

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

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4 IN THE COURT OF COMMON PLEAS

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7 James J. Armstrong, Executor of)
8 the Estate of Nancy Armstrong,)
9 Plaintiff,)
10 vs.) Case No. CV126180
11 EMH Regional Healthcare System,)
12 dba Amherst Hospital, et al.,)
13 Defendants.)

14 - - -

15 Deposition of Briccio Celerio, M.D., a defendant
16 herein, called by the plaintiff for cross-examination,
17 pursuant to the Ohio Rules of Civil Procedure, taken
18 before Constance Versagi, Court Reporter and Notary Public
19 in and for the State of Ohio, taken at Cleveland Clinic,
20 5700 Cooper Foster Road, Lorain, Ohio, on
21 Tuesday, April 10, 2001, commencing at 4:35 p.m.

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SCANNED
3/24/03

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1 BRICCIO CELERIO, M.D.
2 of lawful age, being first duly sworn, as hereinafter
3 certified, was examined and testified as follows:

4 CROSS-EXAMINATION

5 By Miss Kolis:

6 Q Dr. Celerio, am I pronouncing your name correctly?

7 A Yes.

8 Q We haven't been formally introduced. My name is
9 Donna Kolis. I've been retained to represent the
10 Estate of Nancy Armstrong. My purpose here today
11 is to ask you a series of questions regarding your
12 involvement in this matter, and to clarify some of
13 the medical records.

14 Before we get started, prior to today E
15 sent to your attorney a Notice of Deposition, have
16 you ever seen the notice that I mailed?

17 A I think, yeah.

18 Q In that I requested that you bring first of all
19 your curriculum vitae. Did you bring that with you
20 today?

21 A It's here.

22 Q Could I -- if you don't mind, I do have a copy but
23 it's not legible, we'll mark that Plaintiff's
24 Exhibit A.

25 (Plaintiff's Exhibit A

1 marked for identification.)

2 Q Doctor, additionally I requested in that Notice of
3 Deposition that you bring any and all billing
4 records that you have regarding Nancy Armstrong.
5 Did you search out your billing records regarding
6 Mrs. Armstrong?

7 A You mean to say the bill that was sent to the
8 billing people, I didn't send that.

9 Q We'll probably get to that. There is no billing,
10 correct?

11 A No.

12 Q Do you have or did you have an original medical
13 chart of your own you maintained on the patient,
14 other than the records that appear in the hospital
15 chart?

16 A Just the hospital record.

17 Q So I have what you would have generated in the
18 hospital chart, correct?

19 A Is in the hospital record.

20 Q First thing I would like to do is establish some of
21 the ground rules for depositions. I know from a
22 docket search you had an opportunity in the past to
23 give a deposition, correct?

24 A Yeah.

25 Q I want to refresh your memory. Do you understand,

1 Doctor, that today is the only opportunity that I
2 have to speak to you before the trial of this
3 matter?

4 A Yes.

5 Q You understand that you are under oath today just
6 as if you are in a court of law?

7 A Yes.

8 Q You understand that if you answer a question I will
9 assume that you understood the question?

10 a Yes.

11 Q Because of that, if I do ask a question you do not
12 understand, could you indicate for the record that
13 you don't understand what information I'm seeking?

14 A Yes.

15 Q I'm assuming that you are aware there is a
16 requirement to answer each and every question
17 verbally so the court reporter does not have to
18 interpret your answer?

19 A Yes.

20 Q I can secure your agreement on that, correct?

21 A Yes.

22 Q Let's go through your background, first.

23 You have a license to practice medicine in
24 the State of Ohio?

25 A Yes, I have.

1 Q You obtained that license when?
2 A 1976.
3 Q Have you continuously held an Ohio medical license
4 since 1976?
5 A Yes.
6 Q Has any action been taken against your Ohio license
7 by the State Medical Board?
8 A No.
9 Q Have you ever had a license to practice medicine in
10 any other state other than Ohio?
11 A I have a license in Florida but I never practiced
12 there.
13 Q I would assume that is not an active license?
14 A No, not active license.
15 Q Beginning with college, sort of just walk us
16 through the educational process that led you to
17 your occupation as a physician.
18 A I graduated from Manila Central University in 1965.
19 Q That is in the Philippines; is that right?
20 A Philippines, yeah.
21 Q Following that what did you do in terms of medical
22 education?
23 A I applied as an immigrant to America.
24 a Stepping back for a second, the program that you
25 attended at Manila Central University was a premed

1 and M.D. degree, correct?

2 A Yes.

3 Q How many years did it take to achieve that degree?

4 A Two years premedical and four years medical

5 education, one year internship.

6 Q Following the completion of that degree in 1965,

7 did you then work in a hospital setting in the

8 Philippines?

9 A Briefly.

10 Q About how long?

11 A For about a year before I came here.

12 Q Then you came to this country. What is the first

13 thing you did in medicine in this country?

14 A I worked in hospital like we call it, like

1.5 assistant.

16 Q Which hospital are you referring to?

17 A Doctors Hospital. It's not there anymore. The one

18 on Euclid Avenue.

19 Q Doctors Hospital, what year was that?

20 A That was probably '67.

21 Q 1967. When you were at Doctors Hospital in 1967,

22 had you actually passed your examinations to be a

23 physician in this country at that point?

24 A I was not taking it at that time yet. I was just

25 working like probably you call it extern or

1 something, or intern.

2 Q I'm trying to get a sense of what you were doing.

3 You are indicating, if I heard you correctly, in

4 1967 when you came here you were at Doctors

5 Hospital, you were performing services in the

6 nature of a physician's assistant, correct?

7 A Yeah.

8 Q When did you take the examinations -- you took the

9 ECFMG?

10 A Yes.

11 Q Did you take that several times?

12 A Yes.

13 Q How many times did you take it?

14 A I don't remember how many times I took it.

15 Q Did you first sit for it in 1967 when you came

16 here?

17 A '67, yeah. I tried it several times, '67 and then

18 I think I passed it in '71.

19 Q 1971?

20 A Yes.

21 Q Do you think you sat for it once a year '67 through

22 '71?

23 A I think so, yeah.

24 Q Were you also required to take the FLEX exam or

25 just the ECFMG?

1 A You are required to take a FLEX after you finish
 2 your residency, something like that.
 3 Q Because then you had to embark on a new residency
 4 program after you passed?
 5 A Yes.
 6 Q So at the conclusion of the ECFMG, which you
 7 believe you passed in 1971, you're indicating on
 8 your CV, although it doesn't have any years, you
 9 did a rotating internship at Fairview General
 10 Hospital, chronologically am I stating this
 11 correctly?
 12 A Yes.
 13 Q How long was that internship?
 14 A One year.
 15 Q So '71 to '72 let's say, is that about right?
 16 A Close to it, yeah.
 17 Q Then your CV indicates you did a residency at Mount
 18 Sinai for one year in anesthesia?
 19 A Yes.
 20 Q Is that following the Fairview experience?
 21 A Following Fairview, yes.
 22 Q What years do you think you were in that program?
 23 A One year after finishing at Fairview.
 24 Q If we're assuming the accuracy that Fairview
 25 completed '72 to '73, then you changed hospitals

1 went to Huron Road Hospital, did two more years in
2 anesthesia?

3 A Yes.

4 Q That was in a residency program?

5 A Residency. After Mount Sinai I went to an east
6 small hospital because they discontinued the
7 training in Mount Sinai after one year.

8 Q What small hospital did you go to?

9 A Saint Luke's Medical Center I think.

10 Q Saint Luke's Surgical Center?

11 A Yes.

12 Q Located where?

13 A On East Boulevard.

14 Q How long were you there?

15 A No -- it's Shaker Heights Medical Center, in front
16 of Saint Luke's Hospital.

17 Q How long were you there?

18 A About a year. Then during that year I applied at
19 Mount Sinai.

20 Q So then you completed the balance of your
21 residency, the two years at Huron Road Hospital?

22 A Yeah.

23 Q Would you have finished that approximately June,
24 July of 1976?

25 A '76.

1 **a** Going through at least if I look at your CV your
2 employment history is self-explanatory. I would
3 like to ask you a few questions about it.

4 '74 to '75 says you were a house physician
5 Shaker Heights Medical Center, is that what you
6 were referring to?

7 A Yes.

8 Q '74 to '75 you were doing training in anesthesia,
9 you were working as a house officer?

10 A House officer, yes.

11 Q What kinds of things were you doing as a house
12 officer?

13 A History and physicals. We take night calls and we
14 assist in surgery.

15 Q The next employment that it shows, I'm trying to
16 get the dates correct, is 1977 through 1988, that
17 is about 11 years, at Kaiser Hospital, correct?

18 A Kaiser Hospital, yes.

19 **a** Did you have a break between the end of your
20 anesthesia program at Huron Road and actually
21 obtaining a position?

22 A Not really a break. After I passed the Boards I
23 applied at Kaiser.

24 **3** When you say passed the Board, what Board did you
25 pass?

1 A I applied, I passed the Board at Florida, then I
2 applied for reciprocity in Ohio.

3 Q You are talking about the examination to obtain
4 your medical license?

5 A Medical license.

6 Q You weren't sitting for a Board at that point,
7 Board certification in anesthesia?

8 A No, just the medical license.

9 Q You got your medical license in Florida following
10 the completion of your Huron Road residency?

11 A Medical residency.

12 Q Were you intending to practice medicine in Florida?

13 A I was at first, I changed my mind because --

14 Q Did you have any employment in Florida at the
15 completion of your Huron Road residency program?

16 A No.

17 Q Got your medical license and applied for
18 reciprocity, came back to Ohio, then in 1977 began
19 work at Kaiser, correct?

20 A Kaiser.

21 Q Which Kaiser facility did you work for?

22 A The one on Snow Road.

23 Q Kaiser Parma?

24 A Yes.

25 Q You stayed there the entire 11 years?

1 A 11 years.

2 Q In 1988 you had a change of employment, it looks
3 like you went to work at Anesthesia, Inc; is that
4 correct?

5 A Yes.

6 Q Who is Anesthesia, Inc.?

7 A Dr. Bidman and myself.

8 Q That was '88 to '91, correct?

9 A Yes.

10 Q What hospitals did you practice at, where did you
11 have privileges during that time period?

12 A Amherst.

13 Q Amherst Hospital?

14 A Yes.

15 Q Were you first credentialed by Amherst Hospital in
16 1988?

17 A Yes.

18 Q Have you had to be recredentialed since 1988?

19 A What do you mean recredentialed?

20 Q Was there at any point since 1988 to the present --
21 it's going to be awkward -- at any time from 1988
22 through the present were you caused to come back
23 before the credentialing committee to have your
24 credentials reviewed?

25 A They do it every year.

1 Q Then in 1991, 1991 to present you were employed by
2 C&K Anesthesia?
3 A Yes.
4 Q Who is C&K Anesthesia?
5 A Myself and the other doctor, Dr. Kudid Habudi.
6 Q Female anesthesiologist?
7 A Yes.
8 Q Can you spell her name for the record.
9 A K-u-d-i-d, H-a-b-u-d-i.
10 Q It indicates on the CV, you sort of scratched out
11 what your previous business address was, where we
12 are today is 5700 Cooper Foster Road?
13 A Previous was Amherst Hospital address, we're based
14 there.
15 Q My question is, has your employment changed since
16 August of 1999?
17 A Yeah.
18 Q Why don't you explain that to me.
19 A I moved here. I changed employment July 17th of
20 1999.
21 Q Of 1999?
22 A Not even a year, last July.
23 Q so July 17, 2000?
24 A 2000.
25 Q Did you dissolve your partnership at that point?

1 A Yes, the partnership was dissolved.

2 Q You are now an employee of whom?

3 A Cleveland Clinic.

4 Q You are serving I gather as --

5 A Anesthesiologist.

6 Q Did your partner come with you?

7 A No, she left before I left Amherst.

8 Q When did she leave your partnership?

9 A I think January of 1999.

10 Q January of 1999. Going back to the calendar year

11 1999, at what hospitals were you performing

12 anesthesia services?

13 A Just Amherst.

14 Q Just Amherst solely?

15 A Yes.

16 Q Doctor, so I don't miss this, I think I already

17 know this, you are not Board certified in

18 anesthesiology; is that correct?

19 A Yes, I am not.

20 Q You sat for the Board?

21 A Just once.

22 Q Do you recall when you sat for the Board?

23 A I didn't understand.

24 Q Do you recall in what calendar year you sat for the

25 anesthesia Board?

1 A What country? What year you mean?

2 Q Yes, what year?

3 A That is after I finished my residency I tried it.

4 Q So somewhere the same year?

5 A Somewhere before I went to Kaiser.

6 Q At some point in time before you went to Kaiser in

7 fact you sat for the Boards in anesthesia, correct?

8 A Yes.

9 Q Did you not pass those Boards?

10 A I didn't pass, just written.

11 Q Did you ever again sit for the Board?

12 A No.

13 Q Are you still Board eligible?

14 A I think I lost my eligibility already.

15 Q Do you know when your eligibility would have

16 expired?

17 A I think it expired when Amherst, when E first

18 started working there.

19 Q Doctor, have you ever been asked to serve as an

20 expert witness on behalf of a physician or a

21 patient?

22 A No.

23 Q In anticipation of today's deposition, can you

24 explain to me what documents you might have

25 reviewed?

1 A Just some like I reviewed the --

2 MR. RISPO: What she is asking is

3 other than what I my have sent you.

4 A The other things I consider looking was Redux

5 medication and amyloidosis.

6 Q I'm sorry, the first thing you said was Redux, the

7 second thing you told me was what?

8 A Amyloidosis.

9 Q That wasn't the question I was asking. That is the

10 asker's fault. Sometimes I don't ask good

11 questions. Let's back this up.

12 In anticipation of today's deposition, what

13 medical records have you reviewed, start with that

14 question?

15 A This medical record, the medical record of the

16 patient.

17 Q Did you review the chart in its entirety, or did

18 you confine yourself to notations that you made in

19 the chart?

20 A Almost the entire chart.

21 Q You read the entire chart, okay.

22 You indicated in response to a poorly asked

23 question by myself, you reviewed information or

24 medical literature on Redux?

25 A Yes.

1 Q Why did you do that?

2 A Because I reviewed the chart, I found out some
3 information about it.

4 Q In reviewing what chart?

5 A The thing that I -- not the chart, not this one,
6 but the one that was sent to me.

7 a The documents you are referring to physically is
8 your recollection that it's the medical chart of
9 Dr. Bartulica?

10 A Yes.

11 Q Given you reviewed this chart, you saw something
12 about Redux, why would you be looking at
13 information about Redux?

14 A That is what I got from the information from
15 Dr. Bartulica's chart.

16 Q I guess I'll ask the simple question.

17 Do you have some feeling or medical opinion
18 that Redux is an issue, or this medication is an
19 issue in this case regarding the death of
20 Mrs. Armstrong?

21 a I didn't get the question.

22 Q I didn't ask it very well.

23 You determined from Dr. Bartulica's chart
24 the patient at some point in her life took Redux?

25 a Yes.

1 Q For what period of time do you gather she was on
2 Redux?
3 A When I was reviewing the chart.
4 Q My question is, based upon your review of that
5 chart, for what period of time do you believe this
6 patient took the medication Redux?
7 A Whatever the date that was indicated when I was
8 reviewing the chart.
9 Q So as you sit here you don't have a specific
10 recollection as to the period of time
11 Mrs. Armstrong took that medication?
12 A It was in 1996, I think.
13 Q For how long did she take it based upon your review
14 of the chart?
15 A According to that it was 14 days, after that I
16 don't know.
17 Q So then did you go do some medical research on the
18 drug Redux?
19 A I did, yes.
20 Q What was your purpose in doing that?
21 A I just wanted to see what the medication was all
22 about. Why did he order it.
23 Q Certainly not where I was going to go this early in
24 the deposition, I guess will, in your review of the
25 medical literature did you arrive at a conclusion

1 that Mrs. Armstrong died on August 7, 1999 because
 2 she had taken Redux for 14 days at a period of time
 3 about two years prior to that?

4 A I cannot conclude that.

5 Q Then you also evaluated what condition?

6 A Amyloidosis.

7 Q Why did you do that?

8 A I have to go to my notes.

9 Q Do you have notes?

10 A Yeah. I think the thing that leads me to look into
 11 that, when I was reading the medication Redux there
 12 was mention something about it. So I go and look
 13 at it, see what is, what I can find out about it.

14 **a** What did you find out about it?

15 A Well, that Redux sometimes some problem with the
 16 heart.

17 Q And once again asking you this question, based upon
 18 the information that you gained from I take **it** you
 19 researched this independently?

20 A Yes.

21 Q I'm going to make a request that I be provided with
 22 the information that you researched be turned over
 23 to me with any notes that you took regarding the
 24 same.

25 My question is, once again you're looking

1 at this, were you looking at this information in
2 order to determine for yourself whether or not the
3 medication was a precipitating cause of
4 Mrs. Armstrong's death, is that why you were
5 looking at it?

6 A No, I was just curious.

7 Q Did you come to any conclusion whether or not the
8 medication had any affect on her heart?

9 A I can't give any conclusion.

10 Q It's not your specialty I gather?

11 A No.

12 Q Have you read the autopsy in this case?

13 A I did.

14 Q Do you have an opinion that you care to express as
15 to the cause of Mrs. Armstrong's death?

16 A I didn't get the question.

17 Q Do you have an opinion that you care to express as
18 to the cause of Mrs. Armstrong's death?

19 A From what I gather from the autopsy findings.

20 Q What was that opinion?

21 A That the patient had cardiomyopathy.

22 Q Doctor, you've had an opportunity obviously to
23 review the chart. As you sit here today do you
24 have any criticisms of the care rendered to
25 Mrs. Armstrong by any physicians other than

1 yourself?

2 A I was not aware of the prior medical condition of
3 Mrs. Armstrong when I saw her.

4 Q Let's break this out. My first question is, do you
5 have a criticism of any of the other physicians who
6 rendered treatment to Mrs. Armstrong?

7 A Well, my only criticism is that I was not given
8 enough information by the attending physician about
9 Mrs. Armstrong's condition.

10 Q The attending physician you mean Dr. Bartulica -- I
11 can never pronounce it correctly -- Bartulica,
12 you're critical he didn't give you enough
13 information?

14 A No.

15 Q As you sit here today, tell me what information you
16 now know that Dr. Bartulica didn't give you that
17 you needed to know?

18 A When I was reviewing the paper, I didn't know that
19 she was under the care of Dr. Bordoio before she
20 went to Dr. Bartulica.

21 Q I'm listening.

22 A I was not aware that this patient had any heart
23 problem.

24 Q Anything else?

25 A I was not aware of the medication she was taking

1 before she went to Dr. Bartulica. I was not aware
2 about the small brain tumor that the patient has.

3 **a** Anything else?

4 A I think that is all

5 Q So I want to review these with you so we can get
6 this established.

7 First of all, you are saying that you were
8 unaware of the care of the patient under
9 Dr. Bordoïs, I'm paraphrasing that, that is one of
10 your criticisms, you believe you needed to know
11 that information?

12 A Very much so.

13 Q What specifically about that information did you
14 need to know?

15 a About the signs and symptoms she had regarding --
16 the thing that I was so concerned about was that
17 according to Dr. Bordoïs' note, that in any event
18 this patient should have surgery, she should have a
19 cardiology consult and echocardiogram.

20 Q As you sit here today, is it your testimony that
21 you believe it was Dr. Bartulica's obligation to
22 tell you the content of the prior medical history
23 from Dr. Bordoïs; is that a fair statement?

24 A Yes.

25 Q Doctor, do you have an opinion to a reasonable

1 degree of medical probability as to whether or not
2 Dr. Bartulica's failure to tell you about that
3 prior history, as was recorded by Dr. Bordois,
4 caused or was a contributing cause of the death of
5 Nancy Armstrong?

6 A Can you repeat the question.

7 Q Yeah. That is a court question.

8 You are saying you are critical of
9 Dr. Bartulica for not revealing to you the
10 information contained in Mrs. Armstrong's prior
11 obstetrical medical chart, right?

12 A Yes.

13 Q I'm asking you as as anesthesiologist do you have
14 an opinion as to whether or not Dr. Bartulica's
15 failure to tell you that information was a cause of
16 the death of Nancy Armstrong?

17 A I cannot say it caused the death of Nancy Armstrong
18 but it's very critical that I know that.

19 Q Why would it be critical for you to know that?

20 A Because it be recommended that kind of procedure
21 probably Dr. Bordois knows the cardio condition of
22 the patient.

23 Q Do you believe that Mrs. Armstrong's underlying
24 cardiac condition, I'm going to call it that for
25 the moment, would have warranted a different type

1 of anesthesia being administered?

2 A With regard to her heart condition, probably not

3 required any other kind of anesthesia but probably

4 she will have a good workup before she will be put

5 under anesthesia.

6 Q Define for me a good workup before she goes under

7 anesthesia.

8 A Well, regarding what Dr. Bordo is recommended, it

9 should have been done. Probably from there we

10 could gather something that is more necessary to be

11 done before the procedure.

12 Q Specifically what you are referring to is what was

13 in Dr. Bordo is' chart, echocardiogram I think was

14 one thing?

15 A Plus a cardiology consult.

16 Q My question to you is this, I know I'm working

17 backwards here: You are aware now that

18 Mrs. Armstrong on August 7th, 1999 had

19 cardiomegaly, an enlarged heart?

20 A I'm aware. I wasn't aware then.

21 Q So it was clear for the record, I wasn't implying

22 that.

23 If you knew on that morning that was her

24 condition, the anesthetic agents you used on this

25 patient would have been no different?

1 A No, I will not do the case.

2 MR. FARCHIONE: If you knew?

3 MISS KOLIS: If he knew on the

4 morning of August 7th she had an enlarged heart,

5 would he have used a different anesthetic agent.

6 That was my first question, you jumped to my next

7 one.

8 Q You wouldn't have used those anesthetic agents on a

9 person with an enlarged heart, would you?

10 A No, those anesthetic agents are safe, I will not

11 agree to do the procedure.

12 Q That was going to be my next question. Had you

13 understood or appreciated that condition, would you

14 not have gone forward with this surgery?

15 A No.

16 Q Do you agree the surgery Mrs. Armstrong underwent

17 was an elective procedure?

18 A It was scheduled at Lorain elective procedure.

19 When the patient came it was a semi-emergency.

20 Q Based upon what?

21 A Based on what Dr. Bartulica told me. The patient

22 was having lots of pain, the patient wanted to have

23 it done.

24 Q Even though -- let's put this in context. She was

25 having a lot of pain, that was the indication for

1 surgery; is that your understanding?

2 A That is my understanding.

3 Q But if the patient came to you, no matter how great

4 the pain she was in, if she had a foreseeable risk

5 for death on that date from the surgical procedure

6 you wouldn't proceed, right?

7 A If I knew about the risk?

8 Q If you were aware of the risk, you wouldn't have

9 proceeded with this kind of surgery?

10 A No.

11 Q Do you agree a person who has an enlarged heart is

12 at greater risk for death from anesthesia than a

13 person without one?

14 A Yes.

15 Q Going back to the complaints that you had, You are

16 saying that you were unaware of the prior history

17 from Dr. Bartulica, you were not aware that the

18 patient was -- and I missed a word. The second

19 complaint that he had.

20 MR. FARCHIONE: Not aware of the heart

21 problem. Not aware of meds, not aware of brain

22 tumor.

23 Q You were not aware the patient had heart problems;

24 is that your testimony?

25 A Yes.

1 Q What heart problems did she have you were unaware
2 of?

3 A First of all, the cardiomyopathy. I was never
4 aware of that.

5 Q You are critical of whom for the fact you did not
6 know that piece of information?

7 A Yeah.

8 Q Who are you critical of that you did not know that
9 piece of information?

10 A Well, maybe I can point to -- I'm not critica
11 about anything. About the x-ray findings, which
12 was not finalized. The final reading didn't come
13 until it was late.

14 Q Doctor, as an anesthesiologist did you not on a
15 regular basis look at chest films?

16 A We usually don't look at chest films because it was
17 not my specialty to look at the chest film.

18 Q That is not my question. My question is, in fact
19 as an anesthesiologist, if you have a concern about
20 a finding on a chest film, you have the ability to
21 look at the chest film and recognize an enlarged
22 heart?

23 A A chest film, yes.

24 MR. RISPO: Listen to the question.

25 Q This is my fault. I get very conversational, then

1 you have to wait until I spit all the information
2 out, then you can answer. She can't take both of
3 us at the same time.

4 MR. RISPO: Can you read the last
5 question.

6 (Question read.)

7 Q Your answer was you could?

8 MR. RISPO: You answered before she
9 finished, that is why I wanted to hear it again.

10 A That would be hard for me. I'm not a specialist in
11 reading x-rays.

12 Q You're not Board certified in radiology, correct?

13 A No.

14 **8** Going back to -- I ask questions until I get to
15 make sure I don't walk out of here angry with
16 myself.

17 I'm stating as an anesthesiologist isn't it
18 part of the standard of care for you to be able to
19 look at a plain chest film, recognize basic
20 anatomic structures, starting with the heart,
21 correct?

22 A Yes.

23 Q You know what the lungs look like, correct?

24 A Um-hum.

25 **a** Based upon your years in practice, you can in fact

1 recognize an enlarged heart on a plain film x-ray,
 2 can't you?
 3 A Yes.
 4 **a** Can you recognize a pneumonia in the lungs?
 5 A Yes.
 6 Q Infiltrates, things of that nature?
 7 A Infiltrates, yes.
 8 Q We will get back to Mrs. Armstrong in a minute.
 9 Do you think somebody should have called
 10 you, told you about an enlarged heart on the x-ray?
 11 A Yes.
 12 Q Who do you think should have done that?
 13 A The radiologist.
 14 Q Do you have an opinion, Doctor, that your lack of
 15 knowledge about the enlarged heart, once again from
 16 the radiologist, caused or contributed to
 17 Mrs. Armstrong dying on August 7, 1999?
 18 A Yes, I can conclude that.
 19 Q Excuse me?
 20 A I can conclude, yes.
 21 Q You can conclude that?
 22 A Yes.
 23 Q You were not advised of all the meds Mrs. Armstrong
 24 was on before the surgery is another criticism.
 25 What medication are you now aware of she

1 took that would have changed your course of action
2 on August 7, 1999?

3 A Redux.

4 Q Once again, you would be critical that
5 Dr. Bartulica didn't tell you she had previously
6 taken Redux?

7 A Yes.

8 Q How would knowing that she took Redux have affected
9 your conduct on the morning of August 7th?

10 A Because when the medication first come out, my wife
11 and I were talking about it, so many people had
12 problems with that, cardiovascular, probably if I
13 know about it, I could have looked at the
14 literature, see what really is happening.

15 Q I know this is a retrospective analysis for you at
16 this point. Are you testifying today that if
17 Dr. Bartulica had told you that some I'm going to
18 say about two years, the record will speak for
19 itself when we look at the actual documents, if he
20 told you she had taken the medication for a 14 day
21 period two years previous, would you have called
22 off the surgery at that point?

23 A Probably I will -- probably I have to investigate
24 further.

25 Q Are you able to answer my question? I admit I'm

1 putting you in a position of retrospective
2 analysis. Are you going to testify at the time
3 trial of this lawsuit if Dr. Bartulica had told you
4 on the morning of August 7, 1999 that the patient
5 had been on Redux that you would have called off
6 the surgery because you needed to do research?

7 MR. RISPO: Objection. That was
8 not his answer. You are misquoting his answer.

9 Q I don't want to misquote you. That is
10 nonintentional. I'm trying to listen and write at
11 same time.

12 What action would have been different on
13 the morning of August 7, 1999 if you had known the
14 patient had taken Redux?

15 A Probably I will postpone the surgery for a while.
16 Then investigate further.

17 Q Once again, back to I realize this is difficult
18 because it is retrospective, based upon the
19 information contained in Dr. Bordo's chart alone
20 dealing with the issue of Redux, can you now today
21 state whether you would have gone forward at a
22 point in the future, based on the Redux alone?

23 A I think it depends upon the patient, how their
24 condition is.

25 Q What about their condition would you be looking

1 for?

2 A Probably I will have to investigate the

3 cardiovascular status of the patient.

4 Q So once again we're back to that information would

5 have led you to request a cardio consult?

6 A Yes.

7 Q Your fourth criticism, you were not advised

8 Mrs. Armstrong had a small brain tumor?

9 A Yes, I wasn't aware of that at all.

10 Q Who do you believe should have advised you she had

11 a small brain tumor?

12 A Whoever knows about it. Like if Dr. Bartulica was

13 aware, he should have told me about it.

14 Q Do you know what kind of brain tumor she had now?

15 I know you didn't know it that day, I'm just

16 asking?

17 A From what information a small meningioma.

18 Q Are you aware whether that is benign?

19 A I think they said not necessary to operate.

20 Q So, my next question is, so I establish this, you

21 were critical of whoever knew this information,

22 that failed to communicate it to you, correct?

23 A Yes.

24 Q The only person that could have communicated it to

25 you is Dr. Bartulica, correct?

- 1 A Yes.
- 2 Q How would knowing she had a small benign meningioma
3 have changed your course of action on the morning
4 of August 7, 1999?
- 5 A I will very, very -- not critical, I will be
6 likely to cancel the surgery.
- 7 Q Why would you cancel the surgery if you had known
8 she had a small --
- 9 A Investigate further.
- 10 Q What would you have been investigating?
- 11 A I want to know everything what is happening with
12 her brain, whether it will be detrimental putting
13 her under anesthesia.
- 14 Q You performed anesthesia on this patient?
- 15 A Yes.
- 16 Q The patient expired?
- 17 A Patient expired.
- 18 Q You've had an opportunity to read the autopsy?
- 19 A Yes.
- 20 Q From the anesthesia point of view, do you have an
21 opinion, Doctor, that the existence of this small
22 benign meningioma had an affect on the outcome of
23 this patient on August 7, 1999?
- 24 A I can't tell you that.
- 25 Q Do you have any criticisms of the nurses at Amherst

1 Hospital?

2 A No.

3 Q Let's try to go through. I suppose we're going to
4 look at the records in a second here. You have
5 your own set of hospital charts I gather sitting
6 there in front of you?

7 First of all, let me ask you this simple
8 question. How is it you came to be scheduled to be
9 the anesthesiologist on the morning of August 7,
10 1999?

11 A I was the one on call.

12 Q You were on call. You were called that morning to
13 come in and do the surgery?

14 A The night before.

15 Q Who calls you, how do you get involved in the case?

16 A I'm not sure who called, probably the night
17 supervisor.

18 Q So we're clear, when you said the supervisor, the
19 night supervisor of whom?

20 A Amherst Hospital.

21 **a** Is that person a physician?

22 **a** It's a nurse.

23 Q That is what I'm asking. I don't practice medicine
24 anywhere, I have to ask these questions.

25 So you were advised you had a surgical case

1 for the following morning, correct?

2 A Um-hum.

3 Q Do you know the patient's name?

4 A No.

5 Q Did you know what kind of surgery?

6 A Yes.

7 Q Did you know what the surgery was going to be?

8 A Yes.

9 Q Were you given any pre-operative information about

10 the patient on the evening of August 6, 1999?

11 A No.

12 Q Did you ask what the preadmission testing results

13 were?

14 A No.

15 Q When you came to the hospital on the morning of --

16 I keep saying August 7th. I could be right.

17 A August 7th.

18 Q When you came to the hospital on the morning of

19 August 7th, what would have been the first document

20 that you would have reviewed on this patient?

21 A Whatever they gave me when the patient comes down

22 from the floor.

23 Q Let's move around a little bit. Your, I don't want

24 to call it your department. Did you have a

25 department? You were the head of the Department of

1 Anesthesia for Amherst Hospital weren't you, on
2 that day?

3 A Yes.

4 Q You were the head of the department?

5 A Yes.

6 Q Your department has documents that seem to be
7 labeled pre and postanesthesia assessment, are you
8 familiar with those documents, Doctor?

9 A Yes, the document they send, yeah.

10 Q I'm going to ask you -- first of all we're going to
11 look at your pre-anesthesia and postanesthesia
12 assessment documents, if you can find those, I
13 believe it's a three page survey. 15, 16 and 17
14 for anybody with Bates stamps.

15 A Can I see that?

16 Q Absolutely. I would like to go through the first
1.7 page.

1.8 Whose handwriting is on the first page
19 dated 7-7-99?

20 A My handwriting.

21 Q That is what. I thought. So I would like to go
22 through it. with you. I'm reading, any place I read
23 something incorrectly, you let me know.

24 A Okay.

25 Q Dated 7-7-99, first of all did you actually meet

1 with Mrs. Armstrong on that morning?

2 A Yes, the morning of surgery. Yes.

3 Q Did you obtain her consent for the operation?

4 A Yes, I did.

5 Q I believe I have that document. Didn't have your

6 signature. Are you saying you explained --

7 A It has my signature on the anesthesia department.

8 Q Let me see if I have the right document; is that

9 your signature?

10 A Yes.

11 (Plaintiff's Exhibit B

12 marked for identification.)

13 Q What we marked as Exhibit B, Amherst Hospital

14 anesthesia informed consent is signed by the

15 patient, the witness is the nurse, the squiggle on

16 the bottom is yours?

17 A Mine.

18 Q Prior to having Mrs. Armstrong sign this document,

19 it looks like she signed it 11:20 in the morning,

20 correct?

21 A Yes.

22 Q You did not tell her she had abnormalities on her

23 chest x-ray, did you?

24 A No, I did not.

25 Q Do you recall speaking with her husband on that

1 morning also?

2 A I recall the husband was not there.

3 Q He was not in the room when you were having her

4 sign the form?

5 A No, she was alone.

6 Q Had you physically examined and spoken with her

7 prior to the time you had her sign the form?

8 A I examined her when I saw her that morning.

9 Q Do you know what time it was when you saw her that

10 morning?

11 A This time that was here.

12 Q 11:20 is the first time you saw the patient?

13 A Yes.

14 Q The anesthesia was initiated about 11:40; is that

15 right?

16 A Um-hum.

17 Q Let's go through the sheet that you took.

18 MR. FARCHIONE: He saw her, I'm sorry,

19 at 11:30?

20 MISS KOLIS: At 11:20, anesthesia

21 began at 11:40.

22 Q As I go through this assessment form is filled out

23 by yourself, right?

24 A Um-hum.

25 Q So your diagnosis is severe pelvic pain, correct?

1 A That is what the diagnosis was in the chart.
2 a I didn't mean to imply you made the diagnosis.
3 That was the indication for surgery. The operation
4 proposed was a total abdominal hysterectomy?
5 A Um-hum.
6 a I have no questions about the line that begins with
7 height. Let's go to the respiratory situation.
8 First of all, next to chest x-ray you have
9 RLL; is that a fair reading?
10 A Yeah.
11 Q Right lower lobe?
12 A Yes.
13 Q Could you indicate for the record what the writing
14 next to it says?
15 A This one?
16 Q Yes.
17 A Right lower lobe infiltrate, we write what the
18 x-ray says.
19 Q There is additional small writing next to it, what
20 does that say?
21 A I think just including with infiltrate like a
22 scribble.
23 Q You have that listed next to chest x-ray, correct?
24 A Um-hum.
25 Q Doctor, at this point did you pull the chest x-ray?

1 A As I recall there was no chest x-ray -- there was
2 no chest x-ray, no film over there, only the --
3 a You say no film over there, where do you mean no
4 film over there?
5 A The chest x-ray results. The wet reading, that was
6 the only one in the chart.
7 Q You had a wet read, correct?
8 A Um-hum.
9 Q When did you see the wet read is the better
10 question to ask?
11 A The day of surgery when I looked at the chart.
12 Q Saturday you saw there was a wet read, correct?
13 A Yes.
14 Q My next question is, you knew this person had
15 decreased breath sounds that morning, didn't you?
16 A Yes, I examined her lungs.
17 Q It didn't occur to you to look at a chest film at
18 that point?
19 A No.
20 a Do you agree with me that a person who has an
21 infiltrate may have a pneumonia?
22 A Yes, I agree with you.
23 Q You were aware that this first chest x-ray was done
24 two days prior to the morning of the surgery,
25 weren't you?

1 A Yes.

2 Q Did it occur to you her condition may have changed
3 in those two days regarding her chest?

4 A I examined her lungs, I listened to the breath
5 sounds, the only thing that was abnormal was
6 decreased breath sounds in the right lower lobe,
7 the rest of the lungs are clear.

8 Q What did you attribute the decreased breath sounds
9 in the right lower lobe to?

10 A Probably the infiltrate.

11 Q You knew she had an infiltrate, you didn't know the
12 extent of the infiltrate; is that right as of that
13 Saturday morning?

14 A No.

15 Q Would you agree with me that a person who has
16 pneumonia is at higher risk for cardiorespiratory
17 problems when they go under anesthesia than a
18 person whose lungs are clear?

19 MR. RISPO: I object to the
20 question. It assumes the patient had pneumonia.

21 MISS KOLIS: I'm asking him a
22 hypothetical question.

23 MR. RISPO: Let's make sure it's
24 hypothetical.

25 Q I didn't say a word about this patient. Can you

1 answer the question?

2 A Can you repeat it?

3 MISS KOLIS: Sure. Connie, can you

4 read it back.

5 (Question read.)

6 A Yes, of course.

7 Q If you had wanted to look at the chest there is

8 nothing that prevented you from asking the nurses

9 or the staff at Amherst Hospital to pull the films

10 so you could look at it; would you agree with that?

11 A Yes.

12 Q You did not do so?

13 A I did not because I rely on the radiologist

14 reading.

15 Q Do you always agree with every reading you see from

16 the radiologist?

17 A They are expert on that so I mostly 100 percent

18 rely on them.

19 Q You knew in fact what you had in front of you was a

20 wet read, correct?

21 A That is what the chart said, a wet reading.

22 Q The next area where you checked some things you

23 have, first of all I want to ask this: Next to

24 chest there are numbers, one, two, and three,

25 you've put a hash mark through two, can you explain

1 to me what kind of grading system that is next to
2 the chest?

3 A That one is like normal.

4 Q One means what?

5 A Normal.

6 Q Two means?

7 A Abnormal.

8 Q What does three mean?

9 A Nothing was done. It was not done.

10 Q I want to make sure I understand this.

11 Next to EKG can you please read into the
12 record what you have written there?

13 A Sinus rhythm, consider anterior MI.

14 Q You got that information off the EKG that had been
15 performed two days before; is that right?

16 A Um-hum.

17 Q You've X'd off the number two, indicating this is
18 an abnormality?

19 A Yes.

20 Q So, you've got abnormal chest findings, abnormal
21 EKG findings, so far I'm going down the right path
22 with you, correct?

23 A Um-hum.

24 Q Doctor, why couldn't you at that point have asked
25 for a cardio consult?

1 A Because when I saw this kind of breathing, it says
2 age undetermined, I asked if she ever had a heart
3 attack before, she said no.

4 Q You saw the reading, where it says age
5 undetermined, you asked the patient if she had any
6 cardiac problems?

7 A I asked her if she had a previous history of heart
8 attack. She told me no.

9 Q Why then did that deter you from considering a
10 cardio consult?

11 A Because when the patient said they never had any
12 heart attack before, we believe them, because most
13 of the time -- not most of the time -- when we get
14 a reading like this, we always ask the patient if
15 they have history of heart attack.

16 Q Doctor, would you agree with me as a matter of
17 medicine if this is within your specialty to know
18 from your practice in anesthesia, that many people
19 sustain MIs, don't know they've sustained them?

20 A Yeah, it doesn't require to be hospitalized, they
21 don't even know they had it.

22 Q Don't even know they had it, right?

23 A Yes.

24 Q Is it effective to ask the patient whether or not
25 they were aware if they had a heart attack?

- 1 A That is what I did, patient claimed never had MI.
- 2 Q That is my point. There is some suggestion on the
- 3 EKG, clearly you agree is abnormal because that is
- 4 what you X'd, that the person at some point may
- 5 have had an anterior myocardial infarction,
- 6 correct?
- 7 A Yes.
- 8 Q You asked the patient if she was aware of **it**, she
- 9 says no?
- 10 A No. Yes.
- 11 Q That doesn't mean she didn't have one. There might
- 12 be some heart wall damage, would you agree with
- 13 that?
- 14 A Can you repeat it?
- 15 Q Yeah, I think so. We've already established simply
- 16 stated that there are people who can have anterior
- 17 MI, don't even know they had a heart attack?
- 18 A Okay.
- 19 Q So my question in terms of asking the patient
- 20 whether they are aware they had a heart attack,
- 21 that doesn't resolve the cardiac issue, does it?
- 22 A Most of the time when we have a reading like that
- 23 we ask the patient if they have any, then we go
- 24 along.
- 25 Q You just simply ask them if they are aware they had

1 a heart attack, if they say they don't know about
2 one, you go ahead with surgery?

3 **a** Yes.

4 **Q** Without a cardiology consult?

5 **a** Depends if there is a more extensive reading.

6 **Q** What do you mean it depends if there is a more
7 extensive reading?

8 **A** Like there is any serial EKG findings.

9 MISS KOLIS: Would you mark that.
10 (Plaintiff's Exhibit C
11 marked for identification.)

12 **Q** If you could locate that EKG. Doctor, I have a
13 couple questions to ask you once you locate that.

14 Doctor, there is a difference between the
15 document I have and the one you have, would you
16 agree with that? The timing is the same. The
17 original print, in terms of abnormality is there.
18 There is handwriting on the one I have, correct?

19 **A** Yes, I think this is the one in the chart. This
20 was not in the chart at the time I think. Here is
21 the one that was in the chart at the time.

22 MR. POLITO: Which one? The one
23 marked as Exhibit C was in the chart?

24 MISS KOLIS: That is what
25 Dr. Celerio is testifying to.

1 Q By the time you saw this, you saw this EKG,
2 correct, on the morning of the 7th?

3 A Um-hum.

4 MR. POLITO: Are we referring to
5 Exhibit C?

6 MISS KOLIS: Exhibit C, thank you
7 very much, Mr. Polito.

8 A That is not my handwriting.

9 Q I assumed it wouldn't be. Are you familiar at
10 Amherst Hospital the original EKG is an electronic
11 read; would you agree with that?

12 A Yes.

13 Q It's overread by someone else?

14 A Radiologist, yes.

15 Q The radiologist?

16 A No, cardiologist.

17 Q Cardiologist. Do you know whose handwriting this
18 is?

19 A I don't know.

20 Q Do you agree by the time you got to the hospital on
21 the 7th there was at least a preliminary overread,
22 would you think that is what that handwriting is?

23 A Yes.

24 Q What does that say to you, because you are looking
25 at it, you are not calling a cardiologist, you are

1 going to look at the EKG; am I right?

2 A The first one sinus rhythm. The second one is

3 crossed out, maybe they didn't agree with that.

4 Then the next one is consider anterior MI, age

5 undetermined. Summary abnormal. This one probably

6 anterior vesicular block.

7 Q Doctor, could you repeat what you just read?

8 A I'm not sure what is an anterior vesicular block, I

9 don't know that one.

10 Q If you are unsure as to any of the handwriting from

11 the overread that would have occurred from the

12 cardiologist, you could pick up a phone, call for

13 clarification, couldn't you?

14 A Yes.

15 Q You did not do that in this instance; is that a

16 fair statement?

17 A Yes.

18 Q Going on, medication you put several, correct?

19 A This one?

20 Q Yes.

21 A Yes.

22 Q Were you concerned about any of the medication, how

23 it may or may not affect -- how it might affect the

24 surgery is a better question?

25 A I was concerned Coumadin, the last dose on 8-4, it

1 was changed by another doctor to Heparin. I think
 2 this is just the pre-op for the surgery.
 3 Q That wasn't an contra-indication to you to go
 4 forward with the surgery?
 5 A No.
 6 Q Did you check her INR on that morning?
 7 A I check it.
 8 Q Was there an INR in the chart?
 9 A Yes.
 10 Q What numbers were available to you at 11:20 when
 11 you were going over this information with the
 12 patient?
 13 A I think this is the one that was available.
 14 Q Make sure before you answer. You can check the
 15 times.
 16 MR. RISPO: That may not be the
 17 right one.
 18 A This one on 8:10.
 19 Q Excuse me?
 20 A 8:07, 8:10 in the morning.
 21 Q What was the INR?
 22 A 1.4.
 23 Q You were comfortable with that?
 24 A Yes.
 25 Q I would like to go down to your ASA rating. Do you

1 see where you have your ASA rating?

2 A Yeah.

3 Q You gave the patient an ASA 3. In English for the

4 record when you circle an ASA 3, what do you mean?

5 A It means the patient has medical problems, but they

6 were be able to -- what do you call that -- to

7 withstand.

8 Q When you circled that ASA of 3 on the morning of

9 August 7, 1999, what medical problems were you

10 referring to since you don't list them out, what

11 problems were you referring to that gave Nancy a

12 rating of 3?

13 A The chest x-ray and the EKG. Plus the other

14 history, she had history of blood clots.

15 Q Let's go down to your remarks so I feel certain I

16 haven't missed anything. Can you read your remarks

17 into the record?

18 A Which one is that?

19 Q Right here where you write remarks.

20 A This one? N.p.o. since midnight. The pregnancy

21 test was negative. She had cardio cath 1986 at

22 EMH, patient said it's okay. History of blood

23 clots, which I think she had surgery on that one.

24 Patient claims never had MI. Lungs clear,

25 decreased breath sound right lower lobe.

1 Q Going on to the next page. Before you see the
 2 patient, do I gather that your staff has the
 3 patient do a self-assessment form?
 4 A Yes.
 5 Q I would like for you to turn to the patient
 6 assessment forms filled in by Nancy.
 7 A Okay.
 8 Q Are you there?
 9 A Yes.
 10 Q First page at the bottom are you taking aspirin,
 11 right?
 12 A Um-hum.
 13 Q I would like to look at the sheet with you, ask you
 14 a couple of questions.
 15 You had this sheet available to you, did
 16 you not, at the time that you consulted with the
 17 patient at 11:20?
 18 A Yeah.
 19 Q Under respiratory systems, Mrs. Armstrong checked
 20 off do you have to sleep sitting up or on several
 21 pillows to breathe, she checked yes, didn't she?
 22 A Um-hum.
 23 Q Medically what does that suggest to you, since the
 24 patient checked off that box?
 25 A Probably depends on what kind of condition they

1 have at that time.

2 Q Well, let me ask you a question.

3 The questions that are on this
4 pre-anesthesia patient self-assessment form, would
5 you agree with me they are designed so that you can
6 be alerted to conditions that may be existing in
7 the patient that would make surgery or anesthesia
8 contraindicated?

9 a Yeah.

10 Q That would be the purpose of a form like this.

11 So my question is, when you said it depends
12 on what is going on with the patient, would you
13 agree with me a person who has to sleep sitting up
14 supported by pillows to breathe may have
15 biventricular dysfunction of some sort?

16 A Not necessarily.

17 6 When you say not necessarily, will you concede that
18 checking off this box on respiratory has within its
19 differential the suggestion a person has an
20 underlying cardiac problem?

21 A Probably.

22 Q What did you make of the fact she checked off that
23 box?

24 A When I looked at this I was not aware whether the
25 patient had this all the time or once in a while

1 only.

2 Q You had the opportunity to interview the patient

3 and discuss this with her, didn't you?

4 A Yes.

5 Q This is a risk factor, isn't it?

6 A Yeah.

7 Q Did you ignore this, Doctor?

8 A No, I didn't ignore it.

9 Q If you didn't ignore it, how did you calculate it

10 or factor it into a decision if she should go to

11 surgery?

12 A I presume when I look at the chest it's probably

13 due to the chest x-ray, that was the wet reading.

14 Q You didn't look at the chest x-ray, you looked at

15 the wet read?

16 A When we get the chart everything is checked here,

17 we can always look at the lung first before we go

18 into this.

19 Q In this instance, going backward, you didn't look

20 at the chest film, right?

21 A It was not true, I look at the chest film before I

22 see this one.

23 Q I'm very confused by your answer.

24 A Like when I first came to the hospital, this is

25 first time I saw the patient.

1 Q Correct.

2 A What comes in my mind, look at the whole chart

3 before everything else.

4 Q Right.

5 A Then go about what necessarily has to be done.

6 Q In response to my question, this is a significant

7 finding that the person has to sleep sitting up on

8 several pillows to breathe?

9 A Um-hum.

10 Q How did you factor that out of your decision to

11 allow this person to go to surgery?

12 A Well, when I saw this, I have to look at the lab

13 work of the patient.

14 Q We're back to the same place. You saw this, what

15 did you look at?

16 A I looked at the chest x-ray.

17 Q Are you testifying now that you looked at the chest

18 x-ray?

19 A No, I'm not. I looked at the chest x-ray report in

20 the chart.

21 Q You looked at the wet read?

22 A Yes.

23 Q The wet read we're referring to, see if I can find

24 mine for a second. I know I have it in here. I

25 never found a wet read in the chart. Now I know

1 I'm testifying.

2 Let me ask you, did you see a document that

3 looked like this?

4 A Yes, this is the one I saw.

5 MISS KOLIS: We're going to mark

6 that Plaintiff's Exhibit wherever we're at. What

7 it is, this was in Dr. Bartulica's chart.

8 (Plaintiff's Exhibit D

9 marked for identification.)

10 Q Doctor, this is what you saw? Do you think this is

11 the document you saw?

12 A I think so, yeah.

13 Q Are you aware of whose handwriting is down here?

14 A I was not aware of this one. Looking at the chart

15 this is probably Dr. Bartulica.

16 Q Is this a wet read?

17 A Yes, wet read for the radiologist.

18 Q You would have read that as right lower lobe

19 atelectasis, infiltrate, small right effusion?

20 A Yes.

21 Q Are you telling me if this is the wet read you saw,

22 you think an effusion that small would cause a

23 person to sleep sitting up to breathe?

24 A Probably. I'm not sure. Probably it is.

25 Q Are you testifying that based upon your experience

1 as an anesthesiologist once you saw this checked
 2 off, looked at the wet read, you were no longer
 3 concerned?

4 A I have to check the whole thing.

5 Q Sure.

6 MISS KOLIS: Would anyone object to
 7 taking a break for the ladies room?

8 (Recess taken.)

9 By Miss Kolis:

10 Q You've been given an opportunity to check the whole
 11 thing now, what do you think?

12 A My patient comes down and I examine her, it doesn't
 13 look like she is in difficulty breathing. I recall
 14 that day she was not lying head up, when they took
 15 the patient down from the cart.

16 Q Let's look at what you checked off under
 17 cardiovascular systems, Doctor.

18 Did you design this assessment form by the
 19 way?

20 A We have a committee who designed this.

21 Q Are you part of that committee?

22 A Probably. I'm not sure. It was a long time ago we
 23 made this. Probably I was.

24 Q You are in concurrence with items 1 through 13
 25 under cardiovascular system would be information

1 you might want to know because it could be
2 suggestive of cardiac problems; would you agree
3 with that?

4 A Yes.

5 Q Item 1 through 13, Mrs. Armstrong has checked off
6 four of the items on your list, do you agree with
7 that?

8 A Um-hum.

9 Q We will go through so the record can read plainly.
10 Do you get short of breath with normal activity,
11 she checked off yes, correct?

12 A Yes.

13 Q That suggests to you a cardiac problem?

14 A Not necessarily cardiac problem. Maybe because of
15 weight or something like that.

16 Q Can you eliminate a cardiac problem based on
17 shortness of breath with normal activity just
18 because someone is overweight?

19 A Probably no, you have to investigate further.

20 Q Do your legs swell, she checked off yes; do you
21 agree with that?

22 A Yes.

23 Q Swelling of lower extremities is some evidence of
24 ventricular dysfunction; do you agree with that?

25 A Um-hum.

1 Q The answer is yes for the record?

2 A Yes.

3 Q Do you have palpitations or skips or jumps in your

4 heartbeat; am I reading that correctly?

5 A Yes.

6 Q She checked off yes?

7 a Um-hum.

8 Q You were aware of that prior to putting her under

9 anesthesia, correct?

10 A Yes.

11 Q Have you had any cardiac tests, she answered yes,

12 heart cath, 1986, correct?

13 A Correct.

14 Q When you become aware a patient has had a heart

15 catheterization -- we will work backward I guess.

16 Doctor, you have access to lab reports from

17 other hospitals, don't you?

18 A Yes, we do.

19 Q Didn't Amherst Hospital, I don't want to misstate

20 this, in August of 1999, Amherst Hospital had some

21 affiliation with EMH, didn't they?

22 A Yes.

23 Q You could have picked up the phone, asked to see a

24 copy of the cath report, correct?

25 A Yes.

1 Q You could have done that. You didn't investigate
2 whether or not there were cardiovascular problems
3 causing or contributing to her checking off these
4 boxes; would you agree with that?

5 A Well, the leg swelling was not. The leg, it was
6 just the foot swelling that time when she came
7 down.

8 Then I asked her about the heart
9 catheterization, she told me the result was normal.

10 Q But my question is this: She checked off four of
11 the risk factors for the cardiovascular system,
12 correct?

13 A Yes.

14 Q At that point you did not elect to call in a
15 cardiologist to consult?

16 A No.

17 Q Did you discuss this with Dr. Bartulica, these
18 findings?

19 A I think he looked at it.

20 Q You and he have any conversation regarding her
21 suitability for surgery on the morning of August 7,
22 1999?

23 A Yes, looking at the chart when I was reviewing it,
24 about the medication she was taking before she came
25 in, I asked who was giving that medication,

1 Dr. Richardsons' name comes out. Who is he because
2 he does not go to Amherst. He was the one who
3 cleared her for surgery.

4 Q It's your understanding Dr. Richardson cleared
5 Mrs. Armstrong for surgery?

6 A That is what was in the pre-operative evaluation by
7 Dr. Bartulica.

8 Q Did you have any conversation as to specifics of
9 what issue Dr. Richardson was looking at in the
10 patient?

11 A No, all I heard was the patient was cleared by
12 Dr. Richardson.

13 Q The patient was cleared through Amherst Hospital
14 based on pre-operative testing, correct?

15 A No, based on his finding because I think he
16 mentioned that he was family physician.

17 Q The family physician wasn't going to be performing
18 the surgery, was he?

19 A No. He's not a surgeon.

20 Q You admit and acknowledge that Mrs. Armstrong
21 underwent pre-operative assessment testing at
22 Amherst Hospital on August 5th?

23 A Yes.

24 Q That information was available to you on
25 August 7th?

1 A Um-hum.

2 MR. POLITO: What is the answer?

3 MISS KOLIS: Yes.

4 Q Did you discuss with Dr. Bartulica the chest

5 results, chest film results?

6 A He knows about it, because I think --

7 Q That wasn't my question.

8 Do you have a recollection of a specific

9 conversation with Dr. Bartulica as to whether or

10 not this patient should undergo surgery, we will

11 start with that?

12 A I'm not sure whether I had a conversation with him,

13 but I think when I look at the chart, the chest

14 x-ray given the assessment by the nurses that the

15 patient had to undergo surgery.

16 Q I'm sorry, I missed the last part of your answer.

17 A When I look at the assessment by the nurse

18 practitioner that the patient had to undergo

19 surgery regarding the results of the chest x-ray.

20 I read it somewhere. This was the one I was

21 referring to.

22 Q Are you referring -- why don't we mark that

23 Plaintiff's Exhibit E. It's the nurses' progress

24 notes Bates stamp 65 beginning 8-6-99.

25 (Plaintiff's Exhibit E

1 marked for identification.)

2 Q You are reading from what is marked as Exhibit E,
3 the nurses' progress notes. What is it you are
4 trying to tell me about the progress notes?

5 A This is the RN, she spoke with Dr. Bartulica
6 regarding the chest x-ray. He stated that chest
7 x-ray is not a problem with him, will proceed with
8 OR orders.

9 Q The question I asked you was did you and
10 Dr. Bartulica discuss the chest x-rays?

11 A I'm not sure whether we discussed it like after I
12 have seen this, I thought he was aware of what the
13 result was.

14 Q Let's assume he was aware of what the wet read
15 was. I still have to go back to this question
16 because as you know this is my one, my only chance,
17 I don't want to be surprised at trial.

18 Did you and Dr. Bartulica discuss the
19 finding on that chest film?

20 A I don't remember.

21 Q Did you discuss with Dr. Bartulica the EKG results?

22 A I don't remember that also.

23 Q Do you recall if it happened, do you recall that
24 Dr. Bartulica was looking to you to make the
25 decision as to whether or not surgery should go

1 forward?

2 MR. FARCHIONE: From the anesthesia
3 standpoint or surgical?

4 Q I'm asking a general question first.

5 A Can you simplify the question?

6 Q I don't know if I can simply. I will give it a
7 second try.

8 Did Dr. Bartulica express to you a concern
9 about whether or not this surgery should have gone
10 forward based upon the chest x-ray and EKG?

11 A He didn't have any concern.

12 Q No concern whatsoever was expressed to you?

13 A No.

14 Q Did you express any concern to him about the things
15 you found out through taking the patient's history,
16 looking at the preassessment form, looking at the
17 wet read and looking at the EKG, did you express
18 any concern to him whatsoever about this surgery?

19 A I just examined the patient the first time. From
20 my examination, I believe that the surgery can go
21 ahead. This is my assessment of the situation.

22 Q Let me ask you this question, we're going to mark
23 this Exhibit F. What I'm looking at are nurses'
24 notes from August 7, 1999.

25 (Plaintiff's Exhibit F

1 marked for identification.)

2 Q Do you have the same page I do, Doctor?

3 A I think so.

4 Q We established earlier you signed or had the

5 patient sign the consent form at 11:20, correct?

6 A Um-hum.

7 MR. POLITO: What are you looking

8 at?

9 MISS KOLIS: Bates stamp 67 at the

10 bottom, nurses' notes.

11 MR. POLITO: You said 8-7?

12 MISS KOLIS: 67.

13 MR. POLITO: No, the date?

14 MISS KOLIS: 8-7-99.

15 **a** You testified that you talked with the patient

16 about her preassessment form, you had her sign her

17 consent for surgery at 11:20; is that right?

18 **a** Yes, that is when the patient came down from the

19 floor.

20 Q When she came down from the floor, is that the

21 first time you talked to her?

22 **a** Yeah.

23 Q You didn't see her up in her room, right?

24 A No. When I arrived at the hospital the patient was

25 in the hallway already.

1 Q Because at eleven o'clock, see if I'm reading this
2 correctly, I'm going to ask you about this
3 conversation, to OR per cart, a.m. lab and chest
4 x-ray and EKG pointed out to Dr. Celerio; do you
5 see that?

6 A Yes.

7 Q Do you recall a nurse bringing to your attention
8 the EKG, the labs, the chest x-ray?

9 A It was in the chart when she came down.

10 Q I'm asking a different question. I understand that
11 information is in the chart.

12 Do you recall a nurse pointing these
13 findings out to you?

14 A No.

15 Q You have absolutely no recollection of it?

16 A No. I just read this, looked at the chart first
17 time I saw the patient.

18 Q So, her note at eleven o'clock that says she is
19 pointing this out to you, do you believe you are in
20 the hospital at eleven o'clock?

21 A Uh-uh.

22 Q You don't think you were there?

23 A I don't remember what time I arrived at the
24 operating room, see the patient in the hallway.
25 Probably when I -- first time I saw him was --

1 Q Saw her?

2 A Saw her, I'm sorry. The first time I saw her was
3 when I gave her the anesthesia permit to sign.

4 Q This is going to be a silly question. I need to
5 ask silly questions sometimes.

6 That document is timed at 11:20. Did you
7 do a complete assessment of her before you had her
8 sign that consent form, or did you have her go
9 ahead, sign the consent form, then review this
10 assessment?

11 A We let them sign the consent form.

12 Q I didn't ask a good question obviously.

13 My question is your consent form is signed
14 11:20 a.m. August 7, '99, would you have had her
15 sign the consent form first, then examined her, or
16 would you complete your review of this assessment
17 taking your own history before you had her sign the
18 form?

19 A I think it was done almost at the same time.

20 Q How much time did you think you spent talking with
21 Mrs. Armstrong to get the history and review the
22 pre-anesthesia assessment documents?

23 A When I first arrived I looked at the chart, then
24 after I looked at the chart I talked to her.

25 Q The chart was down in the operating room?

1 A Yes. When the patient came down from the floor,
2 the chart goes with them.

3 Q You went and looked at the chart first, then you
4 talked with the patient?

5 A Yes.

6 Q How much time do you think you spent talking with
7 Mrs. Armstrong?

8 A I don't remember. When I looked at the anesthesia,
9 the evaluation, I examined her lungs, I examined
10 her heart, this is what, this evaluation we do this
11 way. Aside from the permit this is the
12 pre-anesthesia evaluation.

13 Q Which is the document we just went through?

14 A Yes. We fill this out before everything else.

15 a Before everything else, what else?

16 A When we come down, we look at the chart, we get
17 this form. This is at the back of the anesthesia,
18 this one. This is at the back of this one. We
19 grab this, we fill this out. Ask the patient some
20 questions.

21 At the same time we're looking at the
22 chart. I was able to put all of these things here.

23 Q I want to ask you a simple fact question. We're
24 going to go in the anesthesia record. If
25 Dr. Bartulica says he allowed you to make the

1 decision whether or not to proceed with surgery, is
2 that an accurate statement?

3 A Yes.

4 Q Do you have your anesthesia record?
5 (Plaintiff's Exhibit G
6 marked for identification.)

7 Q You are now looking at an anesthesia record,
8 correct?

9 A Um-hum.

10 Q You began induction, I guess that is what I call
11 it, you are an anesthesiologist, you will state it
12 better than I at 11:40?

13 A 11:40.

14 Q That is this document, right?

15 A Yes.

16 Q All the writing on this particular record, in fact
17 that is your handwriting?

18 A Um-hum.

19 Q No one else is writing on this chart, correct?

20 A Yes.

21 Q What was Nancy Armstrong's blood pressure when you
22 commenced anesthesia?

23 A This is 118 over 80.

24 Q Did you say 118?

25 A Yes.

1 Q Over 80?

2 A Over 80.

3 Q By 11:55 can you state for the record -- by 11:50

4 what was Nancy Armstrong's BP at 11:50, ten minutes

5 into the procedure?

6 A It was about 100 over 65, in the middle of 60 and

7 70.

8 Q On the bottom, 60 and 70?

9 A Yes.

10 a By 11:55 wasn't it 80 over 35?

11 A Yes.

12 Q So, I want to make sure I have my time line

13 correct.

14 You start induction at 11:40. By 11:55 she

15 has lost more than 20 percent of her blood

16 pressure, would you agree with that?

17 A Yes.

18 Q Isn't that rather an extreme reaction to the

19 induction with the agent that you used? You

20 used -- I can never pronounce it, Propanol?

21 A Yes.

22 Q 15 minutes she already dropped her pressure out to

23 80 over 35; you agree with that?

24 A Um-hum.

25 Q Does that mean she is severely hypotensive at that

1 moment?

2 A Yes.

3 Q Does that mean she wasn't being perfused?

4 A Probably.

5 Q Doctor, want to tell me why you didn't call a code

6 at 11:55?

7 A What I did was I gave some Epi to the patient.

8 Ephedrine.

9 Q You gave Ephedrine, right, not Epinephrine?

10 A Ephedrine.

11 Q What is the dosage of Ephedrine you gave at 11:55?

12 A I think 25. I cannot see this.

13 Q Where on the sheet, you are looking down in the

14 corner, correct?

15 A No, I'm looking here.

16 Q Okay. So you're writing in the chart Ephedrine,

17 tell me what time you believe you gave the first --

18 when you say 25 you are referring to 25 what?

19 A 25 milligrams.

20 Q 25 milligrams of Ephedrine?

21 A At 11:55. I think so, yes, it's there.

22 Q Do you see where that is. The reason I'm asking is

23 you've got this, this is where I'm pointing to,

24 this is where, so everybody else knows where I am,

25 eight boxes, if I count down eight boxes, you've

1 got 25 just before 12 noon, right?

2 A Um-hum.

3 Q 50 after?

4 a I'm not sure whether that is 50. I think it is.

5 It's not very clear.

6 Q Is there any way that number could be something

7 other than 50? That was my interpretation, I don't

8 want to put quantities I guess into play that

9 aren't correct. Let's assume that at this point --

10 you didn't write a post dictated note, correct?

11 This is what we have from you is your anesthesia

12 record.

13 A Yes. Plus the remarks down below.

14 Q I see those remarks, we're obviously going to be

15 able to go through those.

16 Originally the way I read this is between

17 11:55 and 12:10 you gave 75 milligrams of

18 Ephedrine, correct?

19 A Um-hum.

20 Q How did you load that into the person's system,

21 fluid bolus?

22 A Direct injection.

23 Q Direct injection?

24 A Through I.V. tubing.

25 Q I couldn't figure that out. You put it in through

1 the I.V. tubing?

2 A Yes.

3 Q What affect did you believe the Ephedrine would

4 have on Mrs. Armstrong's perfusion?

5 A It's a vasoconstrictor, will raise the blood

6 pressure.

7 Q What did you think it would do about the heart?

8 A Stimulate the heart.

9 Q Did it in fact have any affect of stimulating the

10 heart?

11 A It remains around 102 a little bit past noon time,

12 then went down to after I repeated it, went around

13 72 or 78.

14 Q At what time?

15 A I think it's about 12:10, because it's so small a

16 space here.

17 Q I understand you.

18 A Don't write exact time.

19 Q That is why we're -- because I would like you to

20 skip down, I know I'm jumping around, at the bottom

21 of your sheet on the right-hand side, I'm going all

22 the way over to the right, you've got one and two

23 in roman numerals?

24 A This one.

25 Q No, over here. One and two, is that the CPR

1 started 12:12, right?

2 A Yes.

3 Q Who was administering the CPR?

4 A I was at the start.

5 Q You were?

6 A I was.

7 Q Doctor, are you ACLS certified?

8 A Yes, I am.

9 Q When did you obtain your certification?

10 A '98, I think.

11 Q 1998?

12 A Yeah.

13 Q Was that the first time you had taken the ACLS

14 certification?

15 A Renew it every two years.

16 Q When was the first time you got an ACLS to the best

17 of your recollection?

18 A About '94 when they first required us to take it.

19 Q Were you required by the hospital to be ACLS

20 certified to perform anesthesia in the operating

21 room?

22 A Yes, all the anesthesiologists are required to take

23 that.

24 Q You recert every two years?

25 A Every two years.

1 Q Your last recertification was in 1998, correct?

2 A Yes, good for two years.

3 Q At this point you were in charge of the code,

4 correct?

5 A Yes.

6 Q At some point Dr. Trocio, if I'm pronouncing his

7 name correctly, Dr. Trocio was called in to assist

8 in the code; is that a fair statement?

9 A Yes, at our hospital they are the one in charge of

10 the code.

11 Q Why is that?

12 A Because they are emergency room physician, whenever

13 we have a code they are the one who responds to it.

14 Q Who initiated the call to Dr. Trocio?

15 A I did.

16 Q At what time?

17 A 12:10 code called.

18 Q Code called. I understand you called a code, does

19 that mean to me, am I to interpret that at 12:10

20 somehow you got a phone call to Dr. Trocio?

21 A We always call through the intercom code 7, either

22 code blue or code 7 at that time. They come.

23 Q When did Dr. Trocio arrive, to the best of your

24 knowledge?

25 A As soon as we called them.

1 Q I'm confused. You are saying you called him at
2 what time?

3 A Code called at 12:10.

4 Q At the top of -- I'm going to confuse everyone. I
5 have to do it this way.

6 At 12:02, on the bottom of your sheet, sort
7 of towards the center, you write patient looks
8 blue; is that right?

9 A Yes.

10 Q What does it say next to that?

11 A All anesthetics I think --

12 Q Unfortunately there is a number over it.

13 A All anesthetics discontinued, given 100 percent
14 oxygen.

15 Q You gave her 100 percent oxygen at 12:02; is that
16 right?

17 A Yes.

18 Q Did you consider giving her 100 percent oxygen at
19 any time before 12:02?

20 A No, I discontinued the anesthetics it says here
21 12:0 -- sometimes this time is not accurate. This
22 is every five minutes you just line it.

23 S I'm trying to get this as precise as we can get it.
24 In light of that, at 12:02 when the patient looks
25 blue, at that point you withdraw the anesthetic

1 agents, correct?

2 A Yes.

3 Q You put her on 100 percent oxygen; is that right?

4 A Yes.

5 Q Did you believe at that point she had already

6 arrested?

7 A Most probably she did, that is why I gave this

8 Ephedrine.

9 Q Are you saying Ephedrine?

10 A Ephedrine, yeah. Probably I start it.

11 Q Start what?

12 A The code.

13 Q Because you list on the next sheet, which I don't

14 want to start marking it. If you stay with me on

15 the code sheet, correct, you know where the code

16 sheet is, code record?

17 A Yes.

18 Q Is your handwriting on that sheet or is this being

19 filled out by a nurse?

20 A This is the nurse.

21 Q What nurse to the best of your knowledge would have

22 filled out the code sheet?

23 A Says here Grignon, June Grignon, she was a nurse.

24 Q You are reading from the progress notes, I'm

25 reading from the --

1 A This is where they write all the things that we
2 give.
3 Q Because they list the time of arrest at 12:02;
4 would you agree that is the time of arrest?
5 A Well, probably. Probably this is the start.
6 Q Is there a reason you didn't call a code at 12:02
7 when the patient is turning blue arresting?
8 A I did what I have to do first, before I called
9 them.
10 Q Don't you have nurses circulating in the OR that
11 place those phone calls, go over the intercom?
12 A Yes, they do. At that time I was working with the
13 patient. When this happened we began CPR at the
14 same time we called them.
15 Q Called?
16 A Called the team.
17 Q You indicated by the previous answer that Amherst
18 Hospital there is a team I guess that comes in to
19 lead codes, I'm paraphrasing?
20 A Um-hum.
21 Q Dr. Trocio is on that team; is that right?
22 A Yes, they were the ones that answered the code.
23 Q When he comes in to do the code, what becomes your
24 role?
25 A Just to maintain the airway.

1 Q Maintain the airway?

2 A The airway.

3 Q Do you make any decisions as to medications to be

4 used?

5 A At the time when they come they do all the

6 decisions.

7 Q They make all the decisions?

8 A Yes.

9 Q If you know the answer to this, you may not, given

10 what just told me, if you can look at any of these

11 documents, at what time was a pacemaker ordered?

12 A I think 12:45.

13 Q That is when it was -- at 12:32 on the progress

14 notes?

15 A Okay.

16 Q Atropine at that point, call for external

17 pacemaker?

18 A We called them.

19 Q Were you talking with Dr. Trocio during this time

20 about what should be done to resuscitate the

21 patient?

22 A I think he took over. I was just -- what I was

23 doing was just maintaining the airway.

24 Q Did you make the determination to call the code?

25 A Yes, I did.

1 Q See I'm going to get myself into a linguistics
2 problem. Did you make the decision to terminate
3 the resuscitative efforts?

4 A No, I did not.

5 Q That was Dr. Trocio's decision?

6 A Yes.

7 Q Did you and Dr. Trocio discuss it at all?

8 A I'm not sure if we discussed it. I cannot
9 remember.

10 Q You don't remember any conversation?

11 A Because of the situation, I don't remember whether
12 we talked about it or we just --

13 Q The reason I'm asking, 13:02 patient pronounced
14 dead per Dr. Celerio; do you see that?

15 A Yes.

16 Q I'm asking who made the decision to terminate the
17 resuscitative efforts, does that refresh your
18 memory that it was your decision?

19 A No, it was not my decision. I pronounced the
20 patient because he was under my care at that time.
21 I don't terminate any code at all. It's up to
22 them.

23 Q Let me show you another sheet, I'm asking because
24 obviously we are going to have to take a few
25 depositions, this is on the code record order

1 sheet, page 2, you see that document, your Bates
2 stamp is 21, it's the code record sheet.

3 At 13:01 I'm reading what I can read.
4 Somebody else could read it different, pupils fixed
5 and dilated, mottled color, code called at 13:05,
6 Dr. Celerio; you see that?

7 A Yeah.

8 Q Once again you are indicating -- I don't have any
9 other information other than what is on these
10 sheets, you are saying it was not your decision to
11 terminate the resuscitation, correct?

12 A No.

13 MISS KOLIS: Give me one minute,
14 Doctor, I might not have any other questions at
15 this point.

16 Q I do have one other question. I think I want to
17 make sure, beginning at I think we've established
18 that at 11:50 Mrs. Armstrong's BP was down to 100
19 over 65, by 11:55 it was 80 over 35, right?

20 A Um-hum.

21 Q In addition to giving her Ephedrine, were you
22 giving her any other medication to affect the BP or
23 to assist it?

24 A I think I gave her Atropine.

25 Q If you can find someplace that you gave her

1 Atropine at that point, let me know.

2 THE WITNESS: Just a minute, okay?

3 (Recess taken.)

4 By Miss Kolis:

5 Q Other counsel while you were answering -- do you
6 need to respond to that phone call?

7 A No, I'm fine.

8 Q The question was, so we don't get confused, I'm
9 looking at the period from 11:50 to 12:10 when you
10 actually called the code, you gave no Atropine
11 between 11:50 and 12:10; would you agree with that?

12 A Yes, just Ephedrine.

13 Q Excuse me?

14 A Just Ephedrine.

15 Q 75 milligrams, right?

16 A Um-hum.

17 MISS KBLIS: I don't have any
18 further questions. Somebody else might want to
19 question.

20 MR. POLITO: Doctor, my name is John
21 Polito, I represent the hospital. I only have a
22 very few questions for you.

23 CROSS-EXAMINATION

24 By Mr. Polito:

25 Q Doctor, it's my understanding you are an employee

1 of Cleveland Clinic at the present time?

2 A At the present time.

3 Q You're credentialed at the Cleveland Clinic to
4 practice anesthesiology?

5 A Yes.

6 Q You have full privileges to practice anesthesiology
7 at the Cleveland Clinic currently?

8 a Yes.

9 Q I believe in one of the questions that Donna asked
10 you was do you have any criticism of the nurses in
11 this case, your answer was no, correct?

12 A No.

13 a Furthermore, Doctor, you have no criticism of the
14 hospital in terms of the care and management of
15 this patient; is that correct?

16 A Yes.

17 MR. POLITO: Nothing further.

18 MR. FARCHIONE: I'm Joe Farchione, I'm
19 here for Dr. Bartulica.

20 CROSS-EXAMINATION

21 By Mr. Farchione:

22 Q When you see a patient pre-operatively such as
23 Mrs. Armstrong, I take it's your duty and your
24 responsibility to assess that patient and review
25 the medical records that you have available to you?

1 A Yes.

Q Yes?

A Yes.

4 Q Is that in order to make an informed decision as to
5 whether or not from the anesthesia standpoint
6 surgery should go forward, correct?

7 A Yes.

8 Q There are some things about a patient's history,
9 about a patient's current condition or items that
10 you may find in a chart that may allow a surgeon to
11 say surgery can go forward, but for an
12 anesthesiologist to say no, from an anesthesia
13 standpoint, I don't think we should go forward,
14 correct?

15 A Yes.

16 Q So, you would be careful in reviewing the
17 information, including the medical chart, the labs,
18 the notes in the chart before the surgery, correct?

19 A Yes.

20 Q That would be what the standard of care would
21 require of you to do, to look at the medical
22 records that are available, correct?

23 A That is available, yes.

24 Q That is available, correct.

25 A Yes.

1. Q You mentioned earlier in the deposition that you
2 were critical of Dr. Bartulica because you were not
3 aware of the brain tumor, and in fact I think you
4 said that you would want to investigate that in
5 order to know everything, correct?
- 6 A Yes.
- 7 Q You would cancel the surgery if you had known about
a the brain tumor, correct?
- 9 A If I had known about it?
- 10 Q Yes.
- 11 A Yes.
- 1.2 Q When you read in the chart about the brain tumor
13 before surgery, why was it not important at that
1.4 time; now as we sit here after the lawsuit, the
15 brain tumor is important?
- 16 a That time that was not available in the chart.
- 17 Q Doctor, you just testified earlier you looked at
18 the notes that were in the chart, there is a note
19 right here that says in May of 1999 small brain
20 tumor. Are you saying you didn't review the chart
21 carefully, Doctor?
- 22 MR. RISPO: Where are you looking?
- 23 Q Right here, Doctor, page 60 at the top, first
24 sentence, brain tumor.
- 25 A I don't think I have seen this.

1 Q Either you didn't see it that at that time, so you
2 were below the standard of care in your review of
3 the chart because you were not careful enough to
4 read history placed in the chart available at that
5 time?

6 MR. RISPO: Objection. He said it
7 wasn't available to him in the chart.

8 Q The entire chart was available to you?

9 A That morning I was not sure whether everything was
10 there.

11 Q You've done surgery before, anesthesia for surgery?

12 A Yes.

13 Q You know what records are available and are not
14 available, correct?

15 A Yes.

16 Q If a portion of the chart was missing, you would
17 know if that portion was missing before you okay
18 someone to undergo anesthesia for surgery, correct?

19 A Yes.

20 Q You would be able to say this part of the chart is
21 missing, can somebody please let me see that
22 portion of the chart, correct?

23 A Yes.

24 Q Now, do you have a specific recollection of not
25 seeing this portion of the chart?

1 A I don't think I see that.

2 Q Why didn't you ask for that copy of the chart?

3 A I didn't know that was there.

4 Q You knew that these forms would be filled out

5 pre-operatively because you've done this before,

6 why wouldn't you ask to see these notes?

7 A The only thing that was there when I looked at the

8 patient was this one, and I think this one.

9 Q When you talk about this one and this one, so we

10 can identify that for the record, nurses' notes

11 that begin dated August --

12 A August 6th.

13 Q And those are the second notes that you are talking

14 about?

15 A This is on one, this one. The second was one on

16 the day of surgery.

17 Q On the day of surgery, the one that refers to EKG,

18 the labs and the chest x-ray being pointed out to

19 you?

20 A Yeah.

21 Q So it's your testimony earlier that you looked at

22 all the chart that is available, are you now

23 telling us you only looked at two pages?

24 A No, but this was the only one that was there during

25 the day of surgery.

1 Q You absolutely remember those were the only two
2 that were there?

3 A I had no recollection of seeing the brain tumor.

4 a How long had this patient had to sleep with pillows
5 propped up?

6 A I'm not sure.

7 Q Were there any other position changes that helped
8 with her to sleep?

9 A I remember when I was examining her she was not
10 even using.

11 Q I'm not asking if you examined her. I'm asking if
12 you know there were position changes or how many
13 pillows she needed to have in order to sleep?

14 A I didn't ask her how many pillows she is using.

15 Q You didn't ask her about that?

16 A No.

17 Q The shortness of breath she complained of, did you
18 ask her how long she had been having that?

19 A I don't remember if I asked whether that was
20 continuous or on and off.

21 Q The palpitations, did you ask her how often she had
22 the palpitations?

23 A Probably I asked her.

24 Q I want to know if you remember asking her that
25 question?

1 A I don't remember if I asked her.

2 Q Do you remember asking her when the last palpation

3 was?

4 A I don't remember.

5 Q Doctor, do you take any responsibility for what

6 happened to this patient?

7 A That is a very big term.

8 Q It is. I would like an answer.

9 A I think not the big responsibility. I don't know

10 how to express it.

11 MR. RISPO: Take your time. Tell

12 him what you think

13 A Probably a portion of it.

14 Q What portion?

15 A The thing that I did put her to sleep, but I should

16 have known about her medical condition before.

17 a You should have asked her a little more about her

18 medical condition?

19 A I did, what she answered me, I based my decision on

20 what she gave to me.

21 Q Are you saying you should have asked her a few more

22 questions looking back at this?

23 A No, I think it's the responsibility of the primary

24 physician if they know the patient had a problem to

25 point it out to me.

- 1 Q What problem did she have that should have been
2 pointed out to you?
- 3 A Like when I was reviewing the note from
4 Dr. Bordo is, this patient should have the
5 cardiology consult, he would cardiogram before
6 surgery. I was not aware of that.
- 7 Q What else?
- 8 A Plus the medication she was taking before, plus the
9 symptoms she had.
- 10 Q You asked her about medications, correct?
- 11 A This was the only medication taken is here.
- 12 Q You asked her?
- 13 A Yes.
- 14 Q What did you ask her in terms of the medica
15 history or hospitalization?
- 16 A All I know she had a leg surgery.
- 17 Q I want to know what you asked, not what answer you
18 got, what you asked of the patient?
- 19 A If they have any problem w th anesthesia before.
- 20 Q Would you ask them if they had been hospitalized
21 before?
- 22 A Yes, they had surgery, they are hospitalized.
- 23 Q Would you ask them if they had surgery before?
- 24 A Yes.
- 25 Q Doctor, what was causing the infiltrates?

1 A Probably infection.

2 Q Is that what you thought at the time as well?

3 A Probably. I'm not sure.

4 Q You had to have some reason for thinking there was

5 infiltrate. You didn't simply say there is an

6 infiltrate, don't worry about what is causing it,

7 let her go to surgery?

8 A I didn't say that. I based my decision on what I

9 saw with the patient.

10 Q What did you think was causing the infiltrate

11 infection?

12 A Probably her condition, abdomen.

13 Q The abdominal?

14 A The proposed surgery probably.

15 Q I'm sorry, the what?

16 A The proposed surgery.

17 Q The endometriosis was causing infiltrates in the

18 lungs?

19 A Probably, yes. Erase that. I'm not sure about

20 that. Probably her condition, that is why she is

21 going to have surgery.

22 Q How would endometriosis cause infiltrates, Doctor?

23 A Infection might involve the lungs also.

24 Q So the infection which caused the endometriosis

25 would cause in turn infection of the lung?

- 1 A I'm not sure. Maybe this is the nature of the
2 condition.
- 3 Q Is that really what you were thinking at the time?
- 4 A I think so, yeah.
- 5 Q This MI that was noted on the EKG, Doctor, how old
6 was that?
- 7 A We don't know. It says age undetermined.
- 8 Q Did you ask a cardiologist to take a look at that
9 EKG to determine how long it had been there?
- 10 A That was the reading of the radiologist. If they
11 are not sure how long, they put age undetermined.
- 12 Q Did you speak specifically yourself with the
13 cardiologist to find out if there was any evidence
14 of ongoing ischemia or if this was a recent MI?
- 15 A No, ask the patient if they have any history of
16 heart attack, she said no.
- 17 Q But that doesn't rule out an MI. Obviously we have
18 an EKG that shows an MI, whether the patient knew
19 about it or not?
- 20 A When you see lots of patients every day or like see
21 lots of patient we put to surgery, you come into
22 that kind of feeling. Most of the time you ask the
23 patient, they don't have any. You ask the patient
24 if they had any MI before.
- 25 Q Is that ever a contraindication for anesthesia?

1 A No.

2 Q The patient can have an MI, you not know how old it
3 is, that would not be a contraindication?

4 A It is contraindication if you ask the patient they
5 have history of MI, they said no.

6 Q That makes it not a contraindication?

7 A Yeah.

8 Q Doctor, why would the knowledge of her history of
9 taking Redux in the past have led you to postpone
10 surgery?

11 A Because I remember that when they put it out from
12 the market, other patients taking it have some
13 heart problem.

14 Q Was she evidencing any heart problem at that time
15 that if you knew about the history of Redux would
16 cause you to have stopped the surgery?

17 A If I knew she was taking it before, about the
18 recommendation of Dr. Bordoio, then I would.

19 Q I asked you about Redux, if you knew about the
20 Redux, was she evidencing any cardiac problem at
21 that time that would have led you to cancel the
22 surgery?

23 A Based on what I have seen of the patient, no.

24 MR. FARCIONE: That's all I have.

25 CROSS-EXAMINATION

1 By Miss Harris:

2 Q Doctor, on behalf of Dr. Trocio I want to ask you a
3 couple questions. As I understand it, if you want
4 to look at the anesthesia record, then the code
5 record, maybe it would help, page 18 and page 14.

6 A Okay.

7 Q Look at the anesthesia record at 12:02 the patient
8 was blue, so you shut off all the anesthetic'?

9 A Yes.

10 Q That is because you were very concerned about what
11 was going on with this patient?

12 A Yes.

13 Q In fact, I believe you said at about that time,
14 which is also reflected on the code sheet, she in
15 your opinion arrested?

16 A I think so.

17 Q According to the record you have no reason to
18 dispute eight more minutes before the code is
19 called; is that correct?

20 A Yes, because I was working on the patient.

21 Q It was eight minute afterwards that you called the
22 code, correct, 12:10?

23 A Um-hum.

24 Q Yes?

25 A I think so, yes.

1 Q It's not until 12:12 that Dr. Trocio was there,
2 correct?

3 A That is what they wrote there.

4 Q You have no reason to dispute that, do you, Doctor?

5 A I don't know exactly what the time, I was busy with
6 the patient, I was not looking at the time
7 involved.

8 Q Up to 12:12 you were responsible for the code?

9 A After 12:12?

10 Q Before 12:12 you were taking responsibilities for
11 this patient, correct?

12 A Um-hum.

13 Q Yes?

14 A Yes.

15 Q She can't take that down, sorry.

16 A Yes.

17 Q Before 12:12 you were the one ordering the
18 medications, correct?

19 A I was giving it.

20 Q And ordering them as well. Before 12:12 you were
21 the one that chose what should be done for this
22 patient, correct?

23 A Yes.

24 Q Your testimony was that after Dr. Trocio got there
25 at 12:12, he was in charge of the code?

1 A Yes.

2 Q If he was in charge of the code, is it your
3 testimony that he would be the one responsible for
4 giving such things as drugs?

5 A Drugs, yes.

6 Q So he would be the one that would give the drugs?
7 a Nothing but to order it.

8 Q You would have nothing to do with the ordering?

9 A No.

10 Q So, if the records indicate that at 12:15 and 12:33
11 you ordered Atropine, those records would be
12 incorrect?

13 A When you have a code I think whatever is given
14 first is order it.

15 Q Doctor, maybe I wasn't clear. If the records
16 indicated that at 12:15 and 12:33 you ordered
17 Atropine, those records would be incorrect?

18 A I think this is right. That is what I wrote here
19 in the anesthesia chart.

20 Q What did you write in the anesthesia chart?

21 A The Atropine I was giving.

22 Q At what time?

23 A 12:15 I think.

24 Q I'm sorry, I couldn't hear you.

25 A 12:15 I think it was.

1. Q It is correct at 12:15 and 12:23 you ordered
2 Atropine during the code, correct?
3 A Um-hum.
4 Q Yes?
5 A Yes.
6 Q At 1302 you pronounced this patient dead, correct?
7 A Yes.
8 Q The person running the code is the one that
9 pronounces the patient dead, correct?
10 A No, the person who is terminated the code, after he
11 terminated the code I pronounce.
12 Q The person running the code is the one by ACLS
13 protocol, is the one that pronounces the patient
14 dead, correct?
15 A According to the ACLS, yes.
16 Q The person who terminated the code is the same
17 person that pronounces the patient dead, correct?
18 A ACLS, yes.
19 MISS HARRIS: Thank you, Doctor, I
20 have no further questions.
21 MISS KOLIS: I have one more.
22 CROSS-EXAMINATION
23 By Miss Kolis:
24 Q Doctor, on page 2 of the code record sheet, at 1310
25 says family notified per Dr. Bartulica, then I

can't read, says patient what?

2 A Extubated.

3 Q Per Dr. Celerio. You didn't speak with --

4 A I wanted to. When I asked for them, they were gone
5 already.

6 Q You never called this family to discuss what
7 happened?

8 A Called them at home?

9 Q Right.

10 A No.

11 MISS KOLIS: Thank you. We will.
12 waive the seven day reading, as long as I can have
13 it within 30 at the most.

14 (Deposition concluded at 6:50 p.m.)

15 (Signature not waived.)

16 - - -

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I have read the foregoing transcript from page 1
through page 99 and note the following corrections:

PAGE	LINE	REQUESTED CHANGE
------	------	------------------

	<u>Briccio Celerio, M.D.</u>
Subscribed and sworn to before me this	___ day
of	_____, 2001.

	<u>Notary Public</u>
My commission expires:	_____

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

3 I, Constance Versagi, Court Reporter and Notary
4 Public in and for the State of Ohio, duly commissioned and
5 qualified, do hereby certify that the within named
6 witness, Briccio Celerio, M.D., by me first duly sworn to
7 testify the truth, the whole truth, and nothing tat the
8 truth in the cause aforesaid; that the testimony then
9 given by him was by me reduced to stenotypy/computer in
10 the presence of said witness, afterward transcribed, and
11 that the foregoing is a true and correct transcript, of the
12 testimony so given by him as aforesaid.

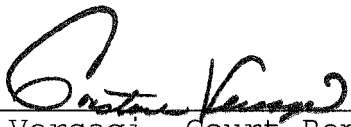
13 I do further certify that this deposition was
14 taken at the time and place in the foregoing caption
15 specified, and was completed without adjournment.

16 I do further certify that I am not a relative,
17 counsel, or attorney of either party, or otherwise
18 interested in the event of this action.

19 IN WITNESS WHEREOF, I have hereunto set my hand
20 and affixed my seal of office at Cleveland, Ohio, on
21 this 24th day of April, 2001.

22

23

24 
Constance Versagi, Court Reporter and
25 Notary Public in and for the State of Ohio.
My Commission expires January 4, 2003.

July 17, 2000.

CURRICULUM VITAE

BRICCIO CELERIO, M.D. (mth.)

BUSINESS ADDRESS:

244 Cleveland Avenue
 Lorain, Ohio 44041
 Tel: 440-988-6120

Ambulatory Surgery Center /
 The Cleveland Clinic Lorain
 5700 Cooper Foster Rd
 Lorain, OH 44053-9931
 Tel - 440-204-7373

BIRTHDATE:

July 09, 1941

BIRTHPLACE:

Philippines

MARITAL STATUS:

Married

EDUCATION:

Manila Central University, Philippines - Pre-med
 and M.D. Degree 1965.

Rotating Internship: Fairview General Hospital

Residency: Mt. Sinai Hospital - 1 yr. Anesthesia 72-73
 Huron Rd. Hospital - 2 yrs. Anesthesia 74.

EMPLOYMENT HISTORY:

1974-1975 House Physician Shaker Hts. Medical Center
 1977-1988 Kaiser Hospital PALMA
 1988-1991 Anesthesia, Inc. (John Bittman, D.O.) ALBERT.
 1991 to present - C & E Anesthesia WY.

CERTIFICATION:

ACLS Certified/American Heart Association

STATE LICENSE:

Ohio #35-04-0778

PROFESSIONAL SOCIETIES:

Cleveland Society of Anesthesia
 Ohio Society of Anesthesia

HOSPITAL AFFILIATIONS:

Amherst Hospital 4

POSITIONS HELD:

Chief of Anesthesia/Amherst Hospital

REFERENCES:

Available upon request.

PLAINTIFF'S
EXHIBIT

A

**Cleveland Clinic Foundation
Lorain Ambulatory Surgery Center**

Date: _____

To: Mr. Rapo Fax Number: 216-621-8369

From: Brix Ceteris Fax Number: ⁴⁴⁰204-7332

Total Number of Pages (including cover sheet): 2

Message: _____



Amherst
Hospital
A Member Of The
EMH Regional
Healthcare
System Inc.

AMHERST HOSPITAL
ANESTHESIA INFORMED CONSENT

035607

ARMSTRONG, NANCY J

0021720030

DR BARTOLICA

06/05/53

Type of Anesthesia discussed with patient:

- ☒ General
☐ Spinal/Epidural
☐ Monitored Anesthesia Care (MAC)
☐ Alternatives: _____

- ☒ Possible complications discussed with patient.
☒ Anesthesia Information Sheet reviewed and signed by patient.

CONSENT

It is not possible to promise that any given anesthetic drug or method will prove satisfactory in any patient. It is sometimes necessary to change both drugs and methods in order to produce safe anesthesia. There are many potential complications from anesthesia. However, it is not possible to advise you of every imaginable complication.

The administration of anesthesia is an independent function; the purpose of which is to render a patient insensitive to pain, in a safe as possible manner.

I consent to the administration of anesthesia by C&K Anesthesia, Inc. and/or their employees.

The type of anesthesia is: General

The most likely complications or undesirable results that might occur have been explained to me, and I understand them.

Kathy Christopher
Witness

Nancy J. Armstrong
Patient Signature

8/7/99 01/20
Date Time

Parent/Guardian Signature

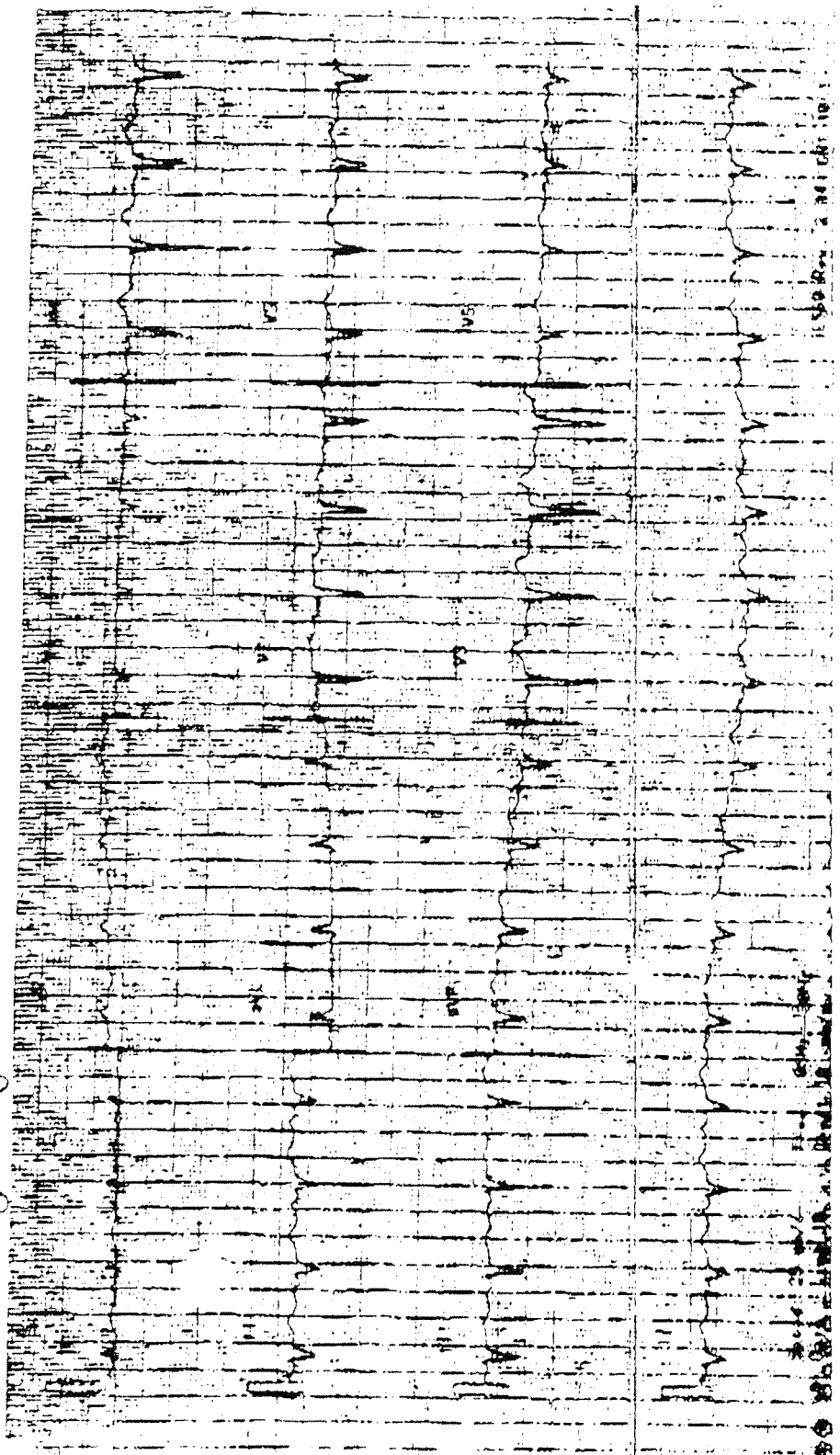
I certify that I have explained the anesthesia choices, alternatives, and possible complications with the patient or his/her representatives, before requesting the patient to sign this consent form.

[Signature]
Anesthesia Personnel Signature

000070

ID: 86607
Age: 46
Sex: Female
Mod1:
Mod2:
Cell:
Tech: PZI
Loc: ER
Unit: 8
DATE: 08/05/99 TIME: 13:03
Dr: BRIGOLICA
Site: 9
Unit: 8
Heart rate: 80
Rhythm: SINUS RHYTHM
P: 36
QRS: 110
SUMMARY: ABNORMAL
INTERPRETED ANALYSIS: **
P: 147
QT: 394
QTc: 852
P: 42
QRS: 77
T: 58
P-R-T: 147
P-R-T: 394
P-R-T: 852
P-R-T: 42
P-R-T: 77
P-R-T: 58

Armstrong, Mary



1250 200 2 10

08/05/99 13:03



EMH
Regional
Medical
Center

☐ RADIOLOGY

☐ EMERGENCY ROOM

☐ MED EXPRESS

☐ PHYSICIAN NOTIFIED

☐ PHYSICIAN NOT NOTIFIED

PROVISIONAL READING

FINAL READING TO FOLLOW

 NAME Armstrong, Nancy

 ROOM 58

 TIME ASAP

 DATE 8/5/99

PROVISIONAL READING:

PHYSICIAN _____

FAT -
Bartolena

CXR

RLL atel/infiltrate
 - small @ effusion

flr to resolution

RLL ATEL / infiltrate
 - small Right effusion
 follow-ups for resolution

8/6/99 - Return call to PAT.

- if ok & anastomosis well go with surgery.
 and follow-up & CXR after surgery/monitoring.

DO NOT WRITE BELOW THIS LINE

PLAINTIFF'S
EXHIBIT

D

DO NOT WRITE BELOW THIS LINE

DO NOT REMOVE FROM CHART

RADIOLOGIST

[Signature]

000003



NURSES' PROGRESS NOTES

ARMSTRONG, NANCY
9921700030
DR BARTULICA 06/05/53

[illegible]

**PLAINTIFF'S
EXHIBIT**

000065

☐ PATIENT/FAMILY VERBALIZE UNDERSTANDING OF PLAN OF CARE
☐ PLAN OF CARE AND EXPECTED OUTCOME REVIEWED WITH PATIENT/FAMILY

PLAINTIFF'S EXHIBIT

000067

ARMSTRONG, NANCY J
9921700030
DR BARTULICA 06/05/53



AMHERST HOSPITAL
AMHERST, OHIO

ANESTHESIA RECORD

SURGEON Dr. Bartulica PERMED SAT. UNSAT.
ASSISTANT(S)
ANESTHETIST(S) Dr. [Signature]
SCRUB NURSE Nancy H. [Signature]
OPERATION _____

ARMSTRONG, NANCY J
9921700030
DR BARTULICA 06/05/53

DATE 8-7-94

ANESTHESIA TIME 011 M

SURGERY MTO M

TOTALS DRUGS - FLUIDS

	30	40	50	120	10	20	30	40	50	130	10	20	30	40	50	10	20	30	40	50
L/Min. N2O				10		2.5														
L/Min. O2				5		2.5														
Uterus %				2-10																
0.2 ml Robutol I.V.				✓																
10 ml REGIAWOPROPERIDOL I.V.				✓																
200 Mg. PENTOTHAL PROPOFOL I.V.				150																
Mg. ANECTINE-MIVACRON																				
Mg. PAVULON-TRACRIUM																				
Mg. CURARE-NORCURON																				
7 gm. Curare I.V.				✓																
CC SUBLIMAZE SUFENTA A.S. [Signature]																				
Mg. VALIUM-VERSED																				
40 200 mg [Signature]																				
80 ml 4% (200) [Signature]																				
MI. BLOOD PRODUCTS																				

SUMMARY OF TECHNIQUE(S)

AIRWAY ORAL ☒ NASAL ☐
I.V. CATH # 20 I.V. RL
EYE CARE OK

MONITORS

PRECORIAL ☐ O2 ANALYZER ☒
EKG ☒ TEMPERATURE ☒
ARTERIAL ☐ CVP ☐ SAO2 ☐
PULSE ☒ BP ☒ PNS ☐ OTHER ☐

ENDOTRACHEAL TUBE
SIZE 7 MM
ORAL ☒ NASAL M ☐ R-L ☐

CUFF INFL ☒ LTA KIT ☐

BREATH SOUNDS ☒ DIFFICULTY ☒ 1 2 3 4

SCS ADULT ☒
SCS INFANT ☐

NONREBREATHING ☒
SAB M LOCAL ☐

REGIONAL ☐
WITH SEDATION ☐

I.V. BLOCK ☐
TOURNIQUET ☐

R L ☐

@ ☐ PSI

CUFF UP @ ☐ M
CUFF DOWN @ ☐ M

TEMP	36.5
PO2	100
EKG	120
BP	120/80
HR	120
RR	20
SpO2	100
VENT ET CO2	30-35
POSITION	Supine
TIME OF REMARKS	

REMARKS
X 1 2 3 4
Pre-induction checklist completed ✓
Patient reassessment completed ✓
X - sh. the room - pre-op
1202 - pt. looks blue - all airway's stopped
1210 - code called (call to heart)
1220 - dopamine started
1230 - ABG's drawn & sent in chart
1300 - 12 lead EKG taken - 1302 - procedure ended

PLAINTIFF'S
EXHIBIT

G

For all information see page 14