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| <p>Page 1</p> <p>1 IN THE COURT OF COMMON PLEAS<br/>2 OF CUYAHOGA COUNTY, OHIO<br/>3 -----<br/>4 JESSE HATFIELD, et al.<br/>5 Plaintiffs,<br/>6 vs. Case No. 502766<br/>7 PARMA COMMUNITY GENERAL<br/>8 HOSPITAL, et al.,<br/>9 Defendants.<br/>10 -----<br/>11 DEPOSITION OF SUSAN CABUYADOA<br/>12 Thursday, March 11, 2004<br/>13 -----<br/>14 Deposition of SUSAN CABUYADOA, a<br/>15 Witness herein, called by the Plaintiffs for<br/>16 examination under the statute, taken before me,<br/>17 Karen M. Patterson, a Registered Merit Reporter<br/>18 and Notary Public in and for the State of Ohio,<br/>19 pursuant to notice of counsel, at the offices of<br/>20 Parma Community General Hospital, 7007 Powers<br/>21 Boulevard, Cleveland, Ohio, on the day and date<br/>22 set forth above, at 9:25 o'clock a.m.<br/>23 -----<br/>24<br/>25</p> | <p>Page 3</p> <p>1 SUSAN CABUYADOA, of lawful age, called for<br/>2 examination, as provided by the Ohio Rules of<br/>3 Civil Procedure, being by me first duly sworn,<br/>4 as hereinafter certified, deposed and said as<br/>5 follows:<br/>6 EXAMINATION OF SUSAN CABUYADOA<br/>7 BY MS. TRESL:<br/>8 Q. Susan, we met just now. May I call<br/>9 you Susan? Is that okay?<br/>10 A. That's correct.<br/>11 Q. Please feel free to call me Jackie,<br/>12 okay.<br/>13 I assume you've not had your<br/>14 deposition taken before; would that be correct?<br/>15 A. That's correct.<br/>16 Q. I assume that your good attorney<br/>17 went through some ground rules, but I'll just<br/>18 mention two things. If you don't understand<br/>19 something I've asked you, will you stop and tell<br/>20 me that you don't understand?<br/>21 A. I will.<br/>22 Q. If you answer, I'm going to assume<br/>23 that you do understand; okay?<br/>24 A. That's okay.<br/>25 Q. I'm going to ask that you say yes or</p> |
| <p>Page 2</p> <p>1 APPEARANCES:<br/>2 On behalf of the Plaintiffs:<br/>3 Becker &amp; Mishkind Co., L.P.A., by<br/>4 JACQUELINE TRESL, ESQ.<br/>5 660 Skylight Office Tower<br/>6 1660 West Second Street<br/>7 Cleveland, Ohio 44113<br/>8 (216) 241-2600<br/>9 On behalf of the Defendant Parma Community<br/>10 General Hospital:<br/>11 Weston, Hurd, Fallon, Paisley &amp;<br/>12 Howley, by<br/>13 DANIEL A. RICHARDS, ESQ.<br/>14 2500 Terminal Tower<br/>15 50 Public Square<br/>16 Cleveland, Ohio 44113<br/>17 (216) 687-3321<br/>18<br/>19<br/>20<br/>21<br/>22<br/>23<br/>24<br/>25</p>   | <p>Page 4</p> <p>1 no, not nod or shake your head so that Karen,<br/>2 the court reporter, can get it down; okay?<br/>3 A. Okay.<br/>4 Q. And, hopefully, that won't take too<br/>5 long. I thank you for coming in this morning.<br/>6 A. My pleasure.<br/>7 Q. You'll have to speak up just a<br/>8 little louder. My middle-aged ears aren't as<br/>9 good as they used to be.<br/>10 A. Okay.<br/>11 Q. For the record, would you state your<br/>12 name and address, please.<br/>13 A. My name is Susan Cabuyadao. I live<br/>14 at 2620 Snow Road, Parma, Ohio, 44134.<br/>15 Q. I assume you continue to work at<br/>16 Parma Hospital?<br/>17 A. That's correct.<br/>18 Q. Just tell me a little bit about how<br/>19 long you've been here at Parma Hospital.<br/>20 A. I will be on my 13th this year by<br/>21 July.<br/>22 Q. Do you work full time?<br/>23 A. Correct.<br/>24 Q. Day shift or 7:00 to 11:00?<br/>25 A. Night shift, 11:00 to 7:30.</p>   |

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| <p style="text-align: right;">Page 5</p> <p>1 Q. So at the time that Mr. Hatfield's<br/>2 injury occurred, you were working night shift;<br/>3 is that correct?<br/>4 A. That's correct.<br/>5 Q. And you said you work full time;<br/>6 yes?<br/>7 A. Yes.<br/>8 Q. Tell me how you became a<br/>9 phlebotomist, how you got this job, in terms of<br/>10 training, that sort of thing.<br/>11 A. I went to school downtown for<br/>12 medical assistant at Cleveland School of<br/>13 Medical/Dental Assistant.<br/>14 Q. Okay.<br/>15 A. And I finished that in the year<br/>16 1983, I believe. And after that, I worked at<br/>17 Plasma Alliance, which is located at West 25th.<br/>18 I don't know exactly the address now. And we do<br/>19 plasma phoresis there, and I was phlebotomist.<br/>20 I was full time then.<br/>21 I went to Cleveland Clinic, and I<br/>22 was able to get a full-time position at<br/>23 Cleveland Clinic night shift, 11:00 to 7:30, and<br/>24 I was full time for a good four years. I was<br/>25 getting tired of the long driving at night. I</p>  | <p style="text-align: right;">Page 7</p> <p>1 that, the school administered certification like<br/>2 after graduation and we have a one-year<br/>3 experience in the field of medical assisting or<br/>4 phlebotomy, and I was able to register -- I<br/>5 passed the registered test.<br/>6 Then there was a certification test<br/>7 that was administered again all over, you know,<br/>8 and I did take the test and I passed the test<br/>9 again. So I'm a certified phlebotomist.<br/>10 Q. Your duties here at Parma, do you<br/>11 draw blood from the beginning of your shift to<br/>12 the end of your shift, or do you have other<br/>13 duties besides drawing blood?<br/>14 A. I have other duties, but just the<br/>15 paperwork. I do just sort those laboratory<br/>16 reports that they generate after the day, and I<br/>17 just collect them together, I mean, bundle them,<br/>18 and that's it. Somebody picks them up from<br/>19 floor-to-floor. The floor, they come and pick<br/>20 up their own copies, each floor.<br/>21 Q. For today's deposition, other than<br/>22 talking to Mr. Richards, what did you review?<br/>23 Did you look at Mr. Hatfield's medical records?<br/>24 A. No.<br/>25 Q. Did you look at anything that was</p> |
| <p style="text-align: right;">Page 6</p> <p>1 was looking for closer to my house, and I was<br/>2 able to get the chance to get to -- no. I have<br/>3 a part-time first. I was still full time at<br/>4 Cleveland Clinic, and then I was able to get a<br/>5 part-time job at St. Alexis at that time. Then<br/>6 we had a big layoff at St. Alexis. I was one of<br/>7 them. I was laid off and I went looking for --<br/>8 a friend of mine was working at MetroHealth<br/>9 System in the laboratory and she monitored, you<br/>10 know, openings in there. With my<br/>11 experience, I was able to get a part-time then.<br/>12 Then I was working kind of part time<br/>13 both at St. Alexis and Metro. Then I became<br/>14 full time at Metro. Then I still did want part<br/>15 time, and I did come put in an application here<br/>16 at Parma Hospital, and I was able to get into<br/>17 Parma Hospital part time, still full time at<br/>18 MetroHealth Hospital up to this time.<br/>19 Q. So that was 1990, probably, that you<br/>20 started here part time?<br/>21 A. '91, I believe, '92.<br/>22 Q. Do you have any special<br/>23 certification?<br/>24 A. Yes. I did pass the international<br/>25 phlebotomy, of phlebotomy science, but before</p> | <p style="text-align: right;">Page 8</p> <p>1 generated from the lab about Mr. Hatfield?<br/>2 A. No.<br/>3 Q. So for today's deposition, and I<br/>4 don't want to know what you discussed with Mr.<br/>5 Richards, but the only thing you did for today's<br/>6 deposition is talk to Mr. Richards; is that<br/>7 correct?<br/>8 A. Say it again, please.<br/>9 Q. For today's deposition, you did not<br/>10 review any materials; is that correct?<br/>11 A. No.<br/>12 Q. Do you remember Mr. Hatfield?<br/>13 A. I do not recall. I don't remember.<br/>14 Q. I want to just ask you about some<br/>15 general principles and then we'll get into some<br/>16 specifics, okay.<br/>17 Tell me, first of all, what the<br/>18 policy is at Parma in terms of the size of<br/>19 needle when you do phlebotomy.<br/>20 A. We are using only two sizes of<br/>21 needles. One for the adult that we -- that's<br/>22 our standard, and that's, you know, mainly what<br/>23 we use, the 21-gauge, one-and-one-fourth inches.<br/>24 Q. Okay.<br/>25 A. And for the difficult ones and the</p>  |

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| <p>Page 9</p> <p>1 babies and little kids, we use the so-called<br/>2 butterfly, which is the 23-gauge and<br/>3 three-and-a-quarter.<br/>4 Q. Three-and-a-quarter?<br/>5 A. Right.<br/>6 Q. Do you have on your tray any other<br/>7 size needles for adults?<br/>8 A. No, we don't. I don't.<br/>9 Q. Are there other size needles<br/>10 available if you need them?<br/>11 A. No. That's all we used for<br/>12 venipuncture.<br/>13 Q. So if you have a difficult stick --<br/>14 A. Then I use the butterfly.<br/>15 Q. If you can't get it with the<br/>16 butterfly, what do you do?<br/>17 A. We have two chances to do the --<br/>18 perform the venipuncture on a patient. We have<br/>19 only two chances. If we failed one, we attempt<br/>20 to do one more time, and if we don't, that's it.<br/>21 I will -- me, I will leave it to -- because I<br/>22 don't have any help, I'm just by myself, I'll<br/>23 leave it to the nurse, and the nurse will have<br/>24 to decide if they really need that blood to be<br/>25 drawn for that particular patient, and then the</p> | <p>Page 10</p> <p>1 house doctor does. Then there's -- we'll call<br/>2 the doctor that's in-house to do their own<br/>3 procedure. I don't do -- after the second<br/>4 attempt and I still fail, then I don't do it<br/>5 anymore. I will put it aside like I didn't get<br/>6 it, you know. I say I wasn't able to obtain the<br/>7 specimen.<br/>8 Q. Is there anywhere in your<br/>9 recordkeeping that it's reflected when you are<br/>10 not able to get the blood?<br/>11 A. No. We just give it like what I<br/>12 said, if I don't -- I fail the second time, I<br/>13 just leave to the floor that I wasn't able to<br/>14 get it, and then to decide if, like, let the<br/>15 house doctor, if they want to have it drawn or<br/>16 they wait for another shift or another time,<br/>17 there will be somebody that won't be me.<br/>18 Q. So if a phlebotomist wants to use a<br/>19 larger gauge needle, let's just say for whatever<br/>20 reason they believe they can hit a vein with a<br/>21 larger gauge needle, is it possible to go<br/>22 somewhere in the lab and get a larger gauge, a<br/>23 20, an 18, and take it up to the floor?<br/>24 A. No.<br/>25 Q. And this was true back at the time</p> | <p>Page 11</p> <p>1 of Mr. Hatfield's injury in 2002; correct?<br/>2 A. Correct.<br/>3 Q. Do you have a routine area of the<br/>4 body, the arm, presumably, that you usually use<br/>5 to stick?<br/>6 A. It's only the arm that we are<br/>7 allowed, the arm and the hand, if we can't find<br/>8 any, and the antecubital. Then we attempt to<br/>9 look on the side, and if we still, we can't feel<br/>10 any, then we go on the hands because we also<br/>11 have veins in the hands, and that's when those<br/>12 smaller needle apply, if the veins are very<br/>13 small.<br/>14 Q. If you see a patient, you're coming<br/>15 to a patient, do you have a place that you<br/>16 routinely stick first in the arm? I'm saying<br/>17 here, here, here, here, and for the record, I'm<br/>18 showing left of the antecubital, right of the<br/>19 antecubital, upper arm, forearm veins.<br/>20 A. Well, we generally, me, I'm -- I put<br/>21 the tourniquet on and I fish around, look<br/>22 around.<br/>23 Q. Did you say "fish" or "feel"?<br/>24 A. Feel around, I should say.<br/>25 Q. Did you say "fish"?</p> | <p>Page 12</p> <p>1 A. I misjudge -- slip of my tongue.<br/>2 Q. But you did say "fish"?<br/>3 A. Yes, I did.<br/>4 Q. Thank you.<br/>5 A. I palpate everywhere and I decide<br/>6 which one I could comfortably, you know, perform<br/>7 the venipuncture. And then -- but tourniquet is<br/>8 out, and I release it, because, you know, we're<br/>9 not supposed to keep the tourniquet for a long<br/>10 time. And I release the tourniquet and I try to<br/>11 remember where I feel. That is before cleaning<br/>12 the area. So I clean the area and I put back my<br/>13 tourniquet, then put my gloves on, and then I<br/>14 kind of anchor where I feel the vein and then I<br/>15 perform the venipuncture.<br/>16 Q. Tell me just a little bit, for my<br/>17 own information, your understanding of the<br/>18 anatomy of the way the veins and the arteries<br/>19 lie there in the antecubital area.<br/>20 A. Okay. We are -- our main target to<br/>21 look at is where the antecubital is, and that's<br/>22 about it. That's how we can, you know -- that's<br/>23 how far we can only, you know, feel the veins.<br/>24 And if we don't feel that, and if we see some,<br/>25 you know, a shadow of a vein over here on this</p> |
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| <p style="text-align: right;">Page 13</p> <p>1 side, then we look in there. And if we don't,<br/>2 as I said, we go lower and see if we can see a<br/>3 better one, big ones over here on the hand or on<br/>4 this side of the hand over here, and that's<br/>5 why -- how far we can only look for the veins<br/>6 for venipuncture.<br/>7 Q. My question, I guess -- it was an<br/>8 unclear question -- can you describe to me, give<br/>9 me the names of, the veins that are in the<br/>10 antecubital that you have your choice of.<br/>11 A. Well, they are the so-called --<br/>12 MR. RICHARDS: I'll just put an<br/>13 objection there, but you can go ahead and<br/>14 answer, Sue.<br/>15 A. We don't have any, you know,<br/>16 particular vein -- we don't look around, like we<br/>17 know the veins that are shallow, and that's what<br/>18 we call -- that's where we perform the<br/>19 venipuncture.<br/>20 Q. I guess my question is, though, what<br/>21 is the name of those veins in terms of this one<br/>22 is the --<br/>23 A. The antecubital veins.<br/>24 Q. So there's more than one antecubital<br/>25 vein; is that correct?</p> | <p style="text-align: right;">Page 15</p> <p>1 Q. During your training, were you told<br/>2 the names at that time? Did you learn this is<br/>3 called the zebra vein, this is called the<br/>4 elephant vein? I'm just using silly words.<br/>5 A. Okay.<br/>6 Q. But was there a time when you knew<br/>7 the names of the veins in the antecubital?<br/>8 A. Well, I can't recall it anymore.<br/>9 That's long from out of school.<br/>10 Q. I understand you can't recall it.<br/>11 But was that something you were taught --<br/>12 A. Yes.<br/>13 Q. -- the names of the veins?<br/>14 A. Yes.<br/>15 Q. I guess I'm tying it into what Mr.<br/>16 Richards said. Now, bringing it back to today,<br/>17 your testimony today is that there are more than<br/>18 one antecubital vein in this area that you have<br/>19 a choice of?<br/>20 A. Right.<br/>21 Q. And I don't want to put words in<br/>22 your mouth. I want to make sure. Routinely,<br/>23 you don't go outside the arm, inside the arm;<br/>24 you feel to determine which of these veins<br/>25 you're going to choose?</p>     |
| <p style="text-align: right;">Page 14</p> <p>1 A. Well, I don't think that if it is<br/>2 outside the area, or the antecubital area now, I<br/>3 don't know if you could still call it<br/>4 antecubital veins.<br/>5 Q. We're getting there. You're doing<br/>6 great. I thank you for your patience. But what<br/>7 you're saying is there are more than one<br/>8 antecubital vein?<br/>9 A. Oh, yes, yes.<br/>10 Q. Do you know how many antecubital<br/>11 veins there are?<br/>12 A. No, I don't.<br/>13 MR. RICHARDS: I put a continuing<br/>14 objection on the record for the purpose that I'm<br/>15 not certain whether or not this would be<br/>16 information within the standard phlebotomist's<br/>17 training. It may well be, but I'm objecting to<br/>18 the extent that it's asking for information<br/>19 outside of her area of knowledge.<br/>20 Q. That's very fair. Let me just ask<br/>21 you then -- we're back up to your training --<br/>22 when you were in your school getting your<br/>23 training, were you actually shown anatomy<br/>24 pictures of veins in arms?<br/>25 A. Yes.</p>  | <p style="text-align: right;">Page 16</p> <p>1 A. Right. Correct.<br/>2 Q. So you don't come up always in your<br/>3 mind that you're going to do the one in the<br/>4 middle unless there's any reason to go other<br/>5 places?<br/>6 A. The only other places is like around<br/>7 in this antecubital, and, you know, there's a<br/>8 big vein next to it, and that's the choice.<br/>9 Those are our choices.<br/>10 Q. Let's just say on an average night,<br/>11 and I understand census changes, but let's just<br/>12 say on an average, are most of your blood draws<br/>13 you do on night shift, or some of them, I assume<br/>14 they're on the chart for the doctor when he<br/>15 makes rounds in the morning?<br/>16 A. Yes.<br/>17 Q. So you're doing your routine sticks<br/>18 for the morning blood work between what periods<br/>19 of time?<br/>20 A. Well, sometimes I constantly, you<br/>21 know, one or two reading an hour or three or<br/>22 sometimes more than that.<br/>23 Q. Again, I'm not being clear, and I<br/>24 apologize.<br/>25 My memory, when I worked in a</p> |

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| <p style="text-align: right;">Page 17</p> <p>1 hospital, is that routinely what happens is<br/>2 there's a whole lot of lab work ordered q.d. A<br/>3 phlebotomist comes up every morning to draw<br/>4 blood work. Is that the way it still is?<br/>5 A. Yes.<br/>6 Q. My question is, I guess, just really<br/>7 narrow here. When you're doing those routine<br/>8 daily sticks as the phlebotomist every six,<br/>9 every eight, just your routine morning sticks,<br/>10 what time do you generally start your sticks and<br/>11 end your sticks just for that routine lab work?<br/>12 A. 6:00 o'clock.<br/>13 Q. 6:00 o'clock you start?<br/>14 A. Correct.<br/>15 Q. Do you ever start a little earlier?<br/>16 A. Yes. Quarter to 6:00 or 5:30 the<br/>17 earliest we can go for the routine.<br/>18 Q. Generally, and I know it changes,<br/>19 again, by census, about how long does it<br/>20 routinely take you to finish your routine sticks<br/>21 in the morning?<br/>22 A. Within an hour, hour-and-a-half,<br/>23 depending on how many you had to do.<br/>24 Q. Sure. Is there more than one<br/>25 phlebotomist on night shift with you?</p>             | <p style="text-align: right;">Page 19</p> <p>1 other person that's doing blood sticks to go up<br/>2 and try?<br/>3 A. I'll put it on the board.<br/>4 Q. Right.<br/>5 A. And I will write down in there that<br/>6 I can't get it.<br/>7 Q. Right.<br/>8 A. And somebody will just grab it from<br/>9 there, the first shift people who will be the<br/>10 most available to go there and give a try.<br/>11 Q. So --<br/>12 A. There's no particular, you know,<br/>13 somebody that's designated to come in, an<br/>14 assistant or give assistance to me.<br/>15 Q. Let me make sure I understand. If<br/>16 you can't get it, you bring it down, put it on<br/>17 the board here in phlebotomy, and another<br/>18 phlebotomist, whoever, will try to go up and get<br/>19 it; is that correct?<br/>20 A. That's correct.<br/>21 Q. You mentioned a couple things I want<br/>22 to ask you about.<br/>23 MR. RICHARDS: Jackie, can I<br/>24 interrupt for one second? When you're saying if<br/>25 you can't get it, earlier, she said after two</p>  |
| <p style="text-align: right;">Page 18</p> <p>1 A. No. They will come in -- the<br/>2 earliest they will come in, and it's part of --<br/>3 it's still night shift, is 5:30.<br/>4 Q. I know you don't remember this<br/>5 particular day, but is it as likely that you had<br/>6 a helper doing these routine sticks with you, or<br/>7 is it more likely that you were doing all the<br/>8 routine morning sticks of that day, if you<br/>9 remember?<br/>10 A. I don't do it by myself, no.<br/>11 Q. So someone comes in and assists you?<br/>12 A. That's correct.<br/>13 Q. So there's two of you?<br/>14 A. No. We share. There's no so-called<br/>15 assistant. You get your share.<br/>16 Q. Right.<br/>17 A. Like five patients, and if you go<br/>18 out there at 6:00 o'clock, five is yours, and<br/>19 you do the best you can to do that, and that's<br/>20 it. If you -- if one that you didn't -- wasn't<br/>21 able to draw it, then you bring it down and let<br/>22 somebody who is available to go do it and give a<br/>23 try. That's how we do it.<br/>24 Q. So if you go up to do it and you<br/>25 can't get it, you might come down and ask the</p> | <p style="text-align: right;">Page 20</p> <p>1 attempts she will go to the nurse and the house<br/>2 officer. You're talking about can't get it.<br/>3 You mean can't get to it?<br/>4 Q. Can't get the stick; that's what you<br/>5 said.<br/>6 A. That is within my 11:00 o'clock to<br/>7 6:00 o'clock, 5:30. Because 6:00 o'clock people<br/>8 will start their first shift already.<br/>9 Q. But my understanding is, if you go<br/>10 up and you stick and you can't get it, you come<br/>11 down, put it on the board and someone goes up?<br/>12 A. That is from 5:30 or 6:00 o'clock to<br/>13 the rest of the -- the end of the night shift.<br/>14 Q. Right. I understood that. Thank<br/>15 you.<br/>16 MR. RICHARDS: Thank you.<br/>17 Q. Now, you mentioned two things I want<br/>18 to ask you about. It sounded like, on average,<br/>19 you have about five sticks that you're<br/>20 responsible for in the morning. And I<br/>21 understand it changes with census.<br/>22 A. Yes.<br/>23 Q. That's about normal. You have five<br/>24 patients to stick?<br/>25 A. The standard is eight to -- is more</p> |

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| <p>Page 21</p> <p>1 than five. We're talking about routine.<br/>2 Q. Right. So you might have ten blood<br/>3 draws to do from 5:30 to the end of your shift?<br/>4 A. Correct.<br/>5 Q. And I understand that changes.<br/>6 Now, when you say you do the best<br/>7 you can, what does that mean? You used the<br/>8 phrase "best you can." You do the best you can<br/>9 to get the stick. If you can't get the stick,<br/>10 you come down and you put it on the board and<br/>11 have someone else come up?<br/>12 A. Yes.<br/>13 Q. What does that mean, "best you can"?<br/>14 A. Well, that's the two chances.<br/>15 Q. So you do the best you can for those<br/>16 two chances?<br/>17 A. Correct.<br/>18 Q. And then you bring it downstairs?<br/>19 A. Correct.<br/>20 Q. Now, tell me, sort of paint the<br/>21 picture for me -- because I used to do a ton of<br/>22 IVs in my career also -- you come up and the<br/>23 patients are probably sleeping?<br/>24 A. Yes.<br/>25 Q. Do you wake them?</p>  | <p>Page 23</p> <p>1 swollen arm or for any reason that they don't<br/>2 want us to draw blood from that arm.<br/>3 Q. How do we know in this case that you<br/>4 were the one that drew Mr. Hatfield's blood at<br/>5 this point in time? How did Mr. Richards come<br/>6 to find that out? Is there a record somewhere<br/>7 that you were the person that did it?<br/>8 A. I don't know how they keep it. I do<br/>9 not pay attention to those. All I can recall<br/>10 is -- that's why it's hard to recall somebody<br/>11 you did, you know. I don't even -- I just do<br/>12 what I'm there for, and I identify the patient<br/>13 and that's about it, identify -- if they tell me<br/>14 their name. If they can't, I look at their name<br/>15 band and I look at all the signs that you can --<br/>16 as much as you can see on the wall, that no<br/>17 blood draws or check with the nurse, that kind<br/>18 of stuff, before I perform any --<br/>19 Q. When you bring the blood down, do<br/>20 you initial something? Do you make a notation<br/>21 so that someone knows that you are the one that<br/>22 actually physically brought the blood down?<br/>23 A. We put our number on the label of<br/>24 the specimen.<br/>25 Q. What is your number?</p> |
| <p>Page 22</p> <p>1 A. Yes. The moment I go into the room,<br/>2 I start talking, hello, knocking. I said, this<br/>3 is Susan from the lab. I'm here, I'm going to<br/>4 turn your light on. And once I turn the light<br/>5 on, it's either they're -- you know, only few of<br/>6 them are awake. So I have to wake them up, and<br/>7 I have to introduce myself.<br/>8 From that point, I tell every step I<br/>9 have to do, turn the light on, I'm Susan, hello,<br/>10 good morning, I'm sorry to wake you up and I<br/>11 need to draw blood from you. And if they are<br/>12 just -- either they will be just closing their<br/>13 eyes but they're awake, I'm not going to start<br/>14 doing anything until I have to wake them up.<br/>15 And I tell them the procedure that<br/>16 I'm going to do, and I tell them, I have to look<br/>17 around, what is the available or accessible or<br/>18 which arm is available for venipuncture because<br/>19 we are not using the arm that have IV running on<br/>20 it, or the arm that have fistula, or the arm<br/>21 that have -- we have a bracelet, we have a sign,<br/>22 an orange band, on them to aware us of -- that<br/>23 we cannot use that arm. And we are not going to<br/>24 use that arm for so many different reasons, like<br/>25 a fistula or a mastectomy or a clot that -- or a</p> | <p>Page 24</p> <p>1 A. 2023.<br/>2 Q. I assume you still handwrite the<br/>3 patient's name, you turn the blood?<br/>4 A. We don't handwrite the patient's<br/>5 name. The label is generated, is printed<br/>6 already, and we have the labels with us, and we<br/>7 put our initial on -- whatever space we can,<br/>8 write our initial or our number.<br/>9 Q. So you go into the room, and let's<br/>10 say it's not a really difficult stick, but it's<br/>11 not a real easy stick. Just generally, in your<br/>12 practice, how long do you spend there at the<br/>13 bedside in your morning sticks trying to get<br/>14 your routine blood work? And I understand an<br/>15 easy stick, it could be 30 seconds, and a hard<br/>16 stick, it could be 20 minutes. But, in general,<br/>17 one that's not real easy but not real difficult.<br/>18 A. The time I spend to perform the<br/>19 phlebotomy on a particular patient?<br/>20 Q. Yes. Yes.<br/>21 A. Thirty seconds to -- every day -- 30<br/>22 seconds, 40 seconds, because we have to clean.<br/>23 Q. Right.<br/>24 A. Forty seconds. We have to clean at<br/>25 least, scrub the patient at least, you know, no</p>   |

6 (Pages 21 to 24)

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| <p>Page 25</p> <p>1 less than 30 seconds. Then once you are<br/>2 successful, you get it right, depending on how<br/>3 many tubes also, how many tubes you are drawing.<br/>4 Q. And if you're not successful --<br/>5 A. You can spend ten minutes to find --<br/>6 five minutes to ten minutes.<br/>7 Q. Can you?<br/>8 A. Yes.<br/>9 MR. RICHARDS: Jackie, again, to<br/>10 clarify, because I want to make sure the record<br/>11 is clear, are you talking about the time it<br/>12 takes for her to start getting the blood out?<br/>13 Are you talking from the time she walks into the<br/>14 room until the time she leaves the room?<br/>15 MS. TRESL: She answered my<br/>16 question, Dan.<br/>17 MR. RICHARDS: Can you read it back.<br/>18 MS. TRESL: I think I'm asking the<br/>19 questions.<br/>20 (Record read.)<br/>21 Q. There's a lot of conversation in the<br/>22 literature, there's a lot of discussion in the<br/>23 literature that I've read. Generally, and I<br/>24 don't know if you can actually tell me this, but<br/>25 how deep do you tend to stick with your needle?</p> | <p>Page 27</p> <p>1 that case?<br/>2 A. I reposition a little bit, but I<br/>3 don't go no farther in.<br/>4 Q. How do you reposition a little bit?<br/>5 A. If I draw the needle in like that,<br/>6 and if I did push the skin a little bit, because<br/>7 it will be me or it will be him or her that will<br/>8 move, and I just have to position sideways that<br/>9 way, left or right side, and if I don't get it,<br/>10 I will withdraw it.<br/>11 Q. So you're moving the needle left and<br/>12 right to sort of go back into the vein; is that<br/>13 correct?<br/>14 A. No. I know that I am already -- the<br/>15 size of -- the bevel is in and the needle size<br/>16 and the measurement that I think is good enough<br/>17 to be in, and if I don't get it, I don't, you<br/>18 know -- the vein will disappear on me. That's<br/>19 why I just have to push my hand a little bit<br/>20 that way or a little bit that way, and I will --<br/>21 if I still don't get it, that's when I call I<br/>22 failed it.<br/>23 Q. Why do veins disappear? We all say<br/>24 that, as people who draw blood. All these years<br/>25 of experience, why do they disappear?</p> |
| <p>Page 26</p> <p>1 A. Not very deep. As long as the bevel<br/>2 of the needle is safely in, and if I get it, I<br/>3 get it. If I don't, I just reposition a little<br/>4 bit, and if not, that's it, I withdraw it.<br/>5 Q. What do you do when you encounter a<br/>6 vein that rolls?<br/>7 A. I anchor the vein.<br/>8 Q. How do you anchor the vein?<br/>9 A. Okay.<br/>10 Q. Say it with words so Karen can put<br/>11 it down.<br/>12 A. I anchor the vein, once I clean the<br/>13 venipuncture area, the tourniquet is on, and I<br/>14 clean the area, then my thumb presses the skin<br/>15 and pull outward a little bit, then I draw the<br/>16 needle.<br/>17 Q. And what if the vein continues to<br/>18 roll?<br/>19 A. Then I won't get any blood. It will<br/>20 stop.<br/>21 Q. Go ahead.<br/>22 A. It stops. That's it.<br/>23 Q. You know how sometimes you go to get<br/>24 a vein and it kind of moves away from you and<br/>25 you don't have it anchored? What do you do in</p>   | <p>Page 28</p> <p>1 A. I think if the patient move in any<br/>2 direction or in any kind of move, I think the<br/>3 whole arm move and the vein, it might also move.<br/>4 I don't know. Because they move, they really<br/>5 move, and you lose it.<br/>6 Q. Yes, you do lose it. Do patients,<br/>7 typically, when you stick them, do they jump?<br/>8 A. Some of them do. Because I tell<br/>9 them don't move, you beg them not to move for a<br/>10 second, and I do that. Some listen, some they<br/>11 don't. But once you draw the needle in also,<br/>12 they jump, they jerk. That's why I have to<br/>13 press and hold, you know, the arm as steady as I<br/>14 can.<br/>15 Q. When they jump and move, does that<br/>16 sometimes cause the veins to roll?<br/>17 A. To roll, yes.<br/>18 Q. Or disappear?<br/>19 A. Yes.<br/>20 Q. How do you know if you're in the<br/>21 vein as opposed to the artery?<br/>22 A. I know -- I feel that I'm in the<br/>23 vein -- I don't know exactly how I would explain<br/>24 it to you, but I feel that I'm in the vein. If<br/>25 I'm not in the vein, I feel that I am being</p>  |

7 (Pages 25 to 28)

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1 retracted -- the needle -- I'm not going farther  
2 in, or that's it. It stops from there. If I  
3 try to push it, I am not going farther anymore,  
4 so I know I'm not in the vein.  
5 Q. How do you know if you're in the  
6 vein?  
7 A. They move and they complain, oops,  
8 or you're hurting me.  
9 Q. How do you know if you're in an  
10 artery rather than a vein?  
11 A. I don't know the answer to that  
12 because I -- I haven't done any that I recall,  
13 that I know of, into an artery.  
14 Q. Have you ever had the experience  
15 where you put in a needle and you hit bone?  
16 A. No.  
17 Q. How about muscle?  
18 A. Muscle, that's when I said it  
19 retracts. I don't go -- I can't go farther  
20 anymore, and they hurt, so I stop from there.  
21 Q. Have you ever had the experience  
22 where, after you've drawn blood, the patient  
23 begins to swell?  
24 A. After I draw the patient?  
25 Q. Correct.

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1 A. I don't see a reason why it swell,  
2 because once I get into the vein and I get all  
3 the -- I'm halfway done with the tubes, if I  
4 have three or two, I release the tourniquet, and  
5 I am still filling the rest of the tubes. Then  
6 I know that prevent me from, you know, getting  
7 swell or bruised.  
8 Q. In your experience then, you've  
9 never had a patient swell after you've done  
10 venipuncture, that you know of?  
11 A. Yes.  
12 Q. That's correct?  
13 A. That's correct.  
14 Q. Have you ever had a patient bruise  
15 under the skin after you've stuck, that you know  
16 of?  
17 A. Occasionally, I do. But it's -- I'm  
18 not saying a big one. I'm not letting that  
19 happen. If I see that -- because some skin are  
20 very sensitive. If I draw the needle in, and if  
21 it start -- the color of the skin turn blue-ish  
22 or dark, I pull the needle out right away,  
23 because even if I am not far enough to get the  
24 vein, I pull it out and restart another because  
25 I don't want to cause bruise or hematoma.

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1 Q. So you can see that then, when  
2 you're in there, begin to form?  
3 A. Yes.  
4 Q. To your knowledge and your training  
5 and your experience, have you ever known, a  
6 minute or two minutes or three minutes after  
7 you've left the room, a hematoma to form?  
8 A. I haven't experienced. I haven't  
9 seen one like that. In my own venipuncture  
10 performance?  
11 Q. Right. Correct. Have you ever had  
12 someone follow up with you and say, Susan, the  
13 blood draw you did this morning, now the man has  
14 a big hematoma, do you know what happened?  
15 A. No. None yet.  
16 Q. We talked to Dr. Bertin a little bit  
17 about Mr. Hatfield. He was his surgeon in this  
18 case.  
19 A. Doctor who?  
20 Q. Dr. Bertin. And Dr. Bertin talked a  
21 lot about trying to stay superficial and not go  
22 deep, and that sometimes we do go too deep.  
23 What is your understanding about  
24 going too deep when you're doing a venipuncture?  
25 A. I really don't know that -- in my

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1 experience, I do not go too deep because -- why  
2 do I have to go that deep if I know that if the  
3 vein is right there, I have palpated, is shallow  
4 enough, and if I didn't, you know -- I don't  
5 think it is necessary for me to go farther deep  
6 anymore.  
7 Q. Do you ever have an occasion where  
8 you feel a vein, don't see it, and puncture it?  
9 A. Yes.  
10 Q. Do you ever have an occasion when  
11 you sort of see a shadow, which I believe was  
12 your word, and you go after that?  
13 A. Mostly I -- I don't perform any  
14 venipuncture without feeling and seeing a shadow  
15 of the vein.  
16 Q. So would you perform it if you felt  
17 it but didn't see a shadow?  
18 A. I can feel it, but because some skin  
19 that -- you know, it's hard for them, especially  
20 when they're dark skin, that's when I can feel  
21 the vein. And if I am comfortable, I will  
22 perform the venipuncture, but if I don't feel it  
23 is a vein, I won't attempt to do any  
24 venipuncture.  
25 Q. In your experience, are there any

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| <p>Page 33</p> <p>1 special challenges in sticking the elderly?<br/>2 A. Not really.<br/>3 Q. So you approach drawing blood from<br/>4 the elderly the same way you do all adult<br/>5 patients?<br/>6 A. Correct.<br/>7 Q. How about very thin patients? Is<br/>8 there any change in your technique for them?<br/>9 A. The change of the size of the<br/>10 needle. That's when I use the butterfly, when<br/>11 they are very little vein, and you see that they<br/>12 are a vein, then that's when I apply the other<br/>13 size -- the butterfly needle, the smaller<br/>14 needle.<br/>15 Q. What if their veins are a good size<br/>16 but their bodies are very skinny; do you<br/>17 approach that venipuncture technique any<br/>18 differently?<br/>19 A. No.<br/>20 Q. If you have a problem when you're<br/>21 drawing blood and you see some, let's say,<br/>22 bruising, or the patient is complaining of a lot<br/>23 of soreness at the site, what do you do, if<br/>24 anything, as a followup to that?<br/>25 A. I do not -- I look at it and I do</p>   | <p>Page 35</p> <p>1 to the question. Thank you.<br/>2 MR. RICHARDS: Listen to the<br/>3 question.<br/>4 MS. TRESL: She's doing a great job.<br/>5 Q. My additional question is: If you<br/>6 get in there and there's a little bit of pain<br/>7 after you're done or a little bit of swelling,<br/>8 what do you do, if anything, about that?<br/>9 MR. RICHARDS: If you get in there.<br/>10 What do you mean by "if you get in there"? If<br/>11 you get into the room or if you've stuck her in<br/>12 the arm?<br/>13 MS. TRESL: The vein.<br/>14 A. If I already am done --<br/>15 Q. Correct.<br/>16 A. -- with the venipuncture?<br/>17 Q. Correct.<br/>18 A. If the patient said that it hurts?<br/>19 Q. Yes.<br/>20 A. I put pressure. I stay there until<br/>21 it stops bleeding and make sure that there's no<br/>22 bleeding and there's no hematoma or there's no<br/>23 bruise.<br/>24 Q. What does putting pressure on that<br/>25 do?</p>  |
| <p>Page 34</p> <p>1 not perform anything. I just look somewhere and<br/>2 I ask the patient, how about here. Do you feel<br/>3 pain in here, is it sore in here? If I see a<br/>4 vein in there, I press it as I ask them, how<br/>5 about here; it is sore up to here, or around in<br/>6 here also. If they said no, or if they said<br/>7 yes, then I go far -- I go farther and look.<br/>8 That's why when I can't find -- they<br/>9 don't let you -- because they do, they do, in<br/>10 any way, whether they can say it, they -- in any<br/>11 expression they tell you that they refuse there,<br/>12 and you don't go there. I don't -- I look for,<br/>13 you know, up, down, lower or above it, but I do<br/>14 not -- any redness, any bruise, any kind of<br/>15 hematoma, I try to avoid it.<br/>16 MR. RICHARDS: I want to interrupt<br/>17 again, and I am sorry for interrupting, but I<br/>18 want to make sure the record is clear and I want<br/>19 to make sure the question she's answering is the<br/>20 question that was asked.<br/>21 Are you talking about if bruising<br/>22 develops while she's drawing the blood or if<br/>23 there's bruising present when she first looks at<br/>24 the arm?<br/>25 MS. TRESL: I'm going to come back</p> | <p>Page 36</p> <p>1 A. I put the gauze and keep it in<br/>2 there, I hold my hand, press it, until it's a<br/>3 good time to take a look at it, and if there's<br/>4 no bruise or it stopped bleeding, there's no<br/>5 bruise, there's no other marks but the needle<br/>6 mark, then I put the Band-Aid on.<br/>7 Q. What does your putting pressure on<br/>8 that actually do? How does that work?<br/>9 A. It helps -- I don't know, but it<br/>10 helps stop bleeding and it prevent from swelling<br/>11 and it prevent from developing any hematoma.<br/>12 Q. Do you have to do that every once in<br/>13 a while, or commonly?<br/>14 A. Mostly, but almost everybody.<br/>15 Q. Mostly everybody you have to do<br/>16 that, or you don't have to do that?<br/>17 A. I have to do it. I stay there until<br/>18 like it's a good time to leave the patient with<br/>19 no bruise, stop bleeding, and ready to put a<br/>20 Band-Aid or tape over the gauze that I, you<br/>21 know, put it in there.<br/>22 Q. So you routinely, after you draw the<br/>23 blood, stand over the patient and apply<br/>24 pressure?<br/>25 A. That's right.</p> |

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| <p style="text-align: right;">Page 37</p> <p>1 Q. How long do you apply pressure for?</p> <p>2 A. That depends. It varies because</p> <p>3 there are veins that are bigger and smaller</p> <p>4 and -- bigger are a little bit more time to stop</p> <p>5 bleeding, and I, you know, I constantly checking</p> <p>6 it while I'm there, or a minute or two, make</p> <p>7 sure that it stopped bleeding.</p> <p>8 Q. Let me just look over my notes a</p> <p>9 little bit and then we may be done, okay?</p> <p>10 A. Okay.</p> <p>11 (Pause.)</p> <p>12 Q. The bevel of the needle, what</p> <p>13 direction are you trying to put the bevel into</p> <p>14 the vein when you're going into the --</p> <p>15 A. Up.</p> <p>16 Q. The bevel up?</p> <p>17 A. Yes.</p> <p>18 Q. When you get blood in your tube,</p> <p>19 when you hit the vein, do you advance the needle</p> <p>20 any further, or how does that work?</p> <p>21 A. No.</p> <p>22 Q. Tell me your exact technique and</p> <p>23 then we'll be done. You put the tourniquet on,</p> <p>24 you find your vein, you take the tourniquet off</p> <p>25 and cleanse. Then tell me what you do, just the</p>  | <p style="text-align: right;">Page 39</p> <p>1 hold it there until I'm ready to tape, meaning I</p> <p>2 have to keep looking, if it's done, look what I</p> <p>3 did. If there's no bruise and stop bleeding,</p> <p>4 that's the most important thing that my concern</p> <p>5 is, then I tape it, and then I'm done.</p> <p>6 Q. When you pull the needle out to get</p> <p>7 ready to put it on your Vacutainer, do you hold</p> <p>8 the needle up to look at the bevel?</p> <p>9 A. No. Because our needle, we have the</p> <p>10 retract -- not the retractable. We have those</p> <p>11 needles now that once you withdraw the needle,</p> <p>12 you press the cover of that needle to prevent us</p> <p>13 from resticking them in another area or</p> <p>14 resticking ourself.</p> <p>15 Q. I'm talking about before that, and</p> <p>16 maybe we need to clarify. In 2002, is that the</p> <p>17 kind of needle you were using?</p> <p>18 A. Yes.</p> <p>19 Q. Do you know the name of that kind of</p> <p>20 needle? Is there a brand name? And I can find</p> <p>21 that out from your attorney. I'm just wondering</p> <p>22 if you know, since you say it's a special</p> <p>23 retractable needle, if there's a certain</p> <p>24 company, Upjohn or --</p> <p>25 A. Well, I can't --</p> |
| <p style="text-align: right;">Page 38</p> <p>1 finest detail from that point until you take the</p> <p>2 needle out.</p> <p>3 A. Say that again.</p> <p>4 Q. You have your tourniquet on, you</p> <p>5 find your vein. Then I believe you said you</p> <p>6 take the tourniquet off while you cleanse;</p> <p>7 correct?</p> <p>8 A. That's correct.</p> <p>9 Q. Then tell me what you do after</p> <p>10 you're done cleansing, just step-by-step-by-step</p> <p>11 describe the needle, how you put it in, the</p> <p>12 whole way.</p> <p>13 A. Well, I have my gloves on. Then</p> <p>14 that's my needle to my Vacutainer. Then I look</p> <p>15 a little bit more to know -- to make sure I know</p> <p>16 still where the vein is. Then I press my --</p> <p>17 anchor the skin where the needle, just below the</p> <p>18 vein, then I draw the needle in, and I push my</p> <p>19 Vacutainer, my tubes on, and keep filling it.</p> <p>20 Then getting closer to finishing it, I release</p> <p>21 my tourniquet and keep filling.</p> <p>22 When I'm done, I withdraw all my</p> <p>23 tubes that are filled; then put the clean gauze</p> <p>24 over the needle and then I -- as I pull the</p> <p>25 needle, then put down, press down, the gauze and</p> | <p style="text-align: right;">Page 40</p> <p>1 Q. That's fine. Before you stick the</p> <p>2 needle in is the question -- this is what I'm</p> <p>3 focused on here -- you open up the package, you</p> <p>4 pull the needle out; correct?</p> <p>5 A. Say it again.</p> <p>6 Q. You've cleansed and you are getting</p> <p>7 ready to stick. You pull your needle out of</p> <p>8 your box?</p> <p>9 A. Right.</p> <p>10 Q. I assume you have a little carrying</p> <p>11 case?</p> <p>12 A. Right.</p> <p>13 Q. You open the needle?</p> <p>14 A. Yes. I don't open the needle.</p> <p>15 Q. From the package.</p> <p>16 A. The package. And connect it,</p> <p>17 connect it to my Vacutainer, and the needle is</p> <p>18 still capped, the cap is still on, until I am</p> <p>19 ready to stick.</p> <p>20 Q. And when you take the cap off, my</p> <p>21 question is, how do you know where the bevel is</p> <p>22 before you put it into the --</p> <p>23 A. I look. I look, make sure the bevel</p> <p>24 is up before I draw.</p> <p>25 Q. So the bevel goes into the patient,</p>  |

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| <p>Page 41</p> <p>1 and then let's say you advance the needle and<br/>2 you get a little bit of blood; am I correct?<br/>3 A. I do not advance it. What do you<br/>4 mean by advance it?<br/>5 Q. Well, you put it through the skin.<br/>6 A. Yes.<br/>7 Q. So you advance it through the skin;<br/>8 correct?<br/>9 A. Yes.<br/>10 Q. Or you tell me, how do you put it<br/>11 through the skin?<br/>12 A. Well, I draw directly where I see<br/>13 the vein, where the vein is, you know.<br/>14 Q. Right.<br/>15 A. Where the vein is. And I draw it in<br/>16 and hold my hand over here. As I hold it<br/>17 steady, then I start filling up my tubes. And<br/>18 when I'm like -- like I said, when I'm almost<br/>19 done, release my tourniquet and finish filling<br/>20 up the last, or the last couple, tubes and I<br/>21 will pull the entire tube out and set it aside.<br/>22 Then I hold my hand over here where I want to<br/>23 have it steady so the needle won't move and I<br/>24 pick up my clean gauze and put it over here, and<br/>25 ready to pull the needle out, and I press and</p>  | <p>Page 43</p> <p>1 add as a caveat to that is that it's my<br/>2 understanding that sometimes, such as for<br/>3 dialysis patients, that it's not impossible for<br/>4 a patient, while they're on dialysis, to have a<br/>5 draw while they're there and that the draw is<br/>6 delivered to the phlebotomist whose numbers will<br/>7 show up. But I don't think that there's any<br/>8 indication that he was in dialysis at this time<br/>9 period. It would probably be pretty unusual at<br/>10 that hour.<br/>11 But there's situations that arise<br/>12 where a phlebotomist's ID numbers are on the<br/>13 sticker and show up where they're not the person<br/>14 who actually did the draw. I don't have any<br/>15 knowledge that that happened in that case, but I<br/>16 just want to say that, because that's how I<br/>17 understand how it works.<br/>18 MS. TRESL: The only reason I'm a<br/>19 little concerned on this, and we can always redo<br/>20 more phlebotomy, but she said that her blood<br/>21 draw sticks start about 5:30, and this note is<br/>22 5:20, and it would seem to me on a busy night<br/>23 she would start at 5:00. I just want to be<br/>24 sure, because she just testified she starts at<br/>25 5:30, your belief is she could have done it at</p> |
| <p>Page 42</p> <p>1 put the pressure in there. And then, as I pull<br/>2 the needle out, I press the cup, the safety cup,<br/>3 of the needle, and then set it aside, put it far<br/>4 away, you know, where it won't be in my way, and<br/>5 I stay there for a few seconds to make sure that<br/>6 it's ready, until it's ready to tape it or<br/>7 Band-Aid.<br/>8 MS. TRESL: I think we are done, and<br/>9 I thank you for your patience.<br/>10 MR. RICHARDS: We'll read.<br/>11 (Discussion off the record.)<br/>12 MS. TRESL: My understanding is that<br/>13 Susan is the one that drew at 5:20 after we have<br/>14 the nurse's notation that at 5:20 we have edema<br/>15 at the right antecubital area. You're telling<br/>16 me today that she's the one that did the blood<br/>17 work before that?<br/>18 MR. RICHARDS: What I've been told<br/>19 is that she is the one whose identification<br/>20 numbers, and I think she testified what her<br/>21 number was --<br/>22 MS. TRESL: Right.<br/>23 MR. RICHARDS: -- shows up for that<br/>24 blood draw that occurred between 5:00 and 6:00<br/>25 a.m. on August 6th. The only thing that I would</p> | <p>Page 44</p> <p>1 5:10.<br/>2 MR. RICHARDS: Yes. Well, it's my<br/>3 belief, and that it's her -- of the numbers that<br/>4 identify the phlebotomy department, her numbers<br/>5 are the ones that are attributed to this<br/>6 particular time period.<br/>7 MS. TRESL: And Jim, who was going<br/>8 to come next, he did blood work after this?<br/>9 MR. RICHARDS: Subsequently. His<br/>10 numbers are attached to the ones that occurred<br/>11 later in the morning on the 6th.<br/>12 MS. TRESL: And, further, Ms. Duska<br/>13 does not remember Mr. Hatfield?<br/>14 MR. RICHARDS: None of them have any<br/>15 specific recollection.<br/>16 MS. TRESL: You've talked to her. I<br/>17 think I don't need to depose Jim.<br/>18 MR. RICHARDS: Okay.<br/>19 MS. TRESL: We can go off record on<br/>20 that.<br/>21 (Discussion off the record.)<br/>22 MS. TRESL: Why don't we put on<br/>23 record we've agreed that we reserve the right to<br/>24 depose Ms. Duska and Jim if you decide to --<br/>25 MR. RICHARDS: If we decide they</p>  |

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| <p>1 would be viable trial witnesses.</p> <p>2 MS. TRESL: Otherwise we'll --</p> <p>3 MR. RICHARDS: We'll call it quits</p> <p>4 for the day.</p> <p>5 Based upon conversations with</p> <p>6 counsel, at this time we're going to, according</p> <p>7 to Ms. Tresl's agreement, hold off on the</p> <p>8 further depositions of the additional</p> <p>9 phlebotomists. However, I've agreed with Ms.</p> <p>10 Tresl that if we were to want to call them as</p> <p>11 witnesses at the time of trial, we would</p> <p>12 certainly produce them at a convenient time for</p> <p>13 everybody, regardless of any court record,</p> <p>14 discovery cutoffs or anything like that.</p> <p>15 MS. TRESL: Off the record.</p> <p>16 (Deposition concluded at 10:25 o'clock a.m.)</p> <p>17 (Signature not waived.)</p> <p>18 -----</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> | <p>1 CERTIFICATE</p> <p>2</p> <p>3 State of Ohio, )</p> <p>4 ) SS:</p> <p>5 County of Cuyahoga. )</p> <p>6</p> <p>7</p> <p>8</p> <p>9 I, Karen M. Patterson, a Notary Public</p> <p>10 within and for the State of Ohio, duly</p> <p>11 commissioned and qualified, do hereby certify</p> <p>12 that the within named SUSAN CABUYADOA was by me</p> <p>13 first duly sworn to testify to the truth, the</p> <p>14 whole truth and nothing but the truth in the</p> <p>15 cause aforesaid; that the testimony as above set</p> <p>16 forth was by me reduced to stenotypy, afterwards</p> <p>17 transcribed, and that the foregoing is a true</p> <p>18 and correct transcription of the testimony.</p> <p>19</p> <p>20 I do further certify that this deposition</p> <p>21 was taken at the time and place specified and</p> <p>22 was completed without adjournment; that I am not</p> <p>23 a relative or attorney for either party or</p> <p>24 otherwise interested in the event of this</p> <p>25 action. I am not, nor is the court reporting</p> <p>firm with which I am affiliated, under a</p> <p>contract as defined in Civil Rule 28(D).</p> <p>IN WITNESS WHEREOF, I have hereunto set my</p> <p>hand and affixed my seal of office at Cleveland,</p> <p>Ohio, on this 17th day of March 2004.</p> <p><i>Karen M. Patterson</i></p> <p>Karen M. Patterson, Notary Public</p> <p>Within and for the State of Ohio</p> <p>My commission expires October 7, 2004.</p> |
| <p>1 AFFIDAVIT</p> <p>2 I have read the foregoing transcript from</p> <p>3 page 1 through 45 and note the following</p> <p>4 corrections:</p> <p>5 PAGE LINE REQUESTED CHANGE</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18 SUSAN CABUYADOA</p> <p>19</p> <p>20 Subscribed and sworn to before me this</p> <p>21 _____ day of _____, 2004.</p> <p>22</p> <p>23</p> <p>24 Notary Public</p> <p>25 My commission expires _____.</p>  |  |

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