

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

3
4 IN THE COURT OF COMMON PLEAS

5 Robert Paoloni, a minor,)
6 et al,)
7 Plaintiffs,)
8 vs.) No. 327020
9 Erast Haftkowycz, M.D.,)
et al,)
10 Defendants.)

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12
13 Deposition of PHILIP C. BRZOWSKI, M.D., a
14 witness herein, called for cross examination by the
15 Plaintiffs, taken before Michelle A. Bishilany, RMR
16 and Notary Public within and for the State of Ohio, at
17 the offices of Arter & Hadden, 1100 Huntington
18 Building, Cleveland, Ohio, on Friday, the 5th day of
19 June, 1998, at 9:40 a.m.

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23
24 HOLLAND & ASSOCIATES
25 (216)621-7786

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APPEARANCES:

Lancione & Simon, by
Mr. John G. Lancione,

on behalf of the Plaintiffs;

Reminger & Reminger, by
Ms. Christine S. Reid,

on behalf of Defendant
Earst Haftkowycz, M.D.;

Arter & Hadden, by
Mr. Thomas Allison,

on behalf of Defendant
Fairview General Hospital.

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EXAMINATION OF PHILIP C. BRZOWSKI, M.D.

By Mr. Lancione..... 3

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EXHIBITS MARKED

Plaintiff's exhibit 1 10

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1 PHILIP C. BRZOZOWSKI, M.D.,
2 of lawful age, a witness herein, called for cross
3 examination by the Plaintiffs, being by me first duly
4 sworn, as hereinafter certified, deposed and said as
5 follows:

6 CROSS EXAMINATION

7 BY MR. LANCIONE:

8 Q. Would you state your full name for the record,
9 please?

10 A. Philip Chris Brzozowski.

11 Q. What is your business address?

12 A. 9000 Mentor Avenue, Mentor, Ohio.

13 Q. What is the name of your employer?

14 A. Mednet Physicians, Incorporated.

15 Q. What capacity do you serve for Mednet?

16 A. I'm an obstetrician/gynecologist.

17 Q. Describe generally for me what Mednet is.

18 A. Mednet is a multispecialty group of physicians.

19 Q. How many physicians are there?

20 A. Approximately 100.

21 Q. Do you have more than one office address for
22 those doctors or are they all at the same place?

23 A. No, we have multiple office sites.

24 Q. Where are those?

25 A. Euclid, Ohio, East 185th and Lake Shore;

1 Rockside Road; Mentor Avenue, 9000 Mentor Avenue; and
2 we have offices also in Westlake.

3 Q. How many obstetricians are there with the
4 group, approximately?

5 A. Currently 11.

6 Q. Are they all general obstetricians or do any of
7 them have specialties, subspecialty interests?

8 A. All are general OB/GYNs.

9 Q. When did you join that group?

10 A. Let's see.

11 1986. The summer of 1986.

12 Q. Where did you do your residency training?

13 A. Walter Reed Army Hospital.

14 Q. I found it on your CV.

15 In between 1984 and 1986 you were in Kansas --

16 A. Yes, that's correct.

17 Q. -- practicing your specialty?

18 A. Yes, sir.

19 Q. Are you affiliated with any other hospitals
20 other than University?

21 A. No.

22 Q. What academic relationship do you have with
23 University?

24 A. I carry the title of assistant clinical
25 professor in the department of obstetrics and

1 gynecology at University Hospital.

2 Q. What is the department of reproductive biology?

3 A. Essentially the same thing.

4 Q. Tell me what you do in your day-to-day
5 practice.

6 (Discussion had off record.)

7 A. My day-to-day practice? Take care of women
8 from about 14 till whenever.

9 Q. Where is that done primarily?

10 A. Office based practice at Rockside Road and 9000
11 Mentor Avenue in Mentor, and my in-hospital work is
12 done at McDonald Hospital for Women.

13 Q. What is your routine scheduling with respect to
14 those three places?

15 A. Let me -- Mondays, Wednesdays, Thursdays and
16 Fridays I'm in the office. Tuesdays I spend my day at
17 the hospital.

18 Q. Do you deliver babies?

19 A. Yes, I do.

20 Q. How many do you deliver in a year?

21 A. Approximately 120 to 150.

22 Q. You only go to the hospital on Wednesdays, is
23 that it?

24 A. Tuesdays.

25 Q. Tuesdays, I'm sorry.

1 A. Right, Tuesdays is my day at the hospital. I
2 may take call during other days of the week.

3 Q. So if any of your patients decide to deliver
4 their babies on other days somebody else takes care of
5 them?

6 A. That's correct. We have a group practice.

7 Q. You've prepared a report as an expert witness
8 in this case on behalf of Fairview General Hospital;
9 is that correct?

10 A. Yes, sir, I have.

11 Q. January 5, 1998 is the date of that report?

12 A. Yes, sir, that's correct.

13 Q. Is that the only report that you have prepared
14 in this case?

15 A. Yes, it is.

16 Q. How did it happen that you became an expert
17 witness in this case?

18 A. Mr. Allison asked me.

19 Q. How did he know you? How did he know to call
20 you?

21 A. I had done some previous work for Arter &
22 Hadden.

23 Q. Tell me about that.

24 A. Reviewed a case for Susan Massey, attorney here
25 at Arter & Hadden.

Q. What kind of a case?

A. It was a case involving an emergency hysterectomy that was done in light of a postpartum hemorrhage. It was done as a lifesaving measure.

Q. How did she know to you contact you as an expert witness?

MR. ALLISON: If you know,
Doctor.

9 A. No, I don't know.

10 Q. What other medical reviewing have you done in
11 medical malpractice cases?

12 A. Total of maybe five or six cases over the last
13 12 years.

14 Q. For whom?

15 A. Jacobson, Maynard, Tuschman & Kalur.

16 Q. Were you insured by PIE at one time?

17 A. Yes, I was.

18 Q. Were you on any of their review committees?

19 A. I think I reviewed charts once for PIE, one of
20 the review committees.

21 Q. Have you ever reviewed a case for a patient?

22 A. No, I haven't.

23 Q. Have you ever reviewed any case for a
24 plaintiff's lawyer?

25 A. No, I have not.

Q. Do you list your name with any organization that provides expert medical witnesses to lawyers in
3 medical malpractice cases?

4 A. No, I don't.

5 Q. How many shoulder dystocia cases have you
6 personally handled?

A. This is the only one.

8 Oh, personally handled?

9 Q. As an obstetrician.

10 A. Oh, as an obstetrician. I'd have to say 10 or
11 12 shoulder dystocias.

12 Q. How many of them resulted in injuries to the
13 brachial plexus?

14 A. I don't recall any.

15 Q. What were you asked to do by Mr. Allison with
16 respect to acting as an expert witness in this case?

17 A. I was asked to review the records on behalf of
18 Fairview Hospital and the nursing staff.

19 Q. With what in mind?

20 A. With the -- with the -- with respect to the
21 nursing care that was rendered by the nursing staff,
22 if it met the appropriate standard of care.

23 Q. What did you have to review?

24 A. I was provided with the hospital records of
25 Mrs. Paoloni and I was provided with the depositions

1 of Nurses Hoefke, Hugney and Sutcliffe, as well as the
2 deposition of your two experts, Drs. Landon and
3 Gimovsky.

4 Q. Do you know either of those doctors?

5 A. No, I don't.

6 I'm sorry, I also have the deposition of Dr.
7 Haftkowycz.

8 Q. Do you know Dr. Haftkowycz?

9 A. No, I don't.

10 Q. Have you read any of the publications of either
11 Dr. Gimovsky or Dr. Landon?

12 A. Not that I recollect.

13 Q. Your publications in the peer review
14 literature, there's one publication listed, is that
15 the extent of your publications?

16 A. Yes, sir.

17 Q. That was in 1985?

18 A. That's correct.

19 Q. Where were you in 1985? Let's see.

20 A. I was still in the Army. I was in Kansas.

21 Q. Kansas, okay.

22 When you took your boards in February 1987 did
23 you pass them the first time?

24 A. Yes, I did.

25 Q. For your recertification did you pass them the

1 first time?

2 A. Yes, I did.

3 Q. With respect to your appointment at Western
4 Reserve, does that involve any regular teaching
5 classes or is it restricted to working with the
6 residents, or both?

7 A. I'm sorry, I don't understand what you mean by
8 "teaching classes".

9 Q. In the medical school?

10 A. I give one lecture to the medical students
11 during their clerkship in obstetrics and gynecology,
12 the topic is endometriosis.

13 Q. How many times a year is that?

14 A. Six times a year.

15 Q. Did you make any notes as you were preparing to
16 prepare your report?

17 A. I have one page of notes here, it's really a --
18 just kind of who the players are in this.

19 MR. LANCIONE: Could we mark
20 that, please, for identification?

21 (Plaintiff's exhibit 1 was marked for
22 identification purposes.)

23 Q. Doctor, I'm going to hand you what's been
24 marked exhibit number 1 of this date and ask you if
25 you will interpret that for me or read what that says,

1 | because I'm not sure I can read all of it.

2 | MR. ALLISON: The first two
3 | lines?

4 | A. The first two lines?

5 | Q. Everything. Is that all your handwriting?

6 | A. That's all my handwriting.

7 | The first two lines: That portion of the
8 | uterus above the fallopian tubes.

9 | Q. Wait, let's stop there.

10 | What does that mean? What does that define?

11 | A. The fundus.

12 | Q. Go ahead.

13 | A. And I divided the page into two sides, the
14 | plaintiff's side, Robert Paoloni, and then the two
15 | experts, Dr. Landon and his title and then Dr. Martin
16 | Gimovsky, these are the plaintiff's experts. I had
17 | received an affidavit of Dr. Landon's as well as his
18 | deposition and the deposition of Dr. Gimovsky. Our
19 | experts are Nocon and O'Grady.

20 | Q. No kind?

21 | A. No kind, I'm sorry. And then Dr. Haftkowycz,
22 | the defendant, the nurses, Cathleen Hugney, who was
23 | the primary R.N., Gina Marie Sutcliffe, she was the
24 | lunch relief, and Fawn Hoefke was the charge nurse.
25 | Do you need to see this?

Q. No, that's okay.

2 A. All right.

3 Q. Looking at your report, you want to get that
4 out.

5 When you say the patient's prenatal course was
6 uneventful, I presume you're looking at that from the
7 viewpoint of the nursing care?

8 A. Yes, sir, that's how I approached my review of
9 this chart in this case.

10 Q. So you're not focusing on the things that did
happen that the obstetrician was dealing with during
her prenatal course?

13 A. That's correct.

14 Q. So you're not suggesting that there were not
15 problems or difficulties or complications or unusual
16 presentations that the doctor paid attention to?

17 MS. REID: Objection.

18 Go ahead and answer.

19 MR. ALLISON: Go ahead and
answer.

Q. That's all right, you can answer.

A. I focused on the nursing care.

Q. Presumably the nurses had nothing to do with
24 her until she got to Fairview Hospital on the 1st, the
25 2nd, right?

1 A. One would presume that.

2 Q. Yes, okay.

3 From the nursing care viewpoint your opinion is
4 that her labor progressed uneventfully until the
5 delivery of the vertex at the time the shoulder
6 dystocia was identified?

A. That's correct.

8 Q. When have you concluded that these notes were
9 made in the chart that began at, let's see, 11:20 --
10 23:20 hours and I believe that's the time Nurse Hugney
11 began to write her notes.

12 MR. ALLISON: What is your
13 question, John? I'm sorry.

14 MR. LANCIONE: When does he
15 assume or what is his conclusion with respect
16 to when she wrote these notes.

17 MR. ALLISON: Objection.
18 Go ahead and answer.

19 A. My assumption that the notes were written at
20 the time that they were recorded on the left hand
21 column.

22 Q. While she was assisting the doctor during that
23 time?

24 A. I would assume that the nurses -- the nurse was
25 charting while she was -- well at 23:20 she wasn't

2 assisting the doctor at that time, she was pushing
3 with the patient. And nurses can write notes, these
4 are short notes, can write, jot down a line or two
5 while pushing with the patient, I see that done all
6 the time. I would assume that the delivery note was
7 probably made after the delivery.

8 Q. What about the notes from 1:22 to 1:28, when do
9 you think they were written?

MR. ALLISON: Objection.

You can answer.

10 Q. Wouldn't you presume from reading the
11 deposition and reading all the materials that during
12 that six minute period she was occupied helping the
13 doctor deliver the baby and probably not writing these
14 notes?
15

16 MR. ALLISON: Objection. He
17 just testified that he would assume the
18 delivery note was made after the delivery.

19 Go ahead and answer again.

20 MR. LANCIONE: Well, I don't
21 know what he was referring to as the delivery
22 note, Tom, so --

23 MR. ALLISON: Okay.

24 MR. LANCIONE: -- I can try to
25 get a complete understanding from the doctor,

1 if you don't mind.

2 MR. ALLISON: That's fine.

3 A. Again, I think the delivery note was probably
4 made after the delivery was performed.

5 Q. So the delivery note, you're calling that last
6 six minutes the delivery note, 1:22 through 1:28?

7 A. I would say the delivery note probably began at
8 1:22.

9 Q. Then prior to that you say that she was helping
10 with the pushing. What do you presume was going on
11 then? What was she doing?

12 A. The nurse was coaching the patient in how to
13 push and I think she clearly stated what she was doing
14 in her deposition. She described in great detail how
15 she helped assist the patient in pushing, I think she
16 even gave an example of how she was doing it.

17 Q. Do nurses during this period of time prior to
18 the presentation of the vertex ever engage in fundal
19 pressure?

20 MR. ALLISON: Objection.

21 Go ahead and answer, if you can.

22 A. No.

23 Q. Explain to me what you mean when you say in
24 item number two the nursing staff maintained
25 communications with the attending physician. First of

1 all, during what time period are you talking about?

2 MR. ALLISON: Do you want him
3 to review all the progress notes from the time
4 she came in or what?

5 MR. LANCIONE: No, I asked him a
6 question what he was talking about and he can
7 tell me what he did, what he's talking about
8 with respect --

9 MR. ALLISON: If he needs to
10 review the record --

11 MR. LANCIONE: That's fine, he
12 can do whatever he needs to do.

13 MR. ALLISON: Okay.

14 A. I am relating to the entire -- I am referring
15 to the entire labor management by the nursing staff
16 during the course of the progress notes reflect that
17 in several instances that Dr. Haftkowycz contacted the
18 nursing staff regarding the status of this patient.

19 There is dated -- first one I believe is 4-1 at
20 14:50, phone report to Dr. Haftkowycz regarding fetal
21 heart rate tracing.

22 They also reported laboratory studies to the
23 anesthesia staff at 16:20.

24 At 17:50 Dr. Haftkowycz is in the room, he
25 reviews the tracing. There was communication there

between Dr. Haftkowycz, the patient and nurse.

20:55 Dr. Haftkowycz is again in the room
3 reviewing the tracing.

4 21:56 the note reflects again communications
5 with Dr. Haftkowycz -- communication with Dr.
6 Haftkowycz regarding the status of the patient.

7 Those are the documented examples of
8 communication.

9 Then in my comment also bodes to the way the
10 nursing staff and Dr. Haftkowycz interact as a team to
11 manage the shoulder dystocia.

12 Q. That's item number three?

13 A. That's correct.

14 Q. That time period is the approximate last six
15 minutes before delivery?

16 A. That's correct, sir.

17 Tell me what Nurse Hugney did to assist the
18 doctor.

19 MR. ALLISON: Objection.

20 Go ahead and answer.

21 A. After review of the depositions, the clinical
22 records I was brought to the conclusion that the first
23 thing they did was they called for help. There was --

24 Q. Who's "they"?

25 A. The nursing staff and Dr. Haftkowycz asked for

1 assistance. Two nurses, two additional nurses were
2 present in the room, each nurse helping to assist in
3 elevating -- in raising the leg in what's called
4 McRobert's position and then another nurse applying
5 suprapubic pressure while Dr. Haftkowycz managed the
6 shoulder dystocia.

Q. Tell me what nurse or nurses assisted in
8 raising the patient's legs into the McRobert's
9 position.

A. I believe the two nurses that assisted in the
raising -- placing the patient in the McRobert's
position were Nurses Hoef -- no, Hugney and Sutcliffe,
13 and the nurse that applied the suprapubic pressure was
14 Hoefke, the charge nurse, I believe she states that in
15 her deposition.

16 Q. Are you looking at page 41?

17 A. No, I wasn't. But it does say on page 41, I
18 have that underlined in my deposition, I underlined
19 it.

20 Q. Where does it say that?

21 A. Let's see.

22 "Do you remember any maneuvers that were done
23 to deliver Bobby Paoloni?

24 "I remember the use of suprapubic pressure to
25 try to dislodge, you know, the shoulders loose."

1 | Q. Let's go on.

MR. ALLISON: What do you mean
"let's go on"? Do you have a question?

MR. LANCIONE: I want him to
keep reading, that's what that means when I say
"let's go on."

MR. ALLISON: Read the
transcript out loud or to himself?

MR. LANCIONE: Yes, read it out
loud.

11 | A. "I can just picture it. I mean, I don't know
12 | who did it, but I can just picture that, that that was
13 | part of, you know, part of helping to get her
14 | delivered.

15 | "Did you apply suprapubic pressure?

16 | "No.

"And you don't remember who did?

"No.

"Do you remember how long the suprapubic
pressure was applied?

"No."

Q. So she denies applying suprapubic pressure --

MR. ALLISON: Objection.

Q. -- isn't that correct?

MR. ALLISON: Objection.

Go ahead.

2 A. She denies here she applied suprapubic
3 pressure, but someone applied suprapubic pressure, one
4 of the nurses did.

5 Q. Who told you that?

6 A. It's in the deposition here.

7 Q. Whose deposition?

8 A. If you give me a minute I can find it.

9 MR. ALLISON: Doctor, if you
10 feel you need to take the time to completely
review the depositions of the other two nurses,
Hugney and Sutcliffe, please feel free to do
13 that.

14 A. Well, according to the deposition by Dr.
15 Hugney -- I mean by Nurse Hugney, page 42 --

16 Q. Line 14?

17 A. -- line 14: "And where was Fawn?

18 "Answer: Fawn was in the center of the patient
19 applying suprapubic pressure."

20 Page 43. "Question: And what does that mean?
21 I mean, I want you to describe -- you keep -- I'm
22 trying to find out what you saw her doing
23 specifically.

24 "Answer: I saw her apply her two hands to the
25 mother's suprapubic area and leaned over and apply

1 pressure.

2 Q That's Nurse Hunny's testimony?

3 A. That's correct.

4 MR ALLISON: Well you've been
5 citing him to various pages of the deposition.
6 If you want to be complete you can look at pages
7 33 and page 40 and page 41 as well

8 MR LANCIONE: Well do you want
9 to put him on the record for examination?

10 MR ALLISON: No

11 MQ LANCIONE: You want to tell
12 him any more things to do before I continue?

13 MR. ALLISON: I'm not telling
14 him anything. You ask him about the nurse's
15 testimony.

16 MR. LANCIONE: I know what you
17 said

18 MQ ALLISON: I know exactly
19 what you said, you ask him about the nurse's
20 testimony and then you point him to a
21 particular place in the deposition referencing
22 verbatim pressure If you want to see
23 complete then I'll just point him to the rest
24 of them

25 MR LANCIONE: You can do

1 whatever you want to.

2 MR. ALLISON: I did.

3 Q. Anything else, Doctor, that you want to listen
4 to your lawyer for and testify on?

5 MR. ALLISON: Objection, move
6 to strike.

7 Q. Do you want to refer to any more of the
8 deposition?

9 A. No, sir.

10 Q. Do you recall from Nurse Sutcliffe's deposition
11 that she had any recollection of whether or not she
12 applied suprapubic pressure or whether she knows
13 anybody else that did?

14 MR. ALLISON: Would you read
15 the question back, please?

16 (Record read.)

17 MR. ALLISON: Objection.

18 Go ahead and answer, Doctor.

19 A. The review of Nurse Sutcliffe's deposition,
20 there's no indication that she was asked to apply
21 suprapubic pressure or that she applied suprapubic
22 pressure.

23 Q. In the nursing note, the delivery note that you
24 referred to, it says abdominal -- I presume "ABD"
25 would mean abdominal to you, wouldn't it?

1 A. Yes, it would.

2 Q. "ABD and suprapubic pressure applied times five
3 minutes."

4 How do you define abdominal pressure?

5 A. Let me first state what the abdomen is. The
6 abdomen is the area between the pubic bone and the
7 thorax, it's a broad area. To me it says that the
8 area of the abdomen where pressure was applied was the
9 suprapubic area. That's how I would interpret that.

10 Q. That's how you interpret that?

11 A. That's how I interpret that.

12 Q. So when Nurse Hugney wrote abdominal and
13 suprapubic pressure, she meant that only suprapubic
14 pressure was applied during that period of time; is
15 that what you interpret that to mean?

16 A. I think I answered that question previously.

17 Q. Can you answer it again for me so I make sure I
18 understand it? Is your answer yes?

19 MR. ALLISON: Objection.

20 Go ahead and answer.

21 A. Sorry, ask me again. You've asked that
22 question twice in two different ways and I think I
23 answered it the first time.

24 Q. I'm asking you if you interpret Nurse Hugney's
25 note that says "abdominal and suprapubic pressure

1 applied times five minutes" as meaning that during
2 that five minute period only suprapubic pressure was
3 applied.

4 MR. ALLISON: Objection, asked
5 and answered.

6 Go ahead and answer it again.

7 A. The area of the abdomen where pressure was
8 applied is the suprapubic region.

9 Q. Can you give me a yes or no to my question,
10 please?

11 A. The area --

12 MR. ALLISON: Objection.

13 A. -- of the abdomen where the suprapubic -- where
14 the pressure was applied was the suprapubic region. I
15 answered the question.

16 Q. Well, Doctor, I'm asking you the question the
17 way I want it to be asked, and just tell me if you
18 can't answer yes or no, just tell me. I don't want to
19 force you to do anything here.

20 MR. ALLISON: Objection.

21 You've asked the doctor three times, he's given
22 you the answer.

23 MR. LANCIONE: Was his answer
24 yes?

25 MR. ALLISON: Three times.

1 He's not required to answer your questions yes
2 or no, there's no requirement whatsoever for
3 that.

4 MR. LANCIONE: Look, Tom, don't
5 give me that stern instructional attitude, I
6 don't need that from you.

7 MR. ALLISON: You've asked him
8 three times.

9 MR. LANCIONE: And don't say it
10 again.

11 MR. ALLISON: You've asked him
12 three times, he's answered it three times.

13 MR. LANCIONE: I'm entitled to
14 keep asking him.

15 Q. If you can't answer it yes or no, just tell me.
16 If you want to just limit your answer to what you
17 answered and you do not want to answer yes or no,
18 please state that for the record.

19 MR. ALLISON: Objection.

20 Q. You can answer, Doctor. He's not the judge
21 here.

22 MR. ALLISON: You asked him
23 three times, he's answered it three times. If
24 you don't like his answer, that's not --

25 MR. LANCIONE: It's not that I

1 don't like his answer, it's so that I want him
2 to tell me if he can answer yes or no. If he
3 says no, I can't answer yes or no, I'm entitled
4 to know that.

5 Are you instructing him not to answer
6 that question, too?

7 MR. ALLISON: No, I'm not
8 instructing him not to answer. I haven't
instructed him not to answer any question.
I've simply said he's answered this question
three times.

MR. LANCIONE: Well the question
posed -- I'm instructing the reporter to ask
14 the doctor to answer the question,

15 Q. The question is: Are you testifying under oath
16 here that you cannot answer my question with a yes or
17 no, or you do not want to? Or just whatever your
18 answer may be.

19 MR. ALLISON: Objection.

20 Go ahead and answer, Doctor.

21 A. I can answer the question in any way I choose.
22 I choose to answer the question like this: The area
23 where pressure was -- the area of the abdomen where
24 pressure was applied was the suprapubic region, that's
25 how I interpret the note by Nurse Hugney.

1 Q. Did you speak to Nurse Hugney about that?

2 A. No, I did not.

3 Q. Did you speak to any of the nurses about that?

4 A. No, I did not.

5 Q. Who told you that's what it meant?

6 A. This is my interpretation of the note as the
7 expert witness, as the expert for the hospital.

8 Q. If abdominal pressure -- if fundal pressure was
9 applied during that six minute period that would have
10 been below the standard of care; is that correct?

11 MR. ALLISON: Objection.

12 A. If fundal pressure was applied during the six
13 minute period would that be below the standard of
14 care?

15 During the six minute period,

16 Well, you know, it really -- I can't say that
17 with 100 percent certainty.

18 Q. Just with probability, that's the only way you
19 have to answer the question, Doctor, not with 100
20 percent certainty.

21 A. You know, it really depends upon the situation.
22 I can see situations where there's a shoulder dystocia
23 and fundal pressure may need to be applied.

24 Q. What? Tell me about that.

25 A. After delivery of the -- after the shoulder has

been dislodged the fundal pressure may be applied to help deliver the baby.

Q. If fundal pressure is applied any time before the shoulder is dislodged would that be below the standard of care?

MR. ALLISON: Objection.

Talking about the standard of nursing care or --

MR. LANCIONE: Nursing care.

MR. ALLISON: Okay. Objection. Go ahead and answer.

A. If they apply fundal pressure before the shoulder was dislodged, I believe that that would -- well, had they tried suprapubic pressure in this scenario and that didn't work?

Q. My question is: If the nurses applied fundal pressure prior to the time the shoulder had been dislodged from its dystocia would that be below the standard of care?

If you can't answer the question, just let me know.

MR. ALLISON: Objection.

Go ahead and answer.

A. Again, it kind of depends on the situation. If they had failed at other attempts to dislodge the

1 shoulder, if they were desperate they're going to try
2 anything to get this baby out, you know. If they've
3 done the suprapubic pressure, they've done the --
4 tried the Wood's screw, they're going to try anything
5 to get this baby out. They're desperate.

6 Q. Is that what you think happened here?

7 A. No. No. No. Because it --

8 Q. What's the scenario that you in your expert
9 opinion have developed as to what happened during that
10 six minutes?

11 A. Well, my opinion is that the nursing staff and
12 Dr. Haftkowycz recognized that there was a shoulder
13 dystocia, they proceeded to call help, which is
14 appropriate, other nurses, they also summoned a
15 pediatrician to the room, they proceeded by -- they --
16 first thing they did was McRobert's maneuver, applied
17 suprapubic pressure, the infant was delivered after a
18 Wood's screw maneuver was performed, I think they
19 managed it appropriately.

20 Q. Is it your opinion that there was a panic
21 situation that developed and that they applied fundal
22 pressure during that period?

23 MR. ALLISON: Objection. Which
24 "they"? The nurses?

25 MR. LANCIONE: The nurses, the

1 three nurses we're talking about, or any one of
2 them.

3 A. I -- again, the records reflect and the
4 depositions reflect that this was a situation that was
5 recognized as an obstetrical problem, they proceeded
6 in the fashion that all of us are instructed to do and
7 that is apply -- that is to perform McRobert's,
8 suprapubic pressure, perform the Wood's screw
9 maneuver.

10 MR. LANCIONE: Could you read my
11 question back?

12	(Record read.)
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13 A. There is no indication in the record that they
14 applied fundal pressure.

15 MR. LANCIONE: That's all I
16 have, Doctor.

17 MR. ALLISON: Christine,
18 anything?

19 MS. REID: No questions.

20 MR. ALLISON: Very good. We'll
21 read it. Okay to just send the transcript to
22 me, John? I'll get it to the doctor and we
23 don't have to worry about --

24 MR. LANCIONE: She can do that.

25 | Philip C. Brzozowski, M.D.

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

I, Michelle A. Bishilany, RMR, a Notary Public within and for the State of Ohio, do hereby certify that the within named witness, PHILIP C. BRZOZOWSKI, M.D., was by me first duly sworn to testify the truth, the whole truth, and nothing but the truth in the cause aforesaid; that the testimony then given was reduced by me to stenotypy in the presence of said witness, subsequently transcribed into typewriting under my direction, and that the foregoing is a true and correct transcript of the testimony so given as aforesaid.

I do further certify that this deposition was taken at the time and place as specified in the foregoing caption, and that I am not a relative, counsel or attorney of either party or otherwise interested in the outcome of this action.

and affixed my seal of office and have hereunto set my hand
 and affixed my seal of office at 1098 Cleveland, Ohio, this

Michelle A. Bishilany,
 Holland & Associates

608 Euclid Ninth Tower, 000 East Ninth Street,
 Cleveland, Ohio

My commission expires 1-11-01.

