

ORIGINAL

IN THE COURT OF COMMON PLEAS

LUCAS COUNTY, OHIO

JOSEPH STALMA, a minor, :

by and through his mother and :

natural guardian, Norma Stalma, :

Plaintiff, :

-vs-

: Case No. CI99-1762

TOLEDO HOSPITAL, :

: JUDGE LANZINGER

Defendant. :

- - -

Deposition of RAYMOND R. BUGANSKI,

M.D., a Witness herein, called by the Plaintiff

for Cross-examination under the Ohio Rules of

Civil Procedure, taken before me, the

undersigned, Kristie L. Birch, a Notary Public in

and for the State of Ohio, pursuant to Subpoena

and stipulations of Counsel as hereinafter set

forth at Toledo Hospital Education Center, Room

B, Toledo, Ohio, on Monday, June 5, 2000, at 2:35

o'clock p.m.

CLASSIC REPORTING SERVICE

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By: **JOHN S. WASUNG**

- - -

A No.

1 Q Any plans to move in the next year?

2 A No.

3 Q Do you winter other than in Toledo?

4 A No.

5 Q Doctor, with regard to depositions, let me just
6 lay a few ground rules out to make things smooth and easy
7 and fair and accurate. First of all, I note that you
8 have a tendency to anticipate what I'm asking and you
9 want to answer before I finish my question and that's
10 fine, but please wait until I finish my question so that
11 the court reporter can take down your response, okay?

12 The second rule is that you have to verbalize
13 your response so that she can take that down on the
14 record rather than giving an uh-huh or a nu-huh or a nod
15 of the head, all right? Okay?

16 A Fine.

17 Q And finally, if you don't understand my
18 question, Doctor, just tell me that and I'll reask it so
19 that you're comfortable that you understand what I'm
20 asking.

21 Doctor, my understanding is that you're
22 currently retired?

23 A Correct.

24 Q And how long have you been retired?

1 A Three years.

2 Q Okay. And at the time of your retirement or
3 immediately prior to your retirement you were a member of
4 a practice group, true?

5 A Yes.

6 Q And what was the name of that practice group?

7 A Toledo Pediatric, Incorporated.

8 Q And how long had you been employed by Toledo
9 Pediatric, Incorporated?

10 A Approximately three years.

11 Q And was that group just an incorporation of a
12 group that was previously together before that three year
13 period?

14 A That was a conglomeration of two groups. At the
15 of time this suit we were the Toledo Pediatric Group,
16 Incorporated which is an entirely different entity.

17 Q Okay.

18 A And we joined with another group to become
19 Toledo Pediatrics after the hospital bought us.

20 Q Doctor, have you had your deposition taken
21 before?

22 A Yes.

23 Q Okay. How many times?

24 A Probably twice.

1 Q Okay. Have you ever acted as an expert witness
2 in a medical malpractice case?

3 MR. WASUNG: Objection to
4 relevance but you can go ahead and answer.

5 A I don't think so.

6 Q All right. Doctor, I'm going to hand you what
7 we've marked as Plaintiff's Exhibit 3, it's a two page
8 document. Can you identify that document?

9 A The hospital at some point would ask each group
10 to give some guidelines to the nurses as to when they
11 wanted to be called, and these were our particular orders
12 for that purpose.

13 Q Okay. And in that -- and what about the second
14 page, do you know what that is?

15 A Second page looks to me like a summary of the
16 first page.

17 Q Okay. Now, in the first page of Plaintiff's
18 Exhibit 3, item number one, it indicates that your group
19 wanted to be contacted whenever a newborn's temperature
20 reached 99 or above, is that true?

21 A Yes.

22 Q And was it your understanding that that was
23 axillary?

24 A Yes.

1 Q And did you have an understanding in 1991 that
2 temperatures in the newborn nursery were routinely taken
3 axillary as opposed to rectally or some other way?

4 A I don't remember what year that change took
5 place.

6 Q Okay, fair enough. Doctor, was it your
7 understanding that the nursing staff at Toledo Hospital
8 was to follow the orders as set forth in Plaintiff's
9 Exhibit 3?

10 MR. WASUNG: Objection to
11 form.

12 MS. BAER: Objection.

13 MR. WASUNG: You can go ahead
14 and answer.

15 A Yes.

16 Q And Doctor, if you were contacted by the nursing
17 staff either pursuant to that order or for some other
18 reason, was it your practice in 1991 to chart the fact
19 that you were contacted?

20 A No.

21 Q Okay. Under what circumstances would you chart
22 the fact that you were contacted by the nursing staff?

23 A In my own office records?

24 Q Yes.

1 A None that I can think of.

2 Q All right. Maybe my question's not clear and
3 let me try to ask it a different way. Why don't I hand
4 you what we've marked as Plaintiff's Exhibit 2 and let me
5 tell you that those are several pages of physicians
6 orders that were contained in the chart of Joey Stalma.

7 A Uh-huh.

8 Q Under what circumstances would you generally
9 speaking make notes in the physicians orders? I mean,
10 what was your practice in 1991 for charting things in the
11 physicians orders forms?

12 MS. BAER: Objection.

13 A I'm not sure I understand your question.

14 Q Okay, that's fair enough. This form that we're
15 looking at says at the top Toledo Hospital physicians
16 orders, correct?

17 A Correct.

18 Q That --

19 A That's sitting in the nursery, not in my office.

20 Q Okay.

21 A Okay.

22 Q And with regard to your practice for charting
23 things in the physicians orders, when would you chart
24 things in the physicians orders?

1 MS. BAER: Objection.

2 A Either --

3 MR. WASUNG: Go ahead

4 MS. BAER: I'm sorry.

5 A Either by being there and specifically write the
6 order or by phone order.

7 Q And if it was the telephone order it would be
8 the nurse or a nursing staff that would record the order?

9 A Correct.

10 Q Okay. And again, Doctor, when you made an order
11 in 1991 as set forth in the physicians orders, did you
12 expect the nursing staff to follow those orders?

13 A Yes.

14 Q Dr. Buganski, in 1991 if you were contacted by
15 the nursing staff and informed that a newborn had a
16 temperature of 99 degrees in two successive readings over
17 the course of a one or two hour period, would you order a
18 neonatology consultation?

19 A Not based on temperature alone.

20 Q Okay. Under what circumstances would you order
21 a neonatology consultation in 1991?

22 MS. BAER: Objection.

23 A Well, I consider the temperature as a helpful
24 item but the main item of concern is what does the baby

1 look like, how is the baby eating, what is the color, et
2 cetera.

3 In this particular case with the child under
4 bilirubin lights an elevated temperature was not
5 something that was unusual.

6 Q Okay. Once, and let me just take you to the
7 note in, let's see here, Plaintiff's Exhibit 2, and I'm
8 going to show you some nurses notes too that are marked
9 as Plaintiff's Exhibit 1, okay. Over in the, on
10 Plaintiff's Exhibit 1 at page, page five, I'm sorry, page
11 six, there appears to be in the vital section around 2:00
12 o'clock in the afternoon there appears to be two
13 temperatures that are 99 or above. And then over in the
14 notes section at 2:30 it's noted that Dr. Buganski was
15 notified of increased temperature, it looks like it says.
16 And then on the physicians orders, page four of
17 Plaintiff's Exhibit 2, at 2:30 there's a note there that
18 says strip baby of clothes, retake temperature in one
19 hour and call me.

20 Let me ask you a couple questions about those
21 various entries. The first question is is that your
22 handwriting on Plaintiff's Exhibit 2 at 2:30 in the
23 afternoon?

24 MR. WASUNG: Objection to

1 form. Where?

2 A That's my counter signature.

3 Q Okay.

4 A That's not my -- I did not write the order,
5 that's my counter signature to the order.

6 Q So the portion that says strip baby of clothes
7 --

8 A I did not write.

9 Q Okay. And down below there where it says the
10 first time it says Buganski, you did not write that
11 either, true?

12 A Correct.

13 Q And below that where it has Buganski sort of at
14 an angle, you wrote that?

15 A Correct.

16 Q And you call that a counter signature?

17 A Yes.

18 Q And what do you mean by that?

19 A Just to affirm that that order was given.

20 Q Okay. Now, had you been called back in one hour
21 where would that note be? Would you have made a note of
22 that somewhere?

23 A No.

24 Q Okay. Where would that note be if you were

1 called back in one hour?

2 MS. BAER: Objection.

3 A I would anticipate it would be the same place as
4 the original note that said they called me, in the nurses
5 note someplace.

6 Q Okay. Now, had you been called back an hour
7 later after this temperature over 99 was reported to you
8 and you were told that the temperature after the child
9 was, you know, according to your notes stripped of
10 clothing --

11 A And discontinue one bili.

12 Q And discontinue one bili light. If that had
13 taken place and the temperature remained elevated an hour
14 later, what would you have done at that point in time,
15 what would your practice have been?

16 A Again, the criteria would be primarily how is
17 the baby doing. We were using a level of temperature of
18 99 which I consider very conservative. Reason being
19 because my group never liked surprises and therefore we
20 wanted to be called at an early level. Most people
21 probably use 100 degrees as their dividing line. So I'm
22 not tremendously concerned at the 99 at the time it's
23 happening if it is isolated, otherwise as long as there's
24 no signs that anything else is going on with the baby, so

1 at that point I probably would temporize.

2 Q Temporize?

3 A I would say watch the baby very carefully and
4 again, I want to be informed in a half hour or whatever
5 time I would set.

6 Q Sort of keep an eye on the child?

7 A That's right.

8 Q Keep monitoring the child?

9 A Yes.

10 Q All right. Doctor, in 1991 was a neonatologist
11 available for consultation 24 hours a day at Toledo
12 Hospital?

13 A I believe so.

14 Q Let me -- what would you do if the temperature
15 remained at 99 or above for the next couple of hours?
16 Let's say the first time you were contacted was at 2:30
17 in the afternoon. Let's say if at 2:50 the temperature
18 remained at 99 or above and then again at 3:55 the
19 temperature remained at 99 or above, what would you have
20 done under that circumstance assuming that they responded
21 by reducing the number of bili lights and unwrapping the
22 child?

23 A Again, my main criteria would be how is the
24 child doing. My first question would be not concerning

1 temperature but what, if anything, are we seeing
2 differently. And if we're not seeing anything
3 differently we'd probably continue to do nothing with
4 that level of temperature.

5 Q Now, when I talked to you on the phone I thought
6 you indicated to me that under that circumstance you
7 would contact a neonatologist?

8 A Well, I think I misunderstood your question on
9 the phone. I took it for granted things were
10 deteriorating. What would I do if they were getting
11 worse. I see nothing here after looking at the nurses
12 records that tell me anything was worse at least by their
13 observation.

14 Q Okay. So you made an assumption during the
15 telephone conversation that things were getting worse?

16 A My assumption was you said the question you just
17 asked me, I interpreted that to mean things had gotten
18 worse and they didn't call me what would I have done. If
19 they had gotten worse I would have called a
20 neonatologist. Looking at what is presented to me here,
21 I don't see that anything was getting worse, so
22 therefore, I would not have called a neonatologist.

23 Q Okay. And during that conversation do you
24 remember saying something to the effect that what would

1 be the harm in calling a neonatologist? In other words,
2 asking me a rhetorical question what would be the harm?

3 MR. WASUNG: Objection. Put
4 on the record the objection to the
5 relevance of the prior discussion which
6 obviously seems to have been
7 misinterpreted. You can go ahead and
8 respond.

9 MS. BAER: Objection as well.

10 A Repeat the question.

11 Q Do you remember when we were talking about the
12 circumstances under which you'd call a neonatologist and
13 you said that you do so fairly readily because what would
14 be the harm. Do you remember saying something to that
15 effect?

16 A Correct.

17 Q So in other words, being conservative in nature
18 your group does not hesitate to call a neonatologist
19 maybe under circumstances where other groups may not call
20 a neonatologist?

21 MS. BAER: Objection.

22 A I have no way to answer that.

23 Q Okay. You're right. You're right, you don't:
24 Doctor, also during our telephone conversation do you

1 remember hanging up on me?

2 A Yes.

3 Q And do you also remember saying to me that you
4 would be a defense-oriented witness?

5 A I don't remember what I said to you.

6 Q Okay. Well do you -- I'm sorry?

7 A Nothing.

8 Q Do you have that view that as a physician who
9 previously had staff privileges here at Toledo Hospital
10 that you would be a defense-oriented witness in this
11 case?

12 MS. BAER: Objection.

13 MR. WASUNG: Same objection
14 as before.

15 A I don't think so.

16 Q You don't recall saying --

17 A I may have said that on the phone, I was upset
18 with the phone call. I would like to be retired and not
19 be dragged back to hospitals, et cetera. And I did not
20 have any information other than the very little
21 information you gave me, so you're asking me to now
22 critique answers I gave you that I feel I didn't have
23 information sitting in my hand, it wasn't a fair
24 assessment.

1 Q Okay. Doctor, have you been contacted by
2 counsel for Toledo Hospital?

3 A I was contacted about, several weeks before you
4 called merely to tell me that there was a case. And I
5 don't even remember if they asked me any questions about
6 the case to be honest and truthful. They informed me
7 that there was a suit against the hospital.

8 Q Was that a one time contact?

9 A Yes.

10 Q And was that by telephone or in person?

11 A Telephone.

12 Q Was it through your counsel or was it directly
13 to you?

14 A It was directly to me.

15 Q Did you during the course of that conversation
16 agree to have that conversation recorded?

17 A No.

18 Q Did they indicate to you that they were
19 recording that conversation?

20 A Not to my knowledge.

21 Q Following that conversation did you sign any
22 type of Affidavit or written statement?

23 A No.

24 Q Have you prepared any notes or written materials

1 relative to this case within the last year?

2 A No.

3 Q Did counsel for the hospital supply you with any
4 written materials prior to that telephone contact? In
5 other words, did they contact you by letter first and
6 then contact you by phone?

7 MR. WASUNG: I'll let the
8 Doctor answer that but the second portion
9 of that question as far as the materials, I
10 don't recall where I got a copy of the
11 record, so the doctor has seen a copy of
12 the record I obtained. I can't remember
13 what I obtained from you as opposed to
14 counsel for the hospital. So if you're
15 talking about the record but if you ask him
16 about a letter, that's a separate issue.

17 MR. KULWICKI: Fair enough.

18 Q Doctor, did counsel for the hospital supply you
19 with a letter prior to contacting you by telephone?

20 A No.

21 Q And so I assume from that then in no way did
22 they provide you with any sort of authorization
23 permitting you to speak with them regarding your
24 confidential care of this patient, true?

1 MS. BAER: Objection.

2 A True.

3 Q Now, your recollection of that conversation is
4 that they called to tell you that a lawsuit was pending?

5 A I honestly can't recall that conversation
6 exactly. I got a feeling, I think they called me to ask
7 me did I remember the case and I said I did not remember
8 the case. I think that was the main thrust of the phone
9 call.

10 Q Okay. All right. Doctor, in addition to
11 temperature of 99 or above what additional facts would
12 lead you to seek a neonatology consult?

13 A Listlessness, poor feeding, vomiting, activity
14 level decreased, poor cry, about it.

15 Q Poor feeding?

16 A Respiratory distress, poor feeding.

17 Q Doctor, would you agree that in 1991 it was
18 appreciated that even in a child who had suspected RH
19 sensitization that having jaundice sepsis would remain in
20 the differential?

21 MR. WASUNG: Objection to
22 formed and foundation. Go ahead, Doctor.

23 MS. BAER: Objection.

24 A It's true.

1 Q Now, Doctor, in 1991 was it your practice when
2 you had a newborn with jaundice who had two successive
3 temperatures of 99 or above to call in a neonatology
4 consult?

5 A Ask that again, please.

6 Q In 1991 was it your practice when you had a
7 newborn with jaundice who had two successive temperatures
8 of 99 or above, you know, after having the bili lights
9 reduced and being stripped of clothing, would you call in
10 a neonatology consult under those circumstances?

11 A No.

12 Q How would you know under those circumstances
13 that the jaundice was caused by RH sensitization and not
14 sepsis?

15 A Well, first of all, the fact that we had a
16 positive Coombs' test told us we had a positive RH
17 sensitization. The level we were dealing with and the
18 response to the lights would indicate against infection
19 as opposed to just the incapability of the blood.

20 Q Doctor, speaking about poor feeding, would you
21 agree that, that a child that has a weak suck or is
22 having difficulty feeding is better able to feed when you
23 use a, what do you call those nipples? The smaller gauge
24 nipples or the larger gauge nipples?

1 MR. WASUNG: Objection to
2 form. Want to start over?

3 Q Well, I'm not asking you to look in the records,
4 Doctor, I'm asking you a question.

5 A Without looking to see what you're referring to,
6 what kind of nipple you're referring to --

7 MR. WASUNG: You said smaller
8 or larger in the question, so --

9 Q Let me clarify that. Doctor, in your experience
10 when a baby's having a difficult time sucking or feeding
11 can the use of a nipple with a larger hole be used to
12 assist the child in feeding?

13 A I would suppose, yes.

14 Q And what do you call that nipple that has the
15 larger hole?

16 A It's not coming to me. I don't know.

17 Q Okay. And how about the use of dextrose water
18 to feed a child that's feeding poorly, what's the
19 association there, if there is any?

20 A Association with the feeding is none.

21 Q Isn't dexi water used on children that are
22 feeding poorly?

23 MS. BAER: Objection.

24 A Not necessarily.

1 Q Can it be?

2 A That's not the way I would use it.

3 Q Okay. Well, when was the use of dexi water
4 indicated?

5 A When you had a child who had vomited or if
6 there's any question of vomiting and you were afraid of
7 aspirating milk formula, you would try a dextrose water
8 feeding once or twice to be sure that that element was
9 gone and then proceed back to the nurse formula or breast
10 feeding.

11 Q Doctor, looking back at, let's see, these
12 physician orders that we've got marked as Plaintiff's
13 Exhibit 2. Looking at the note from March 23 at, is that
14 11:00 a.m.?

15 A Yeah, yes.

16 Q I think it indicates that the bili lights were
17 reduced from double to single lights; is that correct?

18 A Correct.

19 Q And under what circumstances, do you know why
20 you did that in the context of that note?

21 A Yeah.

22 Q Why did you do it?

23 A Because the bilirubin was coming under
24 control. And in most cases of jaundice we only use one

1 bilirubin light. At the beginning sometimes we use two
2 lights to try to get the process under control more
3 quickly. Since it was coming down we gradually reduce it
4 to one and reduce it to none when we can do that.

5 Q Do you have any recollection of this particular
6 patient?

7 A None.

8 Q Thinking about the bili light, and I think it's
9 pretty clear from the records here that this child was in
10 an isolette as opposed to being in -- in fact, I think I
11 seen the chart in here. I'm sorry, that the child was in
12 a bassinet as opposed to being in an isolette during the
13 phototherapy. Let me ask a couple questions about that.

14 First of all, was it the standard practice at
15 Toledo Hospital to conduct phototherapy while the child
16 was in a bassinet in 1991?

17 MR. WASUNG: Objection to
18 form, foundation.

19 MS. BAER: Same objection.

20 A The answer's yes, depending on what your
21 definition, you seem to be sparring with bassinet and
22 isolette and I'm not sure we're both talking about the
23 same thing.

24 Q Okay. Well, let me ask this --

1 MR. WASUNG: You seem to look
2 at something and clarify it in your mind
3 what you're talking about. Can you point
4 the doctor to it? I don't want to make
5 assumptions, I wasn't clear whether you
6 were asking him to confirm your
7 interpretation?

8 MR. KULWICKI: Let me reask
9 the question, you guys are thinking way too
10 hard here.

11 Q Doctor, under what circumstances would you in
12 1991 order that a child undergo phototherapy in an
13 isolette?

14 A In an isolette would be ordinarily because you
15 were having trouble controlling a low temperature.

16 Q And normally and more often it would be done in
17 a bassinet, true?

18 A Correct.

19 Q One of the nurses in this case testified about
20 there being some sort of orange protective shields being
21 put on the sides of the bassinet during phototherapy.
22 Does that sound familiar to you?

23 A Yes.

24 Q What are those orange protective shields?

1 A I don't know what they're made of. They're more
2 or less pieces of plastic to kind of hold that light in
3 that small area.

4 Q In other words, to keep the light from affecting
5 children maybe in bassinets on the other side of the
6 bassinet of the child receiving phototherapy?

7 A I don't know if it was meant to be protective,
8 just get as much of the therapy as we could get.

9 Q Do you know whether or not the temperature was
10 monitored during phototherapy when it took place in a
11 bassinet?

12 MR. WASUNG: Objection to the
13 form of the question. The child's
14 temperature?

15 MR. KULWICKI: No, the ambient
16 temperature in the bassinet.

17 A Not to my knowledge.

18 Q Okay. In your experience did these orange
19 protective shields tend to sort of keep the heat in or
20 insulate the heat from the phototherapy lights?

21 A I don't really know.

22 Q Would you agree though that in 1991 it was well
23 known within your knowledge base that when a child was
24 taken out from underneath the phototherapy lights their

1 temperature should return to normal within a couple
2 minutes?

3 MS. BAER: Objection, form.

4 A Have to clarify that one for me, I'm sorry.

5 Q Okay. In this case obviously there's some
6 concern about the child's temperature hitting 99 or above
7 and you give an order at 2:30 in the afternoon on March
8 23rd to strip the baby of clothes and retake the
9 temperature in one hour. Let me ask you some questions
10 about that.

11 First of all, why would the child have clothing
12 on if he's under phototherapy lights?

13 MS. BAER: Objection.

14 A He may not have. To be truthful looking at the
15 order I just said if he had clothes to remove them and to
16 remove one light. I was more interested in the removal
17 of the one light than I was the clothing, but both helps.

18 Q In your experience with one bili light was it
19 unusual for a child to have a temperature of 99 or above?

20 A Ask it again.

21 Q With one bili light was that unusual to cause
22 the core temperature of a child to increase?

23 A It might.

24 Q I guess what I'm struggling with here, Doctor,

1 is there's no record that these nurses called you back in
2 an hour after this 2:30 note.

3 A Correct.

4 Q All right. And are you here to tell us that
5 that didn't matter, it didn't affect your management of
6 the child in any way?

7 MR. WASUNG: Objection to the
8 form of the question. The doctor's here to
9 answer your questions pursuant to subpoena.

10 MS. BAER: Objection, form.

11 Q You can answer.

12 A Say it again, these objections --

13 Q That's okay.

14 A -- throw my brain off.

15 Q The question is, Doctor, these nurses apparently
16 did not call you back after this 2:30 note and report the
17 child's temperature. And it appears from the vitals that
18 the child's temperature remained at 99 or above. Are you
19 here to suggest that the fact that they didn't call you
20 back and report that the child's temperature remained at
21 99 or above does not affect, did not affect your
22 management of this child at all?

23 MR. WASUNG: Objection as to
24 the form of the question.

1 MS. BAER: Objection.

2 MR. WASUNG: It's

3 argumentative, he's here to answer your
4 questions, he's here pursuant to your
5 specific subpoena. If you want to ask him
6 whether any particular aspect of the kid's
7 presentation had an affect, you're welcome
8 to, that's what we are here for. So if you
9 have one of those questions I think the
10 doctor can answer it.

11 MS. BAER: Also note an
12 objection because I think that some of that
13 was covered and was already answered by the
14 doctor.

15 Q Now, I've got to ask the question again because
16 I know you have forgotten and they're going to object
17 again so listen carefully.

18 The question is, Doctor, are you suggesting that
19 it really didn't matter if the nurses called you back in
20 an hour or not because it wouldn't have changed the way
21 in which you managed this child?

22 MR. WASUNG: Objection,
23 foundation.

24 A It took the control out of my hands, I object to

1 that. Based on information now present in the chart I
2 would not have done anything differently than they did
3 do.

4 Q Okay. Before today's deposition have you had an
5 opportunity to meet with either of the counsel for the
6 hospital?

7 A No, first time I ever met them.

8 Q Okay. Have you entered into any agreements with
9 Toledo Hospital relative to this case?

10 MS. BAER: Objection.

11 A No.

12 Q Let me take you to this note here at 18:35. I'm
13 sorry, at 6:35 in the afternoon on March 23rd, Doctor,
14 the nurses note in Plaintiff's Exhibit 1.

15 A Yes.

16 Q Right there. With the backdrop of having this
17 elevated temperature reported to you at 2:30 in the
18 afternoon and assume that you were told at 3:55 that the
19 temperature remained above 99, and then assume that at
20 6:35 you were told that the baby had arched his back and
21 stiffened his extremities while feeding, was cyanotic
22 after that event and had difficulty breathing. At that
23 point in time would you have ordered a neonatology
24 consult?

1 MS. BAER: Objection,
2 mischaracterizes --

3 A It's not factual what you just said. The
4 temperature was down at the time they had the choking
5 spell.

6 Q Where do you see that at?

7 A Well, choking spell took place here, we've got
8 temperatures -- well, I take it back. Well, again, I'm,
9 you know, if you're asking me --

10 MR. WASUNG: If you're not
11 sure what he's asking you ask him what he's
12 asking you, Doctor.

13 A Well, looks to me like this baby had a choking
14 spell when feeding reported by the mother, I'm not even
15 sure it was seen by the nurses based on these notes and I
16 notice also that in ten minutes the baby's clear,
17 nailbeds are pink, he looks good, and everything's back
18 to normal. That's hard for me to believe that's anything
19 than a choking spell.

20 Q Okay. Doctor, I appreciate that you want to
21 interpret this record in a certain way.

22 MR. WASUNG: Objection.

23 MS. BAER: Objection.

24 A I have no characterization of the record either,

1 I'm trying to give you facts as I remember them, that's
2 all.

3 Q Let me ask you, Doctor, in the backdrop of
4 having two successive temperatures in a couple hour
5 period of 99 and above and told this child is having
6 difficulty breathing, had a choking episode, been viewed
7 as cyanotic after that supposed choking episode, after
8 that point in time would you want to have that child
9 looked at and looked at by a physician?

10 A If you called me --

11 MS. BAER: Objection.

12 A -- in the middle of the choking spell I say get
13 a neonatologist. If you call me ten minutes later said
14 the baby looks fine, acting good I would not call a
15 neonatologist.

16 Q Okay. All right.

17 A I don't know what I can tell you about that one.

18 MR. KULWICKI: That's all the
19 questions I have. Thank you, Doctor.

20 THE WITNESS: Thank you.

21 MS. BAER: I have no
22 questions.

23 MR. WASUNG: We'll reserve.

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- - -

1 Whereupon, the deposition was concluded at 3:15
2 o'clock p.m.

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24 RAYMOND R. BUGANSKI, M.D.

C E R T I F I C A T E


I, Kristie L. Birch, a Notary Public within and for the State of Ohio, duly commissioned and qualified, do hereby certify that the within-named witness, **RAYMOND R. BUGANSKI, M.D.**, was first duly sworn to testify the truth, the whole truth and nothing but the truth in the cause aforesaid; that the testimony then given by him was by me reduced to Stenotype in the presence of said witness, afterwards transcribed by the use of a computer under my supervision, and that the foregoing is a true and correct transcription of the testimony so given by him as aforesaid, and that the reading and signing of the witness was not waived.

I do further certify that this deposition was taken at the time and place in the foregoing caption specified.

I do further certify that I am not a relative, counsel or attorney of either party.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office at Toledo, Ohio, on this 9th day of June, 2000.

My commission expires
August 6, 2000.


Kristie L. Birch
Notary Public
In and for the State of Ohio.

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