Doc. 75

IN THE COURT OF COMPION PLEAS

CUYAHOGA COUNTY, OHIO

DIANE M. CARRICK,
EXECUTRIX, etc,

Plaintiff,

-vs-

JUDGE J. KILCOYNE
CASE NO. 185330

THE CLEVELAND CLINIC
FOUNDATION, et al.,

Defendants.

- - - -

Deposition of THOMAS B. BRALLIAR, M.D., taken as if upon cross-examination before Susan M. Cebron, a Registered Professional Reporter and Notary Public within and for the State of Ohio, at the Cleveland Clinic Foundation, 9500 Euclid Avenue, Cleveland, Ohio, at 10:15 a.m. on Tuesday, November 20, 1990, pursuant to notice and/or stipulations of counsel, on behalf of the Plaintiff in this cause.

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* * *

THOMAS B. BRALLIAR, M.D., of lawful age, called by the Plaintiff for the purpose of cross-examination as provided by the Rules of Civil Procedure, being by me first duly sworn, as hereinafter certified, deposed and said as follows:

CROSS-EXAMINATION OF THOMAS B. BRALLIAR, M.D.

BY MR. KAMPINSKI:

Q. Doctor, would you state your full name, please?

A. Thomas, middle initial B as in boy, Bralliar, B R A L L I A R.

Q. I'm going to ask you a number of questions this morning, doctor. If you don't understand any of them tell me. I'll be happy to rephrase any question you don't understand.

A. Okay.

Q. When you respond **to** my questions please do so verbally. She is going to be taking down everything you say. She can't take down a nod of your head, okay?

A. Correct.

Q. Doctor, from 1971 from your residency in anesthesiology at Huron Road Hospital what did you do?

A. I was on the staff in the anesthesia department

at Huron Road Hospital, I was involved in the education program, was ultimately director of the anesthesia residency training program.

I was also an officer in the corporation of -- the anesthesia corporation at Huron Road.

Q. What was the name of that corporation?

A. H period R period Anesthesia, Inc.

Q. And they had a contract with Mount Sinai to provide anesthesia services?

A. No.

MR. GORE: You said Sinai.

MR. RAMPINSRI: I'm sorry.

Q. Huron Road?

A. No. We had no contract with them,

Q. But they did provide the anesthesia services for the patients at Mount Sinai?

A. At Huron Road.

Q. At Huron Road, I'm sorry.

A. Exclusively.

Q. Well, how were they compensated if there was no contract?

A. Fee for service.

Q. So they billed the hospital?

A. No, we billed the patients for our services.

Q. And when you say exclusively, this was just as a

matter of choice between the hospital and the corporation since there was no contract?

A. It was just the fact that no other outside anesthesia group provided anesthesia. No one to my knowledge had applied to do so.

Q. Okay. You did that until 1987?

A. That's correct.

Q. And then you came here to the Cleveland Clinic?

A. That's right.

Q. What's the reason you left?

A. I had a better opportunity for professional and personal satisfaction by coming to an institution that was quality and world renown and had a dedication to training residents that met my purpose.

Q. When in '87 did you come here?

A. I came here in August of '87.

Q. And on your CV it says you're a staff anesthesiologist?

A. That's correct.

Q. And has that been your position since you've been here?

A. Yes, it has.

Q. Have you ever been sued, doctor?

A. Yes, I have.

Q. All right. When and where, please?
A. In Cleveland, in 19, I believe it was '84. I may be mistaken on the date.
Q. Okay. By whom?
A. By a Mr. Hanratty, Estate of Mr. Hanratty, H A N R A T T Y.
Q. And what were the allegations?
A. The allegations were that I had specifically -- I don't know what the exact allegations were, but it was intimated that I had not appropriately intubated the patient.
Q. What happened to the patient?
A. The patient expired.
Q. Any others? Any other lawsuits?
A. No.
Q. What was the result of that suit?
A. The result of that suit?
Q. Yes, sir.
A. I was, as I recall, dropped from the suit officially by name. H.R. Anesthesia was continued to be carried in that suit, and partial judgment was found against us.
Q. Who was the plaintiff's attorney in that case?
A" The name slips me at the moment. It started with a C, I believe.

Q. Okay. What was the caption of the case, Hanratty versus --

A. I don't know. I believe it was Hanratty versus Huron Road Hospital, if I'm not mistaken.

Q. All right. It indicates that you were a member of the board of directors of P.I.E. from '79 to '87. Rid you cease being a member at the time that you came to the Clinic?

A. Yes, I did.

Q. Did you cease because you came to the Clinic?

A. I ceased because I was no longer insured by the P.I.E. Mutual.

Q. All right. How did you get involved in the case involving Mr. Carrick, doctor? I mean, why is it that you were the individual providing anesthesia services?

A. I was assigned that room for that day.

Q. All right. What contact, if any, did you have with Mr. Carrick prior to the surgery?

A. Just the preoperative evaluation prior to the induction of anesthesia with a review of the records at that time and discussion with the nurse/anesthetist.

Q. And would that have taken place the day of the surgery?

A. Yes, it would.

MR. KAMPINSKI: Do you have -- do you have a copy there for him of the pages that he's involved in?

MR. GORE: I do. I got some highlighting on them.

Q. All right. Why don't you indicate what numbers those are, doctor, what number pages?

MR. GORE: The pre-op assessment is 1417. Anesthesia record is 1418. I think that's the back of the anesthesia record, that's 1419, and the post-anesthesia is 1420. Let me just make sure on that back.

MR. KAMPINSKI: Okay.

A. Yes, that's correct.

MR. GORE: Is that the back?

A. Yes.

MR. GORE: Okay. Yes.

MR. KAMPINSKI: Let me look at the original.

Q. If you need to look at the original, you know, that's fine.

A. Okay. Fine.

Q. All right. 1417 is the pre-op anesthesia record?

A. Yes, it is.
Q. Did you fill that out?
A. No, I did not.
Q. Who did?
A. Our resident by the name of Dr. MeKhail.
MR. GORE: Spell that.
A. M E capital K H A I L.
MR. RAMPINSKI: Off the record.
- - - -
(Thereupon, a discussion was had off the record.)
- - - -
Q. What was Dr. MeKhail to you in the hierarchy?
A. Dr. MeKhail is a resident in anesthesia.
Q. So that he would have reported to you?
A. He would have reported to me if he had had some questions or wanted to discuss the patient the night before when he did his evaluation.
Q. That was my next question. The evaluation we see on Page 1417, would that have been done the night before the surgery?
A. In most cases.
Q. Do you know when this one was done?
A. I can't say specifically because the date is not listed here, but with the information that's

present, I would assume as in most cases it was most likely done the night before or the day before, which would have been 4/10/89.

Q. I don't see on here, doctor, the laboratory values, where it has got lab data available right next to it is written "pending".

A. Right.

Q. Do you know what this resident was referring to when she said that the lab values were pending? I mean --

A. When he did the pre-op evaluation, oftentimes there will be laboratory tests that have been ordered already but the results are not yet on the chart. So a notation is made to alert people that are looking in addition to their normal routine that the current, most recent laboratory data that's been ordered is not available and it *is* pending, and we have to look at it the following day to make sure we have that data.

Q. Before the operation?

A. Yes.

Q. And was that done?

A. Yes, it was.

Q. Would that be what's contained on 1419, that is

the back of the anesthesia record?
A. In part.
Q. Where would the rest of it be?
A. The rest would not be noted, per se. Other than the fact that by my signature and as a matter of routine I do go through the chart myself.
Q. So you would have looked at the lab values before clearing this patient for surgery?
A. Yes, that's correct.
Q. You were, therefore, aware of the BUN?
A. Yes, I was.
Q. What was it, doctor?
A. On which -- well, the BUN immediately prior to surgery, although it doesn't show here, your chart will reflect that it was I believe 224.
Q. That is set forth on Page 1419?
A. On the 10th I believe it was 224. On the date of surgery it was 214.
Q. And what does that mean to you as an anesthesiologist in terms of the risks that this patient will have for surgery?
A. Per se, not much. It depends upon what the cause is.
Q. What was the cause?
Well, in my opinion the cause was multiple.

Renal, breakdown of skeletal muscle, and the result of the transfusions that the patient had had the preceding month.

Q. What is --

A. In addition to some possible dehydration.

Q. What does steroid administration do for BUN?

A. Well, long-term steroid administration in my opinion can cause additional tissue breakdown and catabolism, which would tend to increase the BUN.

Q. Did the BUN of 2/24 -- or I'm sorry, you said 2/14, the day of surgery?

A. Yes.

Q. Is the 2/14 set forth anywhere in the record?

A. No, it's not set forth in this record. It is in the laboratory record.

Q. And you have a recollection of seeing that?

A. Yes, I do.

Q. Or 2/19 --

A. 2/14.

Q. 2/14?

A. As I recall, on the day of surgery, 2/14.

Q. Did that cause you any concern?

A. By itself, with evaluation of the patient, no.

Q. Well, did you evaluate the patient?

A. Yes, I did.
Q. When was that?
A. The day prior to surgery.
Q. How long does it take to evaluate the patient?
A. It depends on the individual patients, but with the data that I had with my evaluation I was comfortable.
Q. Well, do you have any recollection of evaluating Mr. Carrick at all?
A. From looking at my records and the chart review, a vague recollection.
Q. Well, what's your recollection, doctor?
A. My recollection based upon that information is, that I was not concerned about the BUN, per se, in context to the patient's overall condition.
Q. All right, You are answering two questions one of which I haven't really asked, and you keep prefacing your responses to "in review of the records."
A. Right.
Q. I mean the review of the records, obviously, you know, gives you information that was present at the tine that you wrote down or the people working for you wrote down.
My question is whether or not you have an

independent recollection of Mr. Carrick or of examining him.

MR. GORE: Independent of the records, Chuck?

MR. RAMPINSKI: Yes.

A. No, not specifically.

Q. Okay. What is it about the record itself that gives you any recollection of him as an individual in terms of your examining him or seeing him clinically as opposed to what you see in the chart?

Do you understand that question?

A. I think so. You're asking if I remember him as a specific individual patient, was there something that made me remember him specifically compared to everyone else?

Q. Yes.

A. And I'd have to say with the type of patients that we get here, it may sound strange, but I don't remember him any more specifically than I would any other patient that's seriously ill that I'm involved with.

Q. So your entire testimony then, your entire recollection of this case is based upon what's in the record?

A. That's true.
Q. So then getting back to my earlier question, do you have any recollection then of assessing Mr. Carrick initially before the surgery, you, yourself?
A. Yes, I would have a recollection in the sense that I always assess my patients.
Q. So that by routine you would do that?
A. Yes.
Q. But you can't tell me how long you spent with him?
A. Not specifically, no.
Q. When you say assess them, what are we talking about? What would you typically do?
A. Well, I would review the preoperative assessment sheet that I have. I would discuss with the other anesthesia team then what information they had. I would take the chart and look at the information that's in the chart in view of what I already knew. I would look at the patient and make my own physical assessment of the patient, and I would do any physical examinations that I thought were appropriate and indicated, and if I was not satisfied with that information, then I would do what I thought was necessary to obtain

the additional information to satisfy myself that I could proceed with the anesthesia safely.

Q. If you will do a physical examination, would that be set forth in the chart, your findings?

A. If they were significant and abnormal.

Q. And did you or can you tell from this chart if you did a physical examination?

A. No.

Q. So you can't tell one way or the other?

A. Yes, I can. Since I did not list anything specifically on the record, if I had had some specific concerns I would have listed them.

Q. No. No. The question is, can you tell from looking at this chart as to whether you did a physical examination one way or the other?

A. Yes. From my physical status classification, Class 3.

Q. And what does that mean?

A. That is the American Society of Anesthesiologists Physical Status Classification, and a Class 3 means that this patient, in my opinion, has disease that's significant and potentially life threatening.

Q. How do you determine whether or not an individual is appropriate for surgery from an

anesthetic standpoint, and that's, I take it, what you do do, correct?

A. That's right.

Q. How do you do that?

A. Well, it's a rather involved process based upon what I've just mentioned. I gather as much data and information as I can. I have the opinion of the other medical people that are involved in the care of the patient.

Q. Well, let me stop you there, I mean, whose opinion did you have there?

A. Well, I had the opinion of Dr. Halley.

Q. Halley?

A. I believe the spelling I would have to look, he was the nephrologist taking care of this patient.

Q. Dr. Heyka?

A. Dr. Heyka, I'm sorry. The opinion of Dr. Broughan.

Q. Yes. Go ahead.

A. Any of the other consultants that would have had notes in the chart preoperatively I would have had their opinion. I don't recall their names at the present.

Q. So you would have relied upon them having

cleared Mr. Carrick for surgery even before you saw him?

A. Oh, I would rely upon their opinion and then form my own opinion.

Q. Now, I'm sorry. I interrupted, You were telling me what else it was that you did to clear a patient for surgery.

A. Well, as I mentioned, it's a repeat. I gather the information that is available, I do my own assessment and evaluation, and then I make my own medical decision as to whether or not this patient is in a safe enough position to proceed in view of their medical condition.

Q. What is the risk of a BUN of 214 or 224?

A. Specifically by itself there is no specific risk. It just is a consideration as to what it implies and what the cause of that elevation in BUN is.

Q. And it implies the things you told me before, that is the renal, skeletal, muscle breakdown, dehydration, things of that nature?

A. That's right.

Q. And did you seek to deal with any of those underlying situations that were causing the elevated BUN prior to initiating or approving

surgery?
A. They had already been dealt with satisfactorily as far as I was concerned.
Q. Well, how was he being treated for his renal problem?
A. His renal problem, he had been evaluated and treated, His creatinine had improved.
Q. Excuse me. How was he being treated -- excuse me. What treatment was he receiving for his renal problem?
A. Well, the only treatment that he was receiving that I'm aware was the prednisone. He was on Lasix. He was on Dialume.
Q. You are listing the medications. Are you suggesting that those are treatments for his renal problem?
A. In part,
Q. Was he receiving dialysis?
A. No, he was not.
Q. Do you know why not?
A. Because in the opinion of the nephrologist it was not necessary at that time.
Q. I mean, did you talk to the nephrologist at that time about why he wasn't receiving dialysis?
A. I did not because I was not concerned that it

was necessary.

Q. Would that be something that you would make the decision on or that you would have just deferred to him having made that decision?

A. No. I would make my own decision in concert with what he had decided, and if I was concerned I would have discussed it with him.

Q. Well, all right. What training provides you the ability to make that decision as to whether or not somebody should be dialyzed?

A. I don't make the decision as to whether or not they should be dialyzed. I make the decision as to whether or not there are some abnormalities with the patient that I think could be corrected before surgery to make things safer, and that might include dialysis, especially in a renal patient.

Q. What led you to believe that dialysis would not be appropriate in this case?

A. I didn't see anything to me to indicate that it was necessary. It's not so much a decision as to why shouldn't it be done as it is a decision as to if it should be done and can improve the patient.

Q. Well, had it been tried before the decision to

have Mr. Carrick undergo a parathyroidectomy?
A. Had dialysis been tried prior to that?
Q. Yes, sir.
A. Not to my knowledge.
Q. So how do you know it wouldn't have been of any assistance?
A. I didn't see anything in my opinion that indicated it.
Q. Are you a nephrologist?
A. No, I'm not.
Q. What are you board certified. in?
A. Anesthesiology.
Q. Anything else?
A. No.
Q. Was there difficulty intubating Mr. Carrick?
A. Yes, there was.
Q. What was the nature of the difficulty?
A. Anatomical difficulty because of an anteriorly placed larynx.
Q. Well, didn't you know that before you tried to intubate?
A. We didn't -- it was not an extremely difficult intubation.
Q. Well, what was the problem and how did you take care of it?

A. We took care of it by being gentle and making the appropriate positional changes and adjusting to the anatomical situation.
Q. Were there any adverse effects of the difficult intubation?
A. No, there were not.
Q. How did the operation go?
A. The operation from an anesthetic point of view went fine.
Q. Were you there the whole time?
A. No, I was not.
Q. Where were you?
A. I was in the operative area.
Q. What does that mean?
A. That means immediately present in the operating suite area or immediately adjacent to it in the surgical arena there.
Q. Who actually intubated Mr. Carrick?
A. This nurse/anesthetist.
Q. Who is she?
A. That was a he. A Mr. Niedermeier, I believe, if I can decipher the writing, with me present.
Q. I'm sorry?
A. With me present.
Q. Was he still there -- is he still there?

A. No, he is not.
Q. Where is he at?
A. I believe he's at Euclid General.
Q. Why did he leave?
A. Personal reasons.
Q. Was he asked to leave?
A. No, he was not. To my knowledge.
Q. And what was his experience prior to that particular day, do you know, how long he had been here?
A. I don't know how long he had been here, but my opinion of him is that he was a well qualified, very adequate nurse/anesthetist.
Q. Why did he intubate as opposed to yourself?
A. That's our general routine, unless it's necessary for me to intervene.
Q. Did you intervene?
A. Only in the sense that I would make suggestions and help him with the positioning of the patient.
Q. So that when you say that it was done gently, this is what, by observation as opposed to actually doing it?
A. By observation and assisting, I would actually be watching how often he was doing the

manipulation and assisting in the positioning of the patient and handing the endotracheal tube to him so that he could concentrate on what he is doing.

Q. Are you guessing now because you told me before that you don't really remember this patient?

A. Well, I am telling you whatever my routine is whenever I have a difficult intubation, that I am actively involved with the individual.

Q. Are there any guidelines, rules, regulations of any nature at the Cleveland Clinic that set forth the parameters of test results that would or would not allow you to proceed with an operation?

MR. GORE: Objection for clarification. Laboratory test results?

MR. KAMPINSKI: Yes.

A. Not to my knowledge.

Q. All right. So this is something that you as an anesthesiologist decide on based upon your experience and training?

A. In addition to the opinion of the other experts.

Q. Well, I mean, was Dr. Heyka there at the time of the surgery?

A. No.

Q. All right. So he didn't assist you in determining whether or not to proceed with the surgery given the elevated BUN, did he?
A. Oh, yes, he did.
Q. Well, why is that?
A. He's a nephrologist and an expert, and I value his opinion in helping me make a decision.
Q. Well, wait a minute. I mean, did you sit down and talk with him before this particular surgery?
A. No.
Q. All right. Then you got me confused, doctor. How did he help you or assist you in making the decision?
A. The fact that he cleared the patient for surgery.
Q. I see. Was he aware of the elevated BUN before the surgery?
A. I'm sure he was.
Q. Why? Did you tell him?
A. No, I did not.
Q. The surgeon, Dr. Broughan?
A. Broughan.
Q. Broughan. I'm sorry. Names are not my forte. I apologize.

I assume he was aware of the elevated BUN?
A. I do, also.
Q. You assume that he was at the time that you saw the elevation?
A. Yes.
Q. Did you have any discussion with him about it?
A. In this patient, I am sure that we discussed at least briefly the patient.
Q. Okay. But do you have any specific recollection of doing that as it related to the abnormal laboratory values?
A. Only by what I routinely do when there are abnormalities with a patient,
Q. Do you know if there would have been any discussion with Dr. Broughan as to alternatives to surgery at that time, that is treating the patient medically prior to subjecting him to the surgery?
A. I doubt that in view of the information that that discussion would have occurred.
Q. In view of what information?
A. The information that I had that I had no concerns as to the appropriateness of proceeding with anesthesia for surgery.
Q. Are patients with BUNs in excess of 100 at risk

for bleeding perioperatively?

MR. GORE: Did you say perioperatively?

MR. KAMPINSKI: Yes, sir.

A. They might have some increased risk, but I wouldn't be particularly concerned.

Q. Why is that?

A. It's not something that in and of itself has to me demonstrated a serious bleeding problem perioperatively.

Q. Did you treat Mr. Carrick at all postoperatively?

A. No, I did not.

Q. When did you leave the operating room?

A. I was in and out of the operating room periodically. I'm not sure what you mean by when I left the operating room.

Q. Well, maybe I should ask it differently. When did you go into the operating room?

A. I would have gone into the operating room prior to starting the anesthetic.

Q. All right. How long would you have stayed there?

A. I would have stayed there until the patient was stabilized and induced.

Q. And then you would have left?
A. I would have, once the patient was stabilized, I would have probably left and then checked back periodically.
Q. And the only one that would have been there then would have been the nurse/anesthetist?
A. In my absence.
Q. Do you believe, doctor -- well, have you reviewed the record of Mr. Carrick other than the anesthesia record before coming here today for deposition?
A. In part, yes.
Q. What parts have you reviewed?
A. Well, I perused the entire chart that was available to me for his hospital admission in March, as well as his admission for the surgery and his postoperative course until his time of death.
Q. Do you believe that the surgery -- well, withdraw that.

The necessity or wisdom, if you will, of doing the surgery itself, that's not a decision that you get involved in., is it?

A. Not usually.
Q. Well, I mean, did you with Mr. Carrick?

A. No.
Q. All right. And I take it your function is merely to determine if he's an appropriate candidate for surgery?
A. No.
Q. No? What is your function?
A. I don't determine if he's an appropriate candidate for surgery. I determine whether, in my opinion, he's an appropriate candidate for safe anesthesia for the surgery that's been proposed.
Q. And in your opinion Mr. Carrick was?
A. Yes, he was.
Q. Is the writing on the back of Page 1419 yours? I mean, that's not your signature?
A. No, it is not.
Q. All right. Whose is that?
A. That's the nurse/anesthetist, Mr. Niedermeier, I believe.
Q. So that be would. have gotten the laboratory values then prior to surgery, is that correct?
A. He would have made his own evaluation and I would have made mine.
Q. Is this his evaluation that's contained on 1419?
A. Yes, it is.

Q. And when you say evaluation, you're talking about the numbered items in terms of number one, chronic renal insufficiency times 18 years secondary to nephrosclerosis?
A. Question mark.
Q. Yes. And then two, severe gout?
A. Exacerbation times six weeks.
Q. Three, HTN times 10 years, what's that?
A. Hypertension.
Q. And four, hypercalcemia secondary to hyperparathyroid?
A. Yes.
Q. Where is your analysis?
A. My analysis is not specifically written here, except for my signature and the physical status classification.
Q. Well, I thought you said that he made his, you made yours?
A. I do make mine.
Q. My question. is, where is yours?
A. I don't write my analysis out in every case unless I feel there is something additional that needs to be added.
Q. So I take it you agreed. with. Mr. Niedermeier?
A. In part.

Q. What didn't you agree with?
A. Well, he has some information here that he has written that is not the most recent, current information present. He was putting the information down that he had available at the time.

And he did make a correction to this, as an example, the potassium, he had the most recent potassium written on the chart that was obtained that morning, the 4.8, although the information he wrote on the back of this shows a potassium of 5.5 that was crossed out.

So I would have had some other information and have been aware of some things that he may not have listed here, such as the BUN being 214 instead of 224.

Q. When did he cross out or who crossed out the 5.5?
A. I believe he did.
Q. Do you know that?
A. I assume it because he would probably be the only one that had done the writing and made the corrections.
Q. And we've been referring to Page 1419, right?
A. Yes.

Q. And you say on 1418 it has a potassium of 4.8?
A. Yes, 6 a.m. in the bottom left-hand quadrant, just above the arterial cath.
MR. GORE: Bottom right-hand?
A. Bottom right-hand.. I'm sorry. I can't tell my right from my left.
Q. Whose writing is that?
A. I believe it is Mr. Niedermeier's.
Q. Well, I mean do you have any writing on Page 1418?
A. Just my signature.
Q. So that the writing on both sides of this page, 1418, 1419 are his?
A. Except for my signature, yes.
Q. And the reason you signed it is what?
A. Is to document the fact that I did my evaluation and was concurring with proceeding with anesthesia and to note it for the record and to show what my supervisory ratio was.
Q. I'm sorry. I don't understand that,
A. Next to my name I have a 1 circled, which would mean that that was the only case with which I was involved. that morning at this time.
Q. Okay. Why wouldn't you have been in there then? I mean, what is it you were doing other

than being in this surgical suite if that was the only case you were involved in at that time?

A. I would have exited to check on other things, to see if they needed me for other duties, to perhaps have a cup of coffee once things were settled, to check any paperwork I had to do in my mailbox, to go back to the room and give Mr. Niedermeier a break. As long as I'm checking the room periodically, to stand there with him continuously would not be efficiently necessary.

Q. Well, did -- is the 4.8 a normal value?

A. Yes, it is.

Q. Is the 5.5?

A. I'm sorry?

Q. Was the 5.5?

A. Was it, you said?

Q. Yes.

A. No.

Q. And what is it that caused it to go down?

A. Probably appropriate hydration of the patient.

Q. How was the patient hydrated?

A. I'm sorry?

Q. How was the patient hydrated, through IV?

A. With his preoperative preparation. I can't say

what they specifically did on their hydration preoperatively, but that was just one example of how the potassium might have come down.

Q. Would you have been involved in that?

A. No.

Q. Would your anesthesia department have been involved in that?

A. No.

Q. Who would have?

A. Dr. Heyka and the surgical team.

Q. Did you ever recommend that patients with BUNs in excess of 100 be dialyzed to reduce that level prior to surgery being commenced?

A. No, I have not.

Q. Do you make an assumption, doctor, when a patient is being submitted to your department for pre-op evaluation for surgery that a decision has already been made by whoever is medically treating him that the medical treatment had not worked, and, therefore, surgical option was appropriate?

Do you understand my question?

A. Not entirely. I think it is two different questions.

Q. Well, you might be right. Let me try it again.

Once you look at a patient for purposes of clearing him as an anesthesiologist to determine if he's an appropriate candidate from an anesthesiology standpoint for surgery, do you make an assumption when you look at that patient that someone has already made a decision that he is not an appropriate candidate for medical treatment as opposed to surgical treatment, or don't you think about it one way or another?

A. If there's any question in my mind I would discuss it, but if there isn't a question and the fact that he is scheduled for surgery implies to me that the people with the necessary expertise have decided that surgery is appropriate treatment at this time.

Q. Okay. Did you have any conversations with either Dr. Heyka, Dr. Broughan or any other physician here at the Cleveland Clinic regarding the care and treatment given to Mr. Carrick?

MR. GORE: Ever?

MR. KAMPINSKI: Ever.

A. Dr. Broughan, yes.

Q. When?

A. Well, I am sure that I discussed it with him prior to surgery at least briefly, and I have

talked with him just momentarily within the past week.

Q. What did you talk about?

A. We discussed this case briefly.

Q. Well, tell me what was said,

A. What was said was that I asked Dr. Broughan if he had seen anything that looked amiss in retrospect, and he said no. I told him neither did I, and that we could see nothing in review of the records that would have indicated doing other than what we did at that time as far as the appropriateness of surgery and the care that he received perioperatively.

Q. So you did review the care perioperatively?

A. Yes.

Q. And perioperatively means what?

A. Pre-op, intra-op and post-op, the immediate pre-op, intra-op and the immediate post-op.

Q. Well, how about the post-op beyond the immediate, did you look at that?

A. I looked at that, but that's not what I include in my definition.

Q. Do you have an opinion as to the care received after the immediate post-op?

A. Yes, I do.

Q. Did you review those records?
A. Briefly.
Q. Sufficiently to allow you to render an opinion?
A. Yes.
Q. What did you review?
A. I reviewed the hospital records for the admission, the data, the laboratory data, the physician notes, and some of the other information that's included in the charts there.
Q. And what's your opinion?
A. In my opinion, the care was appropriate.
Q. What care?
A. The care that Mr. Carrick received.
Q. By whom?
A. By all of the physicians involved.
Q. Which ones?
A. The ones at the Cleveland Clinic. I would have to look to get their names specifically.
Q. I thought you did look?
A. I did.
Q. Which ones are you talking about or just all of them?
A. All of the ones that I saw and reviewed in this chart I was satisfied with the care.
Q. The nurses did okay, too?

A. In my opinion.
Q. Did you review the nurses' notes?
A. In part.
Q. Were there any other lab values prior to surgery that caused you any concern, doctor? We've dealt with the BUN, correct?
A. We've dealt with the BUN.

Yes, there were other values that I looked at that I was concerned in the sense that they were abnormal.

Q. Which ones?
A. Specifically I noted that the sodium was reduced from normal.
Q. And what impact, if any, did that have on your decision to clear this man for surgery?
A. Well, in view of the patient's mental status and condition I was satisfied that it was low, but not causing significant problem at that time that it would defer surgery.
Q. Go ahead.
A. I was aware that the creatinine was abnormal on a chronic basis.
Q. Did that cause you any concern for clearing him for surgery?
A. Just concern in the sense that I wanted to make

sure that in my opinion it was as stabilized as reasonably possible, which in my opinion it was.

Q. Okay. Anything else? You can look at the record. I mean this is not an involved trick here.

MR. GORE: Do you want to take a look?

A. I should look at it and let me refer. I'm sure there are other abnormalities, but the ones with which I was specifically concerned, I was aware of the abnormal calcium. I was aware of the, as we mentioned, the BUN and the sodium. My specific concern, of course, was with the potassium, which had been abnormal and was normal.

I was aware of the phosphorus being elevated. I was aware of his history of gout with some elevation in the uric acid. Some specifics that I looked at that were normal, because I specifically checked. for some of those things, were the prothrombin and the PTT. I was aware of his low hemoglobin and hematocrit which had been improved, and he had received transfusions. I was aware of his elevation of alkaline phosphatase.

Q. What was the reason for that, doctor?
A. I assume it was because of his demineralization of the bone.
Q. Why did you assume that? I mean, you told me before what medication he was receiving, correct? He was receiving Dialume, correct?
A. Yes.
Q. What does that do?
A. Well, that is an antacid, but it's also used to help treat in reducing the phosphorus levels.
Q. Could that have been a reason then?
A. For the alkaline phosphatase, I don't know.
Q. Go ahead,
A. I was aware of his parathyroid hormone levels being elevated. I was aware of his albumin and total proteins being reduced. I was aware of his CPK levels having been elevated before with an elevation in the MM fraction,
Q. Well, what does that mean, doctor, the CPK levels are abnormal?
A. Well, if they are abnormal you would like to find out why they are abnormal, and so they do a test to see whether it's a breakdown in chemistry resulting from muscle, brain or a mixture, and in this case it was primarily from

muscle, indicating that there was skeletal muscle breakdown.

Q. Was it heart related or was it other muscles?

A. It was not heart related.

Q. All right.

A. I was -- when I include laboratory I include more than just lab. I was aware of his echocardiogram which had been performed the preceding admission. I was aware of the CAT scan that had been performed and the ultrasound, I was aware of his chest x-ray, and I was aware of his vital signs.

I think that pretty well covers it, although these is other laboratory data in here that I would not have specifically been aware of.

Q. So you were aware of a cardiac friction rub then?

A. No, I was not.

Q. I mean, you said. you reviewed the record.

A. Yes, I did.

Q. Why weren't you aware of that?

A. I don't know that he did have a cardiac friction rub.

Q. Did he?

A. Not in my opinion.
Q. Is that something that can be transitory in terms of the ability to hear it?
A. I believe so.
Q. Well, what do you base your opinion on then?
A. My opinion as to what?
Q. That he didn't have one, from your physical examination of him, that you don't know whether he did have one or not?
A. No. I did do a partial physical examination. I was not aware of a friction rub if it, in fact, did exist, because in my review of the records and review of the evaluation of the other people involved there was no indication that I was aware of that he had a friction rub preoperatively.
Q. What if he did, how would that have affected you?
A. If he did, then I would have tried to ascertain the opinion of the cardiologist or the medical people involved.
Q. When you just gave me your opinion regarding the perioperative care, did that include the period of time where he contracted pneumonia?
A. No.

Q. So it would have been up until sometime before then?
A. Yes.
Q. All right. And you don't have any opinion as to his care after that point in time?
A. I didn't have an involvement. Is that what you're asking, or are you asking an opinion?
Q. Your opinion.
A. From my review of the records, my opinion is that he received adequate medical care.
Q. How was the care that he received in the ICU subsequent to the decision to intubate him, was that pretty good?
A. In my opinion.
Q. And you looked over those records fairly carefully?
A. No. I looked over them in a perusal fashion.
Q. That's sufficient for you to render an opinion?
A. Yes.
Q. Did you act as an expert at all when you were a member of the board of P.I.E.?
A. I don't know what you mean by an expert?
Q. As an expert witness.
A. No.
Q. Have you ever testified as an expert witness?

A. Yes, I have.
Q. How often?
A. Six or less times.
Q. And who did you testify for?
A. I have testified for the P.I.E. Mutual, for Arter & Hadden, and I have been involved in review as an expert without testimony for two other lawyers.
Q. Which firms?
A. Independent. I'm sorry. One was for, I believe his name was Wiedenthal in Cleveland. That was just a review and discussion.

And another is a lawyer in Tennessee.

Q. All right. How many times have you testified?
A. I have testified --

MR. GORE: Both court and deposition?

MR. KAMPINSKI: Yes.

A. Court and deposition? Including my suit or exclusive of my suit?
Q. Well, no. You already told me about your suit. You were deposed in your suit, your deposition was taken?
A. Yes, my deposition was taken.
Q. Did you testify at trial as well?

A. Yes.
Q. And that trial was when, do you recall?
A. I think I said it was in '84.
Q. All right.
A. I have testified either in trial or at deposition, to my recollection, three other times I believe.
Q. What are the names of the cases?
A. I don't know the names of the cases. I can tell you which law firm it was with.
Q. Okay. Do you have some record that would reflect that? In other words, if you went back to your office could you sit down and provide that information to Mr. Gore?
A. No, I don't have that record in my office. I could give you the name of the law firm.
Q. Okay. Why don't you do that?
A. Arter & Hadden.
Q. When was that?
A. I don't know the exact dates, but it's within the past five years.
Q. And what was the name of the case?
A. I don't know the name of the case.
Q. What was the nature of the case?
A. One case was an alleged dental injury in Akron.

Q. Was it an anesthesia case?
A. Pes.
Q. Anesthesiologist had damaged his teeth somehow or --
A. No. This was an allegation as to a temporomandibular joint syndrome that resulted postsurgery and anesthesia.
Q. All right. And did you testify at trial or by deposition?
A. Yes, I did, I testified at trial.
Q. And do you recall who the plaintiff's attorney was?
A. The plaintiff's attorney was -- I don't recall.
Q. Was he an Akron attorney, Cleveland, do you remember?
A. I think he was an Akron attorney.
Q. And who was the attorney at Arter, Hadden?
A. Mr. Gore was..
Q. Okay. And you said that was one of the cases.
A. Yes.
Q. All right.
A. Another case for Arter & Hadden was in Cleveland involving an anesthesia case at Booth Memorial Hospital.
Q. What happened?

A. In my opinion, the patient had an anaphylactoid reaction to the dye injection,
Q. Did the patient die?
A. Yes.
Q. And who was the attorney on that case?
A. I believe the name was Mr. Licata.
Q. You are talking about the plaintiff's attorney?
A. No. Defendant's attorney. I don't recall the plaintiff's attorney.
Q. The attorney at Arter, Hadden?
A. That was the defendant's attorney.
Q. Mr. Licata?
MR. GORE: Formerly at Arter & Hadden.
Q. And did you testify at trial in that case?
A. Yes, I did.
Q. All right, Do you remember the name of the plaintiff?
A. No, I don't.
Q. Do you remember the name of the plaintiff's attorney?
A. No, I don't..
Q. Okay. Any others for Arter & Hadden?
A. Just this one. Well, this is not for Arter & Hadden. So, not that I can recall.

Q. Okay. How about --
A. Wait, I'm sorry. Yes. I reviewed a case for Arter & Hadden with a Mr. Moscarino as the attorney for the defendant.
Q. Yes?
A. One of the defendants.
Q. Which defendant was that?
A. I'm sorry?
Q. Which defendant was that?
A. I believe that defendant at that time was a hospital.
Q. Which hospital?
A. Fairview General.
Q. And what were the allegations in that case?
A, The allegations were that the patient suffered some ulnar nerve palsy because of improper positioning.
Q. Did you testify in that case?
A. No, I did not.
Q. Is it still pending?
A. No. The hospital I believe was dropped.
Q. Any others for Arter & Hadden?
A. Not that I recall.
Q. Okay. You mentioned P.I.E.?
A. P.I.E., there is a current suit that I'm an

expert witness in.

Q. All right, What's the name of the case?

A. I can't remember the man's name.

Q. Who is the attorney?

A. The attorney for the defendant is a Jody, and I didn't remember her last name -- Diethell.

MR. FIFNER: D I E T H E L L . It is either D I E or D E I I.

Q. This is a case out of Toledo?

A. Yes. I believe it is.

Q. What are the allegations in that case?

A. That an improper positioning and care of the patient resulted in blindness in one eye.

Q. Have you testified in that case?

A. No.

Q. All right. Any others?

A. For P.I.E. Mutual? I don't believe there are any other depositions or testimonies.

Q. You mentioned some others, from Tennessee?

A. Well, there was a nonmedical case. Well, it was a medical case that I reviewed for a Mr. -- God, for a gentleman that had a case referable to anesthesia care in an insurance claim, a Mr. Kopinski I believe the attorney's name was.

Q. Not me.

A. Okay. I would remember his name given the time or checking some records. I can't recall it at this time.

There is a case in Tennessee that I'm currently an expert witness for the plaintiff's attorney.

Q. What's the nature of that case?

A. That's an obstetrical case where the mother died.

Q. Why are you an expert? I mean, was it an anesthesia complication?

A. It was an anesthesia complication, in my opinion.

MR. KAMPINSKI: That's all the questions I have.

Anybody else?

MR. FIFNER: No.

MR. McCRYSTAL: No.

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THOMAS B. BRALLIAR, M.D.

C E R T I F I C A T E

The State of Ohio,) SS:
County of Cuyahoga.)

I, Susan M. Cebron, a Notary Public within and for the State of Ohio, authorized to administer oaths and to take and certify depositions, do hereby certify that the above-named THOMAS B. BRALLIAR, M.D., was by me, before the giving of their deposition, first duly sworn to testify the truth, the whole truth, and nothing but the truth; that the deposition as above-set forth was reduced to writing by me by means of stenotypy, and was later transcribed into typewriting under my direction; that this is a true record of the testimony given by the witness, and was subscribed by said witness in my presence; that said deposition was taken at the aforementioned time, date and place, pursuant to notice or stipulations of counsel; that **I** am not a relative or employee or attorney of any of the parties, or a relative or employee of such attorney or financially interested in this action.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of office, at Cleveland, Ohio, this _____ day of _____, A.D. 19 ___.

_____
Susan M. Cebron, Notary Public, State of Ohio
1750 Midland Building, Cleveland, Ohio 44115
My commission expires August 16, 1993