the same rotation, and I didn't work as
22 much at Judson as the other physicians did, so I
23 don't know all the details. But what I
24 understand is when they weren't on another
25 assigned clinic, they were at Judson seeing

1 patients, either in the long-term care or the
2 rehab facility, with the attendings who were
3 there.

4 Q. Well, I would like to talk about in
5 regard to your patients at Judson and what the
6 geriatric fellows did in regard to your
7 patients.

8 A. I don't remember how much interaction
9 they had. What I do know is if there was a
10 problem, I could call the doctor who was there
11 for the day or the geriatric fellow and ask them
12 to look into something.

13 Q. Were they required to see your
14 patients at any particular interval?

15 A. No.

16 Q. So they didn't make routine rounds on
17 your patients?

18 A. Not routine. Sometimes the medical
19 office secretary would make a list of patients
20 for the fellow or attending who was there that
21 day to see, and they might include my patients,
22 if that patient had been seen for a little bit,
23 or if the nurses asked.

24 Q. But you didn't have an expectation
25 that the geriatric fellow would go and see your

1 patient on a regular basis?

2 A. That is correct.

3 Q. And you didn't expect the geriatric
4 fellows to review the admission orders on your
5 patients on a regular basis?

6 A. That's correct.

7 Q. And did you expect or were the
8 geriatric fellows required to follow up on orders
9 that were written on patients?

10 A. Orders written by who? I'm sorry.

11 Q. By the attending physicians.

12 A. Not by them. No.

13 THE WITNESS: I don't know if I
14 understood everything.

15 MR. FALLON: You better have it
16 rephrased if you didn't understand the question.

17 Q. It's important that you understand,
18 and if you don't, it may be that I just didn't
19 state it very well.

20 My question was, if there are orders
21 on the chart, did the geriatric fellow have any
22 duty to routinely look at the orders, see that
23 they were carried out, and to report back to the
24 attending?

25 A. In what context?

1 Q. In a routine, regular context; making
2 rounds on patients.

3 MR. FALLON: Do you understand it
4 yet?

5 THE WITNESS: No.

6 MR. FALLON: Then don't answer it.

7 THE WITNESS: Okay.

8 Q. I would like to know if the geriatric
9 fellow had a duty or responsibility to, in your
11 patients, review the orders that were written and
12 to ascertain whether those orders were carried
13 out for your patients.

14 MR. FALLON: I am going to object
15 because she said under what circumstances, and I
16 think that's what needs clarification.

17 Q. I am saying routinely, all the time,
18 all the orders.

19 A. No. But I will clarify it since you
20 can't.

21 If the patient is being seen by the
22 fellow physician, yes. If the patient is not
23 being evaluated by the fellow physician, no.

24 Q. What do you consider evaluated by the
25 fellow physician?

 A. Well, if he or she sees the patient,

1 does an exam, writes a note.

2 Q. Then he has a duty to review all the
3 previous orders on the patient?

4 A. Yes.

5 Q. Did you, in Mr. Hayes' case, ever
6 instruct any of the geriatric fellows as to
7 specific things that you wanted done for Mr.
8 Hayes?

9 A. I specifically asked Dr. Irvin to see
10 Mr. Hayes on Wednesday. I don't know the date.

11 Q. Well, we will talk about that in a few
12 minutes.

13 And if a geriatric fellow saw one of
14 your patients, were they required to report back
15 to you as to what the findings were?

16 A. Not required, only if they had
17 questions or concerns.

18 Q. So you didn't have any routine setup
19 where they would see your patient and then you
20 would have a time where they would talk with you
21 later?

22 A. No.

23 Q. Now, the geriatric fellows also acted
24 as on-call physicians on the weekends and at
25 night; is that correct?

1 A. Yes.

2 Q. And what is your understanding as to
3 what their responsibilities were in regard to
4 your patients on evenings and on the weekends?

5 A. Well, if they got a call -- I'm sorry,
6 can I ask, do you want to strictly relate this to
7 Judson or any patient?

8 Q. Related to Judson and your patients.

9 A. They would take the call from the
10 nurse or the family and answer any questions. If
11 they had any concerns, they could always get
12 ahold of an attending. It wasn't always me, but
13 they could always get ahold of an attending.

14 Q. Did they have the option to contact
15 one of the other doctors in your medical group if
16 they had a question about a call that they
17 received from Judson?

18 A. An option? I'm sorry. They could
19 always call an attending, yes.

20 Q. And the attendings were other
21 physicians that were in your medical group?

22 A. Yes.

23 Q. How would an attending physician be
24 determined for a newly admitted patient at Judson
25 Retirement Community?

1 MR. FALLON: Objection. I mean, if
2 you know.

3 A. I don't know. I never know.

4 Q. Well, did you receive some new
5 patients from Judson Retirement Community?

6 A. Yes.

7 Q. How is it that you were designated as
8 a patient's attending physician at Judson?

9 A. The medical secretary gave me a list.

10 Q. Who is the person that designated you
11 as the attending? Who decided that a patient
12 would be yours?

13 A. I'm not sure where that decision was
14 made at Judson.

15 Q. Was that an arrangement that your
16 medical group practice had at Judson Retirement
17 Community, that your medical group practice would
18 take admissions from them?

19 A. Yes.

20 Q. Now, Dr. O'Toole indicated that there
21 was a rotating list of attendings, and as the
22 name came up, you would be assigned whatever
23 admission came in; is that correct? **Do** you agree
24 with that?

25 MR. FALLON: If you know.

1 A. I don't know what you mean by
2 rotating. It's not like, you know, we had five
3 doctors and we each took every fifth admission.
4 I know that didn't happen.

5 Q. I think Dr. O'Toole said that on a
6 particular day an attending would be assigned and
7 they would accept admissions that came in on that
8 day. Is that your understanding?

9 A. For the most part, yes.

10 Q. Well, if there is something that isn't
11 consistent with what I said, tell me what that
12 is.

13 A. Well, there is a time frame of 48
14 hours where you have to see a new admission who
15 comes to a subacute or rehab unit, and if there
16 were five admissions on one day but none
17 scheduled on the next, they might split up the
18 admissions. And certainly Mondays were busy
19 because of the weekend. So it wasn't strictly by
20 the day.

21 Q. Now, how would you be notified that
22 you were being designated as an attending
23 physician for a new patient that had just come
24 into Judson?

25 A. For me specifically?

1 Q. For you.

2 A. Usually when I came to Judson, I would
3 get the list from the secretary. If they came in
4 the same day, before I got there, the nurse might
5 call ahead of time with the orders to verify.

6 Q. And once you became aware of the fact
7 that you were designated as an attending for a
8 new admission, what would you do in regard to
9 that patient?

10 A. Well, I would see the patient and do a
11 history and physical and determine a plan of
12 care.

13 Q. How were admitting orders generated
14 for patients being transferred from an acute care
15 hospital?

16 A. There is a form called a transfer form
17 that usually accompanies the patient, and the
18 discharge physician fills that out with the
19 orders.

20 Q. Was there a requirement that orders
21 that were coming on the transfer form had to be
22 confirmed by a physician at Judson after the
23 patient was admitted?

24 A. I'm sorry, I was drifting a second.
25 I'm sorry.

1 Q. I said, was there a requirement that
2 orders coming from an acute care hospital had to
3 be confirmed with a physician after the patient
4 was admitted to Judson?

5 A. Yes.

6 Q. And were the geriatric fellows on call
7 permitted to confirm orders that were being
8 included on a transfer sheet with a patient
9 coming from an acute care hospital?

10 A. Yes.

11 Q. Are there any policies or procedures
12 at Judson that state how often a patient must be
13 seen by a physician in the rehab area?

14 A. I'm not aware of any.

15 Q. Now, once an order for diagnostic
16 study that's to be done at an outside facility
17 was written on the doctor's order sheet in the
18 chart, who had responsibility for scheduling the
19 test and making the appropriate arrangements for
20 that test?

21 A. The nurse or the secretary on the
22 unit.

23 Q. Prior to Mr. Hayes, had you ever cared
24 for a patient who had recently undergone total
25 knee replacement surgery?

1 A. Yes.

2 Q. Can you tell me just approximately how
3 many times you see that type of a patient?

4 MR. FALLON: Objection.

5 A. It would be a total guess.

6 Q. More than ten prior to the time that
7 you saw Mr. Hayes?

8 A. I'm sorry, more than ten in what
9 context?

10 Q. Prior to the time that you cared for
11 Mr. Hayes, had you cared for ten patients or more
12 that had had total knee replacement?

13 A. Yes.

14 Q. And would that be immediately after
15 surgery, within the first week of the time that
16 the patient had surgery?

17 A. Yes.

18 Q. And prior to Mr. Hayes, had you ever
19 cared for a patient that had had deep vein
20 thrombosis in his lower extremities?

21 A. Yes.

22 Q. How often in your practice, prior to
23 Mr. Hayes, would you say you saw patients with
24 deep vein thrombosis?

25 A. How often?

1 MR. FALLON: Objection.

2 Q. Yes.

3 A. I can't answer that question.

4 Q. Was that a diagnosis that you would
5 treat in your practice?

6 A. Yes.

7 Q. Have you had any patients in your
8 practice that have developed pulmonary emboli
9 from deep vein thrombosis?

10 A. While I was caring for them?

11 Q. Yes.

12 A. I can't recall any.

13 Q. And have you personally diagnosed
14 patients, either through ordering appropriate
15 testing or any other clinical data, have you
16 diagnosed patients with deep vein thrombosis?

17 A. Yes.

18 Q. Now, you were Mr. Hayes' attending
19 physician during his November 1997 admission to
20 Judson Retirement Community; correct?

21 A. Yes.

22 Q. Do you have an independent
23 recollection of Mr. Hayes?

24 A. Yes.

25 Q. Did you ever at any time have a

1 conversation with any of his family members,
2 either before he died or after he died?

3 A. Yes.

4 Q. When did you speak to a family member?

5 A. After I evaluated Mr. Hayes, I called
6 his wife to ask her a few questions, and I had to
7 leave a message, I believe, on her machine. She
8 called me back the next morning, I believe. It
9 was the next day, anyway.

10 Q. What were you inquiring about?

11 A. Because he had an altered mental
12 status and I wanted to find out what his mental
13 status was prior to surgery.

14 Q. And what did she tell you?

15 A. I don't remember all the details.

16 Q. **Do** you recall whether she said he had
17 any problems mentally?

18 A. What I recall is when I asked her
19 specifically, did he have a memory impairment,
20 she said no. When I asked some specific
21 questions that I usually ask family members when
22 I am evaluating someone for possible dementia, I
23 got the feeling that he was having a little bit
24 of trouble.

25 Q. But was it your impression that he had

1 this problem before he came to Judson?

2 A. Not the delirium.

3 Q. That was something that was new?

4 MR. FALLON: Do you understand her
5 question?

6 Q. I am trying to discern from your
7 conversation with Mrs. Hayes whether she was able
8 to tell you if he had any type of mental
9 disability prior to the time that he came to
10 Judson, and if you were able to determine that
11 from your conversation with her .

12 A. I was not able to determine
13 conclusively.

14 Q. But it was your evaluation that at the
15 time that you saw him, that he was having some
16 type of problem at the time you saw him?

17 A. Yes.

18 Q. Okay. Now, that conversation occurred
19 with Mrs. Hayes the day after you saw Mr. Hayes;
20 correct?

21 A. I believe so.

22 Q. Did you have any other conversations
23 with any other family members or with her again?

24 A. So that was Tuesday. Wednesday, a
25 family member called here at my office, and I

1 believe I spoke to a daughter, but it could have
2 been the wife again, and they had concerns about
3 pain in his knee.

4 Q. Do you recall anything else about that
5 conversation?

6 A. I don't.

7 Q. Aside from those two telephone calls,
8 any other conversations with any family members?

9 A. No.

10 Q. Do you know how it is that you came to
11 be Mr. Hayes' attending physician during that
12 admission?

13 A. It was assigned to me.

14 Q. From the process that we just
15 previously described?

16 A. Yes.

17 Q. Now, you have had an opportunity to
18 take a look at the records. Do you know why it
19 is that Dr. O'Toole's name appears as Mr. Hayes'
20 attending physician on a number of the pages in
21 that chart?

22 A. Do I know why it's on there?

23 Q. Yes.

24 A. No.

25 Q. Dr. O'Toole testified that sometimes,

1 as a medical director, her name will be placed on
2 new admission charts if the attending taking
3 admission for that day was unknown and then it
4 would get straightened out at a later date. Did
5 that sometimes happen?

6 A. I don't know.

7 Q. Do you have any knowledge of Dr.
8 O'Toole ever seeing Mr. Hayes?

9 A. No.

10 Q. And do you recall how it is you became
11 aware that he was admitted under your care?

12 A. When I came in that day.

13 Q. So as you previously described, you
14 received a list from the nurse and his name was
15 on the list?

16 A. I believe so.

17 Q. You were not notified at the time of
18 his admission on Sunday; is that correct?

19 A. That is correct.

20 Q. Have you ever had any conversations
21 regarding William Hayes with Dr. Edwin Hissa, his
22 orthopedic surgeon, at any time?

23 A. No, I have not.

24 Q. The first time that you saw Mr. Hayes
25 was on that Monday, November 24th?

1 A. Yes.

2 Q. Did you see him after that visit on
3 November 24th?

4 A. No.

5 Q. When was the next time that you
6 anticipated you would have seen him?

7 A. The next Monday.

8 Q. So it would have been seven days
9 later?

10 A. Yes.

11 Q. Now, at the time that you saw him on
12 the 24th, prior to the time that you went to see
13 him, did you talk to any geriatric fellow that
14 had been involved with his admission?

15 A. I'm sorry, before I evaluated --

16 Q. You saw him on the 24th and he was
17 admitted on the 23rd.

18 A. And did I speak to anyone before
19 that?

20 Q. Yes.

21 A. No.

22 Q. So you didn't receive a report from
23 any of the geriatric fellows about him before you
24 saw him?

25 A. I don't remember.

1 Q. Doctor, I am going to hand you what's
2 marked as Plaintiff's Exhibit Number 2. It's the
3 admission orders. I am going to ask you to take
4 a look at that document and if you would please
5 identify it for us.

6 A. It's the admission orders for Mr.
7 Hayes.

8 Q. Does your signature appear at the
9 bottom of this exhibit?

10 A. Yes, it does.

11 Q. And you also entered the date of
12 November 24th, '97 across from your signature; is
13 that correct?

14 A. That's correct.

15 Q. When you came in to see Mr. Hayes on
16 the 24th, did you review the admission orders?

17 A. Yes, because I signed them.

18 Q. These were previously written by the
19 nurse; is that correct?

20 A. Correct.

21 Q. That would have been the day before,
22 at approximately the time of his admission;
23 correct?

24 A. It's timed, yes.

25 Q. And does your signature at the bottom

1 of the page indicate that you were in agreement
2 with the orders as they were written?

3 A. Yes.

4 Q. Now, is that standard procedure at
5 Judson to have the attending come in and sign the
6 bottom of the sheet when they visit the patient
7 for admission orders?

8 A. Yes.

9 Q. Can you tell me how these admission
10 orders were generated?

11 A. Well, I wasn't there, but usually a
12 transfer form is sent with the patient and that's
13 where the nurse obtains the medicines, and diets,
14 weight bearing status.

15 Q. Now, there **is** an order that is written
16 under miscellaneous orders about maybe
17 three-quarters of the way down the page. Would
18 you read to us what is written under that area.

19 A. Yes. **DVT** study **11-25** to rule out
20 DVT. Call **449-4500** vascular lab. Follow up with
21 Dr. Hissa in three weeks.

22 Q. **Do** you recall seeing a transfer form
23 from Hillcrest Hospital that contained orders
24 from Dr. Hissa regarding Mr. Hayes?

25 A. I remember seeing a form that wasn't

1 the same kind of form we use at University.

2 Q. Doctor, I am going to hand you what's
3 been marked as Plaintiff's Exhibit 3. I would
4 just like you to take a look at it and I would
5 ask, have you seen that form?

6 MR. FALLON: This particular form,
7 Exhibit 3, or this type of form?

8 Q. Have you seen this form before?

9 A. This particular form?

10 Q. Yes.

11 A. I can't say with certainty, but it
12 looks like the kind of the form I remember.

13 MR. JONES: I assume that's the
14 transfer form.

15 MS. ROLLER: Could you hold it up,
16 maybe.

17 MS. TOSTI: It is.

18 Q. Do you have a recollection of seeing a
19 transfer form at some point in time in Mr. Hayes'
20 chart?

21 A. I said yes.

22 MS. TOSTI: I'm editing, so just give
23 me a minute.

24 MR. FALLON: Sure.

25 Q. Now, you agree that on that form, Mr.

1 Hayes! name is entered under the patient
2 demographics; correct?

3 A. I see his name, yes.

4 Q. And at the bottom of the page, do you
5 see Dr. Hissa's name?

6 A. I see Dr. Hissa's name.

7 Q. Would you agree that under general
8 physicians orders, there is a statement there
9 that says DVT study 11-25 to rule out DVT?

10 A. Yes.

11 Q. And that is very similar to the order
12 that appears on the physician admission order
13 sheet of Judson Retirement Community; correct?

14 A. Correct.

15 Q. If the nurse receives admission orders
16 and confirms them with one of the geriatric
17 fellows, would that be sufficient for the nurse
18 then to take action on the admission orders?

19 A. Yes.

20 Q. And when you came in on November 24th
21 of '97 and reviewed the orders, you saw the order
22 for the DVT study that was to be done on 11-25 to
23 rule out DVT; correct?

24 A. Yes.

25 Q. And was it your understanding that

1 this order was being requested by Dr. Hissa, the
2 transferring physician at Hillcrest Hospital?

3 MR. GOLDSTEIN: Objection.

4 A. Yes.

5 Q. Mr. Hayes wasn't on any prophylactic
6 anticoagulation therapy at Judson, was he?

7 A. No.

8 Q. Do you know if there were any
9 contraindications to anticoagulation in
10 conjunction with the surgery?

11 A. No.

12 Q. Do you know whether patients that have
13 epidural anesthesia can have anticoagulation in
14 conjunction with the surgery?

15 A. I do not know specifically.

16 Q. You would agree that because of his
17 bilateral total knee replacement, Mr. Hayes was
18 at significantly increased risk for deep vein
19 thrombosis; correct?

20 MR. GOLDSTEIN: Objection.

21 MR. **FALLON**: Objection.

22 A. No.

23 Q. You don't believe he was at
24 significantly increased risk?

25 A. He was at increased risk.

1 Q. As Mr. Hayes' attending physician,
2 would you agree that you had a duty to closely
3 monitor him for signs of deep vein thrombosis
4 because of his increased risk?

5 MR. FALLON: Objection.

6 A. I don't know how to answer that
7 question.

8 Q. Well, doctor, I am asking you if
9 because he was at increased risk you had a duty
10 to monitor him for deep vein thrombosis? Wasn't
11 that part of your responsibility in caring for
12 this patient?

13 MR. FALLON: Objection.

14 A. Well, as we have said before, **DVTs** can
15 even be asymptomatic, so monitoring for clinical
16 symptoms or signs doesn't always rule out a **DVT**.

17 Q. Right. And I wasn't limiting it to
18 physical monitoring.

19 You would agree that a **DVT** study was
20 an appropriate method of monitoring Mr. Hayes for
21 deep vein thrombosis; correct?

22 A. Yes.

23 Q. Aside from the **DVT** study that was
24 ordered, was there anything else that was being
25 done to monitor him or to decrease his risk for

1 deep vein thrombosis?

2 A. No.

3 Q. This particular DVT study was ordered
4 to be done on Mr. Hayes' fifth post-op day, which
5 was November 25th. Do you know why the fifth
6 postoperative day was chosen for the DVT study?

7 MR. JONES: Objection.

8 MR. FALLON: Objection.

9 A. No.

10 Q. But I am just asking whether you know,
11 doctor.

12 Do you have any opinion as to whether
13 his fifth postoperative day was the most
14 appropriate day to do the study?

15 MR. FALLON: Objection.

16 A. No.

17 Q. Would *you* defer to his orthopedic
18 surgeon that requested the test originally?

19 A. Yes.

20 Q. Now, when you came in on November
21 24th, you signed these admission orders; correct?

22 A. Correct,

23 Q. And what was your impression **as** to the
24 status of the DVT study order at the time that
25 you saw Mr. Hayes? What did you think was

1 happening in regard to that particular order?

2 A. I thought that the nurses or secretary
3 would schedule it for that day.

4 Q. After the DVT study was confirmed by
5 the geriatric fellow, it would then be the
6 nurse's responsibility or the unit coordinator's
7 to schedule the test and make whatever
8 arrangements were necessary for Mr. Hayes to be
9 transported to Hillcrest to have the test done;
10 correct?

11 MS. ROLLER: Read that question back.

12 (Record read.)

13 MS. ROLLER: Objection.

14 A. Yes.

15 Q. And would you expect that the nursing
16 staff **of** Judson would inform you if there was any
17 problem in scheduling the test **as** it was ordered?

18 A. Yes.

19 Q. Now, if the nurses told you that the
20 DVT study could not be scheduled as ordered on
21 the 25th, would you have taken any alternative
22 course of action?

23 A. We could have obtained the study at a
24 different hospital.

25 Q. Would you have contacted Dr. Hissa to

1 discuss what should be done?

2 A. Not necessarily.

3 Q. You would have just taken action to
4 try to get the study done as it was ordered;
5 correct?

6 A. Yes.

7 Q. You did not have any conversations
8 with a Dr. Sakhar Ahmad about Mr. Hayes, did you?

9 A. Not that I recall.

10 Q. Now, when you saw Mr. Hayes on
11 November 24th, were you aware that the nurse on
12 admission reported that Mr. Hayes had had a
13 positive Homans' sign?

14 A. I don't remember that specifically.

15 Q. Did you examine him at the time that
16 you saw him on November 24th?

17 A. Yes, I did.

18 Q. And in your examination of Mr. Hayes,
19 did you find any deviations from normal that you
20 considered to be significant in his physical
21 exam?

22 A. Well, his mental status.

23 Q. And if you would like to refer to your
24 note, feel free to do so.

25 MR. FALLON: She is asking about the

1 physical exam.

2 A. I noted that he appeared delirious;
3 that he had poor eye contact, and was irritable.
4 Do you want me to go through the whole physical?

5 Q. I am just asking you for deviations
6 that you considered to be significant.

7 A. That was the most significant finding,
8 I think.

9 Q. What indicated to you that he was
10 irritable? What behavior were you observing?

11 A. When I go in to meet a new patient, I
12 introduce myself and explain why I am there and
13 what I am going to do, and most patients
14 understand why you are there; but if I recall, he
15 was just unhappy to be bothered at the time.

16 Q. Now, you found that he had a grade two
17 over three systolic heart murmur?

18 A. Two over six.

19 Q. Was that a new finding for him?

20 A. I don't believe so.

21 Q. He had a previous porcine valve
22 replacement. Would that explain what that murmur
23 was from?

24 A. Yes.

25 Q. I think you also indicated that he

1 picked at the air with his eyes closed and stated
2 it was lint.

3 A. Yes.

4 Q. Was that observation of concern to
5 you?

6 A. Yes.

7 Q. Other than just the general term
8 delirium, did you attach any other significance
9 to that particular observation?

10 A. No.

11 Q. Was Mr. Hayes hard of hearing?

12 A. I do not recall.

13 Q. Did he have any problems, when you
14 talked with him, misinterpreting anything that
15 you said to him?

16 A. I can't say specifically.

17 Q. Do you recall doing any type of an
18 examination to check his hearing when you did his
19 physical?

20 A. No.

21 Q. Now, on my copy, there is a section
22 under the history portion of your history and
23 physical, and about halfway down the page, the
24 first word -- I think it's probably social
25 history but I don't know. On mine it's blanked

1 out. What did you record on that line?

2 A. No alcohol per chart. In parenthesis,
3 patient wouldn't answer.

4 Q. Did Mr. Hayes provide you with any
5 history when you were in there?

6 A. He did answer some questions, but I
7 wasn't sure how reliable those answers were.

8 Q. What did you write under the section
9 titled respiratory and cardiovascular?

10 A. Stable, shortness of breath, positive
11 brown sputum production.

12 Q. How did you come by he was having
13 brown sputum production?

14 A. I don't recall exactly.

15 Q. You don't remember if that's something
16 he told you or something you observed?

17 A. If I observed it, it wouldn't have
18 been in this section. This is a history page.
19 So either he told me or the nurses told me.

20 Q. And do you recall him having any brown
21 sputum at the time that you saw him?

22 A. No.

23 Q. Do you know how long he was having
24 brown sputum production?

25 A. No.

1 Q. When it started?

2 A. No.

3 Q. Do you know what the likely cause of
4 the brown sputum production was?

5 A. For Mr. Hayes?

6 Q. Yes.

7 A. At the time, I believe, he also had a
8 fever and I thought he most likely had
9 bronchitis.

10 Q. Can blood in the sputum cause it to be
11 brown?

12 A. It's rare to look like that, but yes,
13 it can.

14 Q. Now, you mentioned that he had a low
15 grade fever at the time that you saw him?

16 A. Yes.

17 Q. And did you think that that fever was
18 being caused by bronchitis?

19 I'm just asking if that's what you
20 said.

21 MR. FALLON: She said he had a fever,
22 I think.

23 A. Yes.

24 Q. Well, let me ask this. What did you
25 think was the likely cause of his temperature

1 elevation?

2 A. From what I wrote here, I wasn't clear
3 about the reason. He was transferred already on
4 antibiotics, and since he was coughing and
5 producing brown sputum, I thought the most likely
6 culprit for his infection was bronchitis.

7 Q. When you examined him, did you check
8 him for Homans' sign?

9 A. No, I did not.

10 Q. And at the time that you saw him, did
11 you find any signs or symptoms that would be
12 consistent with pulmonary emboli in your
13 examination?

14 A. No, I did not.

15 Q. Now, you said that you had an
16 opportunity to read a portion of Nurse Thill's
17 deposition, I believe.

18 Do you recall in that deposition Nurse
19 Thill saying that she had reported to the
20 geriatric fellow that she had found a positive
21 Homans' sign on Mr. Hayes? Do you recall that?

22 A. No.

23 Q. Well, I want you to assume that she
24 has testified that she reported that to a
25 physician she identified as Dr. Ahmed.

1 A. Okay.

2 Q. And that Dr. Ahmed -- and I am going
3 to paraphrase what she said -- his course of
4 action was that she was to continue with
5 scheduling the DVT study as it was ordered. I
6 want you to assume that that's what the testimony
7 was.

8 A. Okay.

9 Q. Assuming that to be true, do you think
10 the advice that the geriatric fellow gave to
11 carry out the DVT study as ordered was
12 appropriate?

13 MR. FALLON: Objection.

14 A. Yes.

15 Q. When you saw Mr. Hayes on November
16 24th, did you make any inquiry of the nurses or
17 the unit coordinator as to whether Mr. Hayes' DVT
18 study had been scheduled or whether arrangements
19 were being made for it?

20 A. No, I did not.

21 Q. Did you assume that that was being
22 taken care of by the staff?

23 A. Yes, I did.

24 Q. When a study such as the DVT study is
25 scheduled, do you as an attending physician, or

1 did you as an attending physician receive any
2 type of a notice when the diagnostic study was
3 actually scheduled?

4 A. From a subacute unit at Judson?

5 Q. From the rehab unit where Mr. Hayes
6 was, would you receive any type of notice once
7 the nurses say it's definitely scheduled and we
8 have a time for him?

9 A. No.

10 Q. Did you have any reason to believe
11 that he would not undergo the DVT study on
12 November 25th as it was ordered when you saw him
13 on the 24th?

14 A. No.

15 Q. Now, this study was to be done at the
16 Hillcrest Hospital vascular lab; correct?

17 A. From what I understand.

18 Q. If Mr. Hayes underwent the DVT study
19 at Hillcrest and the results were positive for
20 deep vein thrombosis, how would that be reported
21 to you?

22 A. Well, I have no formal relationship
23 with Hillcrest. They might call Judson, the
24 nurse at Judson, and report their results.
25 Although I have been called to the emergency room

1 at Hillcrest when my patients have been there, so
2 they can usually find out how to get ahold of us.

3 Q. Is it likely that Judson would have
4 been notified as soon as positive results were
5 known?

6 A. Yes.

7 Q. Okay. Is it likely that if his DVT
8 study had been positive that he would have been
9 returned to Judson?

10 A. Is it likely he would have been
11 returned to Judson --

12 Q. With a positive DVT.

13 A. No.

14 Q. **So** he likely would have been admitted
15 to the hospital; is that correct?

16 A. Yes.

17 Q. Now, if, in fact, Mr. Hayes went for
18 the test and it was negative, how did you
19 anticipate that those results would be reported
20 to you?

21 A. I can't say from Hillcrest how their
22 noninvasive lab or vascular lab reports the
23 results.

24 MR. **FALLON**: If you don't know --

25 THE WITNESS: No, I don't know.

1 Q. Did you expect that you would get a
2 phone call the day that the test was done to know
3 what the results were?

4 A. No.

5 Q. **So** what were you expecting?

6 A. To be notified of an abnormal test.

7 Q. And if it was not abnormal, what were
8 you expecting?

9 A. To find out about a normal test the
10 next time I saw him.

11 Q. **So** you would expect to see a report or
12 receive something in writing then --

13 A. Yes.

14 Q. -- if it was negative?

15 A. Yes.

16 Q. And you didn't expect that you would
17 be contacted by phone, either by Judson or by the
18 actual vascular lab; correct?

19 A. Correct.

20 Q. You were not contacted about any
21 results of a DVT study; correct?

22 A. Correct.

23 Q. When you did not receive any type of
24 communication on the 25th or the 26th, did it
25 occur to you to check with Judson to see if they

1 had received any type of information about the
2 test?

3 A. No. I follow a lot of different
4 patients in a lot of different settings and I
5 rely on the professionals there to inform me if
6 there is abnormal test results.

7 Q. So would it be fair to say that you
8 thought the study was done and that the results
9 were negative and that you would be receiving
10 some type of a report, either the next time you
11 went to Judson, or possibly they would tell you
12 something?

13 A. Yes.

14 Q. Now, in fact, Mr. Hayes never had a
15 DVT study done; correct?

16 A. As far as I know.

17 Q. Well, if he had it done, eventually
18 the report would have come to you as his
19 attending physician; correct?

20 A. Usually.

21 Q. And you have never seen a report on a
22 DVT study for him; correct?

23 A. I have never seen a report.

24 Q. When did you realize that you had not
25 received any type of a report on a DVT study on

1 Mr. Hayes?

2 A. I don't know how to answer that
3 question.

4 Q. Well, at some point did it occur to
5 you that he did not have a study done?

6 MR. **FALLON**: If I can help out. Maybe
7 you should ask her when she next heard about Mr.
8 Hayes.

9 Q. I am asking at any point in time. Did
10 you realize that a DVT study wasn't done at any
11 point?

12 A. Well, I mean, it has to be in
13 context. The next time I heard about Mr. Hayes
14 was when I came back from a long weekend and
15 found out he had passed away. And at that point,
16 I knew I hadn't heard anything about a DVT study.

17 Q. And did you at that point think that
18 the DVT study had not been completed?

19 A. I didn't know.

20 Q. When did you learn that Mr. Hayes had
21 died?

22 A. The following Monday.

23 Q. He died on the 27th. **So** it was a few
24 days after that?

25 A. Yes.

1 Q. **So** when he collapsed on November 27th,
2 you were not notified, because you were not in
3 town at the time; is that correct?

4 A. That's correct.

5 MR. FALLON: Objection.

6 Q. Were you notified on the 27th when
7 Mr. Hayes collapsed?

8 A. No.

9 Q. And on the 27th, were you out of town?

10 A. I believe that was Thanksgiving and I
11 believe I was out of town.

12 Q. Was there somebody else covering for
13 you at that time?

14 A. Yes.

15 Q. Who was that?

16 A. I don't remember.

17 Q. And nobody informed you between the
18 27th and the following Monday when you arrived
19 that your patient had died?

20 A. Correct.

21 Q. **So** you just walked into Judson and
22 that's when you found out that Mr. Hayes had
23 died?

24 A. No. When I came to work on Monday
25 morning here.

1 Q. So your practice informed you?

2 A. Yes.

3 Q. Mr. Hayes was taken to Cleveland
4 Clinic after he collapsed. Did you ever have any
5 contact with anyone at Cleveland Clinic relative
6 to Mr. Hayes?

7 A. No.

8 Q. After his death an autopsy was
9 performed at The Cleveland Clinic. Were you ever
10 notified of the results of that autopsy?

11 A. No.

12 Q. Did you eventually learn that Mr.
13 Hayes died of multiple pulmonary emboli?

14 MR. FALLON: Objection. You are
15 getting into attorney-client stuff now. She has
16 never seen the post.

17 A. I have never heard from anyone that
18 did the autopsy.

19 Q. You have never reviewed Mr. Hayes'
20 autopsy; is that correct?

21 A. His autopsy report?

22 Q. Yes.

23 A. No.

24 Q. Well, have you reviewed anything in
25 regard to his autopsy?

1 A. No.

2 Q. Doctor, you were aware that there were
3 allegations in this case that he had died of
4 pulmonary emboli; correct?

5 A. Yes.

6 Q. You saw that when you were served with
7 the complaint in this matter; correct?

8 A. Yes.

9 Q. Did you ever request to see a copy of
10 the autopsy?

11 MR. FALLON: You know, I'm going to
12 object, because -- when?

13 MS. TOSTI: At any time.

14 Q. Did you ever request to see a copy of
15 the autopsy?

16 MR. FALLON: Before I became
17 involved?

18 MS. TOSTI: At any time.

19 A. No.

20 Q. Doctor, I am going to hand you a copy
21 of Mr. Hayes' autopsy.

22 A. Okay.

23 Q. It's a copy of the autopsy report.

24 MR. GOLDSTEIN: Are you marking that?

25 MS. TOSTI: No.

1 MR. FALLON: Do you plan on asking a
2 bunch of questions about this?

3 Q. Doctor, I am handing you a copy of the
4 autopsy report and I would like you to take a
5 look at it and read what the first entry is under
6 the final anatomic diagnosis.

7 A. History of bilateral knee replacement,
8 in parenthesis 11-20-97, and then it says
9 multiple thromboemboli, pulmonary arteries of
10 medium and small caliber, panlobar lungs.

11 Q. Do you disagree with the cause of
12 death as listed on that document for Mr. Hayes?

13 MR. GOLDSTEIN: Objection.

14 MR. FALLON: I'm going to object too.
15 She has no basis one way or the other.

16 MS. TOSTI: She can tell me that.

17 Q. Doctor, do you disagree with the cause
18 of death as listed on this document for Mr.
19 Hayes?

20 MR. GOLDSTEIN: Objection.

21 Q. If you don't, just tell me that,
22 doctor.

23 MR. FALLON: Objection.

24 A. I can't answer because I don't have
25 knowledge of his autopsy.

1 Q. So at this point, you have no basis to
2 disagree with that; correct?

3 A. No.

4 Q. Considering that this was your patient
5 and that this patient died suddenly, is there a
6 reason why you never requested to see the autopsy
7 report on him?

8 A. I guess I --

9 MR. FALLON: Objection. Go ahead.

10 A. I didn't know that I could.

11 Q. Did you ever question the nurses about
12 Mr. Hayes' DVT study, as to whether it was done,
13 why it wasn't done?

14 A. No.

15 Q. After this case was filed, did you
16 ever do any investigation to determine why the
17 DVT study was never completed?

18 A. No.

19 Q. Were you curious to know why?

20 A. Yes.

21 Q. Did you ever make any complaint to the
22 director of nursing at Judson regarding the
23 failure to schedule Mr. Hayes' DVT study?

24 MR. GOLDSTEIN: Objection.

25 A. No.

1 Q. Did you ever bring it to Dr. O'Toole's
2 attention as the medical director at Judson
3 Retirement Community?

4 A. I know that Dr. O'Toole was aware of
5 it.

6 Q. As a result of this lawsuit or as a
7 result of the fact that you spoke with her about
8 the problem?

9 MR. FALLON: Objection. If you know
10 how Dr. O'Toole became aware of the whole
11 situation.

12 A. Well, I know because she is the
13 medical director there, and she reviews all the
14 deaths related to patients. Other than that, I
15 don't know specifically how she knew. We didn't
16 talk in detail about Mr. Hayes' treatment.

17 Q. Well, at the time that this case was
18 filed, you were aware that there were allegations
19 that the DVT study was not done and that this
20 patient died of pulmonary emboli; correct?

21 A. Yes.

22 Q. And as far as you know, you have never
23 received a report for a DVT study on this
24 patient; correct?

25 A. Correct.

1 Q. Would you expect that you would have,
2 as his attending physician; correct?

3 A. Correct.

4 Q. **So** it's likely that this DVT study
5 never was completed; correct?

6 A. Correct.

7 Q. Were you angry when you found out that
8 the DVT study was not done on this patient?

9 MR. GOLDSTEIN: Objection.

10 MR. FALLON: I'll object as well.

11 A. I don't know if angry is the right
12 word.

13 MR. FALLON: **You** answered it.

14 Q. Well, doctor, what would the right
15 word be?

16 A. Of course I was upset.

17 Q. And why were you upset?

18 A. Well, the patient had a bad outcome.
19 He died.

20 Q. Did you ever find out who was
21 responsible for scheduling the DVT study?

22 A. No.

23 Q. Would you agree that the failure to
24 schedule and to arrange for Mr. Hayes' DVT study
25 was a lethal error in this case?

1 MR. GOLDSTEIN: Objection.

2 MR. FALLON: Objection.

3 A. I can't answer that.

4 Q. Doctor, you don't think that Mr.
5 Hayes' -- well, strike that.

6 Are you aware of any policy or
7 procedure changes that Judson Retirement
8 Community made in order to prevent something
9 similar happening to another patient?

10 MR. GOLDSTEIN: Objection.

11 Q. In other words, the failure of
12 scheduling a diagnostic test that was ordered.

13 MR. GOLDSTEIN: Objection.

14 A. I'm not aware of any policy changes.

15 Q. Are you critical of the Judson
16 Retirement Community nursing personnel and unit
17 coordinator for failing to schedule Mr. Hayes'
18 DVT study?

19 MR. GOLDSTEIN: Objection. She
20 doesn't have a knowledge base to be critical.

21 Q. You may answer, doctor.

22 A. Yes.

23 Q. Yes, you are critical?

24 A. Yes.

25 Q. Now, you recall a geriatric fellow by

1 the name of Larry Irvin --

2 A. Yes.

3 Q. -- that was assigned to Judson in
4 November of 1997?

5 A. Yes.

6 Q. And you read Dr. Irvin's deposition;
7 is that correct?

8 A. Yes.

9 Q. Mr. Hayes was seen by Dr. Irvin on
10 November 26th. Did you talk with Dr. Irvin prior
11 to the time that you saw Mr. Hayes?

12 A. Yes, I did.

13 Q. Did you give Dr. Irvin any particular
14 instructions regarding Mr. Hayes?

15 A. Well, like I said, I had a phone call
16 from the family with complaints of pain and I
17 asked Dr. Irvin to evaluate him.

18 Q. Did you ask him to do any follow up in
19 regard to the DVT study?

20 A. I don't recall.

21 Q. Did you expect that Dr. Irvin would do
22 any type of follow up in regard to the DVT study?

23 A. I would expect if things had been
24 ordered that follow up would be done when he saw
25 the patient.

1 Q. What sort of follow up would you
2 expect?

3 A. To obtain results.

4 Q. Did you expect Dr. Irvin to phone the
5 vascular lab to obtain the results?

6 A. Personally, no. I would expect him to
7 ask the nurses to call.

8 Q. Do you know if Dr. Irvin did that?

9 A. I do not know.

10 Q. Did you talk with Dr. Irvin after he
11 saw Mr. Hayes?

12 A. I don't recall.

13 Q. So you don't know whether Dr. Irvin
14 gave you a report back or not?

15 A. I don't remember one.

16 Q. Would it be usual for the doctor, the
17 geriatric fellow, to report back to you after he
18 had seen one of your patients?

19 A. Only if he had questions or concerns.

20 Q. So if he, in fact, asked the nurses to
21 inquire about the DVT study and then left, that
22 would be all he would be required to do in this
23 case?

24 A. I think, yes.

25 Q. So your expectation would be that he

1 would ask the nurses to please find out what the
2 results of the test were?

3 A. Yes.

4 Q. Would Dr. Irvin be required to review
5 all of Mr. Hayes' orders if he was seeing
6 Mr. Hayes for you?

7 A. Not required. It's usual that we do
8 that, but it's not required.

9 Q. Now, in this particular instance, the
10 DVT study was ordered as an admission order and
11 there were additional orders that were written
12 after that. Would you expect that Dr. Irvin
13 would be reviewing those admission orders?

14 A. Yes.

15 Q. Do you find any fault with Dr. Irvin
16 for not obtaining information for you in regard
17 to the DVT study?

18 A. Yes.

19 Q. What is it that you are critical
20 about? What do you think he should have done?

21 A. Tried to obtain the results.

22 Q. Okay. And aside from making inquiry
23 of the nurses, did you expect him to do anything
24 else?

25 A. No. With regard to finding out the

1 results of the study; is that what you meant?

2 Q. Yes.

3 A. Okay.

4 Q. So if on the 26th Dr. Irvin had found
5 out that the DVT study was never done, what
6 course of action would you have taken?

7 MR. FALLON: If that had been reported
8 to her?

9 MS. TOSTI: Yes.

10 A. We would have scheduled a DVT as soon
11 as possible.

12 Q. Now, Dr. Irvin, I believe, wrote an
13 order for Duricef to be discontinued on November
14 28th. And I believe that an order preceding that
15 was written by you for it to be discontinued on
16 the 30th.

17 A. Okay.

18 Q. Would that normally be something that
19 a geriatric fellow would have to discuss with *you*
20 before they would change your order?

21 A. Not necessarily.

22 Q. So Dr. Irvin could write that order
23 independently without contacting you; would that
24 be correct?

25 A. Yes.

1 Q. Would you agree in Mr. Hayes' case
2 that the most likely source of his pulmonary
3 emboli was undiagnosed deep vein thrombosis in
4 his legs?

5 MR. FALLON: Objection.

6 A. Yes.

7 Q. If William Hayes had undergone a DVT
8 study on November 25th as it was ordered, isn't
9 it likely that deep vein thrombosis would have
10 been diagnosed?

11 MS. ROLLER: Objection.

12 MR. GOLDSTEIN: Objection.

13 MR. FALLON: Objection.

14 A. I'm not sure.

15 Q. Well, doctor, do you think he
16 developed all those pulmonary emboli between the
17 25th and the 27th when he died?

18 MS. ROLLER: Objection.

19 MR. FALLON: Objection.

20 MR. GOLDSTEIN: Objection.

21 Q. Do you think all those clots formed in
22 that short period? Is that likely?

23 MS. ROLLER: Objection.

24 MR. FALLON: Objection. If you know.

25 MR. GOLDSTEIN: Objection.

1 Q. Do you think that's likely?

2 MS. ROLLER: Objection.

3 MR. FALLON: Objection.

4 MR. GOLDSTEIN: Objection.

5 A. I don't know.

6 Q. You would agree that most patients
7 treated from deep vein thrombosis don't die from
8 pulmonary emboli; correct?

9 A. Yes.

10 Q. If Mr. Hayes had undergone a DVT study
11 on the 25th and deep vein thrombosis was
12 diagnosed and treatment started, wouldn't that
13 likely have prevented his death from pulmonary
14 emboli?

15 MR. GOLDSTEIN: Objection.

16 MR. FALLON: Objection. If you know.
17 If you have an opinion.

18 A. I am unable to say.

19 Q. Well, is there a point in time when
20 you believe Mr. Hayes' condition was
21 irreversible?

22 MR. FALLON: Objection.

23 A. I don't know.

24 Q. If you don't know, doctor just tell
25 me. I just have to know whether you have an

1 answer to that or not.

2 If Mr. Hayes had not suffered a
3 pulmonary emboli, do you have an opinion as to
4 his reasonable life expectancy?

5 A. I do not.

6 Q. And aside from Dr. Irvin not obtaining
7 results of the DVT study or determining whether
8 or not it had been done, do you have any other
9 criticisms of any of the geriatric fellows that
10 were involved in Mr. Hayes' care?

11 MR. FALLON: Objection.

12 A. I don't.

13 Q. Now, you are critical of the nurses
14 and/or unit coordinator for not scheduling the
15 test. Do you have any other criticisms of anyone
16 else that rendered care to Mr. Hayes?

17 A. No.

18 Q. Were you ever informed by anyone at
19 Judson that they planned to add notes to Mr.
20 Hayes' medical chart long after his death?

21 A. No.

22 Q. Did anyone at Judson ever tell you
23 that there was a concern that Mr. Hayes' family
24 may be contemplating filing a lawsuit for
25 wrongful death at any time before the suit was

1 filed?

2 A. I think the staff knew the family was
3 very angry and were concerned. I don't remember
4 anyone specifically saying there was a likely
5 lawsuit coming.

6 Q. Were you ever approached by anyone at
7 Judson and asked to add or alter your notes in
8 Mr. Hayes' chart?

9 A. No, I was not.

10 MS. TOSTI: I don't have any further
11 questions.

12 MR. JONES: I don't have any
13 questions.

14 EXAMINATION OF LISA ANN ATKINSON, M.D.

15 BY MS. ROLLER:

16 Q. Dr. Atkinson, you said you were aware
17 of the order for the DVT study on November 24th?

18 A. Yes.

19 Q. The nurses notes written November
20 23rd, were they available for your review on the
21 24th?

22 A. I believe so.

23 Q. You were called by the family on
24 November 26th, Wednesday?

25 A. I believe so, yes.

1 Q. It was reported to you that Mr. Hayes
2 had knee pain?

3 A. Yes.

4 Q. But you don't recall telling Dr. Irvin
5 to check and see if the DVT study results had
6 come back?

7 A. I don't recall telling him that.

8 Q. Do you recall mentioning them at all
9 to him, the DVT study?

10 A. No.

11 MS. ROLLER: That's all. Thank you.

12 EXAMINATION OF LISA ANN ATKINSON, M.D.

13 BY MR. GOLDSTEIN:

14 Q. Dr. Atkinson, good afternoon. I am
15 Bruce Goldstein and we were introduced at the
16 start of the deposition and I represent Judson
17 Retirement Community.

18 Can you hear me okay?

19 A. Yes, I can.

20 Q. Doctor, as the attending physician --
21 and you were the attending; correct?

22 A. Correct.

23 Q. As the attending physician, with
24 respect to Mr. Hayes, did you have ultimate
25 responsibility for the oversight of his care

1 while he was at Judson?

2 MR. FALLON: Objection.

3 A. His medical care.

4 Q. You will agree that you had
5 responsibility for his medical care?

6 A. Yes.

7 Q. And that would have superceded the
8 responsibility of a fellow, for example;
9 correct?

10 MR. FALLON: Objection. Do you
11 understand the question?

12 THE WITNESS: I don't understand that
13 question,

14 Q. Well, as between a fellow, such as Dr.
15 Irvin, and yourself, would you have had greater
16 responsibility for the care of Mr. Hayes, than,
17 say, Dr. Irvin?

18 MR. FALLON: Objection.

19 A. I don't know how to answer that
20 question. The fellows who were training had
21 finished their internal medicine training and are
22 usually licensed practitioners, and you know,
23 have full license and could be out practicing
24 medicine, and Dr. Irvin had many years of
25 experience before becoming a fellow, so I relied

1 on him to report any problems he found.

2 Q. All right. But you examined Mr. Hayes
3 at one point during his stay at the Judson
4 Retirement Community; correct?

5 A. Yes.

6 Q. Is there any reason why you didn't
7 rely on Dr. Irvin solely to do examinations of
8 Mr. Hayes while he was at Judson?

9 A. Are you referring to why he didn't do
10 the initial history and physical?

11 Q. You may answer it that way. Go
12 ahead.

13 A. Well, what did you mean?

14 Q. No, that's fine.

15 MR. FALLON: What is the question?
16 Wait a minute.

17 Q. Why did you examine the patient
18 instead of relying solely on Dr. Irvin to examine
19 the patient?

20 MR. FALLON: On November 24th?

21 MR. GOLDSTEIN: Yes.

22 A. Because we each had a list of patients
23 to see, and so we saw patients not necessarily
24 together, but at the same time.

25 Q. Did Dr. Irvin answer to you in a

1 hierarchy at Judson Retirement Community?

2 A. With regard to my patients, yes.

3 Q. And was Mr. Hayes your patient?

4 A. Yes.

5 Q. Do you feel that you did anything
6 wrong with respect to the care or treatment of
7 Mr. Hayes while he was at Judson?

8 A. No.

9 Q. Do you feel that you had any
10 responsibility to follow up to see if the DVT
11 study was, in fact, scheduled?

12 A. No. I rely on the nurses to do that.

13 Q. When on November 26th you weren't
14 notified of the results of a DVT study, don't you
15 feel that you should have followed up to see if
16 the study was done?

17 MR. FALLON: Objection.

18 A. But I can't follow up on every single
19 test that I order. I rely on professionals
20 either doing the test or ordering the test to
21 notify me.

22 Q. Were you aware that on November 26th
23 Mr. Hayes was complaining of pain in his calves?

24 A. I believe I got a report he had pain
25 in his knees from the family.

1 Q. All right. Having that information
2 and knowing that Mr. Hayes had had bilateral knee
3 replacement surgery, should you not have been
4 concerned about the possibility of a deep vein
5 thrombosis?

6 MR. FALLON: Objection.

7 A. Well, having pain in your legs after
8 bilateral total knees isn't unusual. In fact,
9 it's quite common. And as far as I knew, the
10 test was ordered and done on that day.

11 Q. But you didn't know one way or
12 another, though, did you?

13 MR. FALLON: Objection.

14 Q. I am just asking, did you have any
15 knowledge one way or the other as to whether the
16 test was actually done?

17 A. No.

18 Q. So you assumed it was done?

19 A. Correct.

20 Q. If you know, doctor, does a DVT study
21 indicate 100 percent of the time the likelihood
22 of throwing a pulmonary embolism?

23 A. I don't know the exact statistics of
24 DVT studies. I know nothing is 100 percent.

25 Q. And I take it you don't know what the

1 percentage is?

2 A. That's correct.

3 Q. Who ordered the bed rest for Mr.
4 Hayes?

5 A. I don't know.

6 Q. Let me rephrase the question. Did you
7 order bed rest for Mr. Hayes?

8 A. I need to review the chart.

9 MR. FALLON: Take your time.

10 Q. Feel free to do so.

11 MS. TOSTI: Are you referring to a
12 particular order somewhere?

13 MR. FALLON: Do you want to direct us
14 so we can save the time looking through the whole
15 chart?

16 MR. GOLDSTEIN: I'm not aware of
17 anything specific that I am asking with that
18 question. I'm not aware she did order it. She
19 can check her records, I suppose.

20 MR. FALLON: I am unclear. Do you
21 want to know if bed rest was ordered?

22 MR. GOLDSTEIN: Did Dr. Atkinson order
23 bed rest for Mr. Hayes.

24 MS. TOSTI: After the physical therapy
25 and everything? Is there an order that you are

1 looking at that you would like us to see?

2 MR. GOLDSTEIN: No, I'm not.

3 THE WITNESS: You know, I can't read
4 one page and it's under orders.

5 MR. FALLON: Do you want to refer us
6 to a specific page?

7 MR. GOLDSTEIN: I don't. I am asking
8 you -- well, let's do it this way.

9 Q. You did a history and physical on Mr.
10 Hayes, correct, when he came to Judson?

11 A. I'm sorry, I was reading the chart.
12 I'm sorry.

13 Q. My apologies to you.

14 Did you do a history and physical on
15 Mr. Hayes when he came to Judson?

16 A. Yes, I did.

17 Q. In that history and physical did you
18 issue any orders? Or as a result of that history
19 and physical did you issue any orders?

20 A. Yes.

21 Q. What orders did you issue?

22 A. I handwrote some orders on the 24th.

23 Q. What were those orders?

24 A. The first one is to DC Duricef on
25 certain date and ordered a chest x-ray and some

1 blood work, a sputum exam and change the Darvocet
2 to Darvon.

3 Q. So as a result of the history and
4 physical, you didn't order bed rest; correct?

5 A. Correct.

6 Q. But I believe I heard Ms. Tosti
7 indicate that bed rest was appropriate for a
8 patient who was potentially suffering from deep
9 vein thrombosis; is that correct?

10 A. If someone had --

11 MR. FALLON: Objection. Go ahead.

12 MS. TOSTI: I think you are misquoting
13 me.

14 MR. GOLDSTEIN: I wouldn't want to do
15 that and I apologize if I am.

16 MS. TOSTI: I believe we were talking
17 about a patient diagnosed with deep vein
18 thrombosis.

19 Q. Based on what Ms. Tosti just
20 corrected, would you go ahead and answer?

21 MR. FALLON: Repeat it.

22 Q. If a patient were diagnosed with deep
23 vein thrombosis, is bed rest appropriate?

24 A. Yes.

25 Q. And at the time you did the history

1 and physical on Mr. Hayes, he was not diagnosed
2 with a deep vein thrombosis; correct?

3 A. Correct.

4 Q. If a patient such as Mr. Hayes had a
5 positive Homans' sign, would bed rest then be
6 appropriate?

7 MR. FALLON: Objection. When?

8 MR. GOLDSTEIN: When he is diagnosed
9 with a positive Homans' sign.

10 Q. So, for example, when Nurse Hayes
11 checked him at Judson and found a positive
12 Homans' sign, would it be appropriate for a
13 doctor to order bed rest for him at that point
14 until the DVT study was completed?

15 MR. FALLON: Objection.

16 Q. Go ahead.

17 A. No. As I said, a Homans' sign is
18 neither sensitive nor specific for a DVT.

19 MR. GOLDSTEIN: That's all I have for
20 you at this time. Thank you.

21 MS. TOSTI: I don't have anymore.

22 MR. FALLON: She will read it, and if
23 we can get a waiver of the seven day
24 requirement?

25 MS. TOSTI: How much time do you

1 want?

2 MR. FALLON: Thirty days.

3 - - - -

4 (Deposition concluded at 3:00 p.m.;

5 signature not waived.)

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AFFIDAVIT

I have read the foregoing transcript from
page 1 through 90 and note the following
corrections:

PAGE	LINE	REQUESTED CHANGE
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LISA ANN ATKINSON, M.D.

Subscribed and sworn to before me this _____
day of _____, 2000.

Notary Public

My commission expires _____

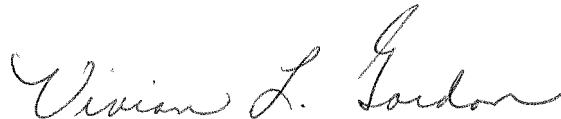
1 CERTIFICATE

2 State of Ohio,)
3 County of Cuyahoga.)) SS:

4
5 I, Vivian L. Gordon, a Notary Public within
6 and for the State of Ohio, duly commissioned and
7 qualified, do hereby certify that the within
8 named LISA ANN ATKINSON, M.D. Was by me first
9 duly sworn to testify to the truth, the whole
10 truth and nothing but the truth in the cause
11 aforesaid; that the testimony as above set forth
12 was by me reduced to stenotypy, afterwards
13 transcribed, and that the foregoing is a true and
14 correct transcription of the testimony.

15
16 I do further certify that this deposition
17 was taken at the time and place specified and was
18 completed without adjournment; that I am not a
19 relative or attorney for either party or
20 otherwise interested in the event of this action.

21
22 IN WITNESS WHEREOF, I have hereunto set my
23 hand and affixed my seal of office at Cleveland,
24 Ohio, on this 11th day of May, 2000.

25


26
27 Vivian L. Gordon, Notary Public
28 Within and for the State of Ohio

29 My commission expires June 8, 2004.

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