

AT  
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SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

CIVIL DIVISION

- - - - - x

DONNO R. MERRIWEATHER, as  
Mother and next friend of  
John Merriweather, a Disabled :  
Minor,

Plaintiff,

vs .

HOWARD UNIVERSITY, INC.  
t/a HOWARD UNIVERSITY HOSPITAL, :  
et al.,

Defendants.

- - - - - x

Washington, D.C.

Friday, May 29, 1992

The telephonic deposition of ELIAS CHARLES CHALHUB,  
M.D., called for examination by counsel for Plaintiff in the  
above entitled matter, pursuant to Notice, at 2:15 p.m.,  
convened at the offices of Jack H. Olender, 1634 I Street,  
Northwest, Washington, D.C., before Alice Toigo, a notary  
public in and for the District of Columbia, when present on  
behalf of the parties:

## APPEARANCES:

On Behalf of the Plaintiff:

HARLOW R. CASE, ESQ.  
Jack H. Olender & Associates  
1634 Eye Street, Northwest  
11th Floor  
Washington, D.C. 20006

On Behalf of the Defendants, Howard University

MARIANNE DUNAITIS, ESQ.  
Jordan Coyne Savits & Lopata  
1030 15th Street, Northwest  
Washington, D.C. 20005

On Behalf of the Defendant, Dr. Tanner McMahon:

JAMES P. GLEASON, JR., ESQ.  
Gleason & Flynn, Chartered  
2275 Research Boulevard  
Suite 220  
Rockville, Maryland 20850

On Behalf of Defendant, Dr. Lofton:

DEE TAHMIN, ESQ.  
Mahoney, Hogan, Heffler & Heald  
777 14th Street, Northwest  
Suite 600  
Washington, D.C. 20005

## C O N T E N T S

WITNESS

EXAMINATION BY COUNSEL FOR  
PLAINTIFF DEFENDANTS

**ELIAS** GEORGE CHALHUB, M.D.

3

## P R O C E E D I N G S

Whereupon,

the Notary Public, was examined and testified as follows:

## EXAMINATION BY COUNSEL FOR PLAINTIFF

BY MR. CASE:

Q Doctor, please give us your full name.

A Elias George Chalhub.

Q What is your residence address, Doctor?

A 3970 Pine Brook Drive, South Mobile, Alabama.

Q Have you given a deposition since October of 1991?

A Yes.

Q How many times?

A I don't know the exact number; four or five.

Q What did those four or five depositions in the last six or seven months involve?

A A workmen's comp case and some medical negligence cases.

Q would it be fair to say that there was one worker's comp case and the remainder were medical negligence cases?

A I guess in general. I really don't recall the

specifics of either one of them.

Q It's my understanding that there were four or five cases; is that correct?

A To the best of my recollection, yes.

Q And you can tell us today that one of them was a worker's comp?

A I believe so.

Q What was the issue in that case?

A I think it was a back injury.

Q What role did you play in that back injury case?

A I was the treating physician.

Q In the remaining cases, what were the issues?

A I don't remember the cases, so I really can't tell you.

Q Did they involve causation in obstetrical negligence matters?

A No, not all of them.

Q Did any of them?

A Yes, I believe so.

Q How many of them?

A I don't know.

Q In the cases where you were offering causation

1 testimony in obstetric medical malpractice cases in the last  
2 six months, were you testifying for doctors and physicians  
3 and hospitals, or were you testifying for the patient?

4 A Neither.

5 Q Excuse me?

A Neither.

Q Who were you testifying for?

A I **was** retained by an attorney to testify on beha f  
of his client.

10 Q And was that client, Doctor, a hospital or  
11 physician?

12 A I really don't recall.

13 Q You don't remember that?

14 A No; whether it was a physician or a hospital.

15 Q Was it one or the other?

16 A Probably.

17 Q Is there any doubt in your mind?

18 A Is there any doubt in my mind about what, Mr. Case?

19 Q Is there any doubt in -- we can make this depositio  
20 go on for hours if you would like, Doctor, but I think you  
21 know precisely what I am saying.

22 A I don't need to be reprimanded by you, Mr. Case. I

don't want to go on for hours either, but if your question is not clear I can't answer it.

Q Doctor, I have deposed -- I believe you are the last expert in this case. I haven't had to get into this kind of row with any of them.

A I'm not trying to get into a row with you. If you would ask a direct question, I'll answer it.

Q If you would take the clear understanding of my question perhaps we could move this along. In those cases, is there any doubt in your mind that you were offering testimony on behalf of a physician or a hospital?

A There were other defendants, and I cannot tell you, besides a physician or a hospital. I believe there were some nurses. So, I am not trying to be difficult, but if you want me to be accurate, I will just have to say I can't tell you.

Q Were you testifying for defendants?

A Yes.

Q When is the last time that you offered causation testimony in an obstetric medical negligence case where you offered an opinion that negligence was the cause of an infant's **neurology** deficits?

A I don't believe I have done that in many years.

Q Have you ever done it?

A I'm not usually asked that question.

Q Have you ever testified that a child's <sup>neurologic</sup> ~~neurologic~~ deficits ~~are the cause~~ of perinatal asphyxia?

A That a child's neurologic deficit is the cause?

Q Was caused by?

A Yes, I have.

Q How many times?

A Twice.

Q When were those two occasions.

A They were a number of years ago.

Q Do you recall where that was?

A I believe **one** was in California and one was in Arkansas.

Q Do you remember the lawyer for the patient in the California case?

A **No**, I don't.

Q Do you remember the lawyer for the patient in the Arkansas case?

A No, I don't.

Q Have you ever testified for either of those gentlemen or ladies again?

A If I can't remember the names, I can't tell you whether I have or not.

Q Was the Arkansas lawyer Ralph Cloar?

A Ralph who?

Q Cloar.

A No, that doesn't sound familiar.

Q Are you the doctor who flies first-class to trial?

MR. GLEASON: I object to that question. You would fly first-class to trial if you could fly there.

1 THE WITNESS: I take a plane, Mr. Case. Whether I  
1 fly first-class or tourist-class usually depends on the time  
1 and the availability. It really doesn't make any difference.

1 BY MR. CASE:

1 Q It was my understanding from the Stevens case that  
1 you fly first-class when you go to depositions out of town or  
1 trials out of town; isn't that the case?

1 A I don't know what your understanding is. I fly  
1 first-class most of the time whether I take a vacation or go  
1 on my own business or anybody else's business. It doesn't  
2 make any difference whether it has to do with a malpractice  
2 case.

2 Q Doctor, if you come to Washington, D.C. to testify



in this case, re you coming first-class?

A I don't know. I'll tell you when I make the reservations, but I will be glad to tell you.

Q Will you please have that information available at trial in this case? Will you Doctor?

A Sure, Mr. Case, if that is important to you.

Q It may be important to the jury, Doctor.

A Oh really? Tell me why.

Q I'm not being deposed.

1 Doctor, when were you first contacted in this case?

1 A Let me see if I can recall. Approximately a year  
1. ago, I believe, Mr. Case.

1. Q Do you have any information available to you that  
1. would tell you when it was?

1. A No, I don't. I don't keep cover letters and I was  
1. contacted, I believe, by phone, so I can't tell you exactly  
1. the date.

1. Q Who contacted you?

1. A I believe Mr. Gleason did.

2. Q Had you met Mr. Gleason before?

2. A I don't think so.

2. Q Have you met him since?

A I believe I have.

Q Under what circumstances?

A By phone; I don't think I have met him in person.

Q Since October of 1991, have you offered opinions in any other cases arising out of care rendered in the District of Columbia other than this case?

A I believe there was a case with your firm, and I honestly can't remember the name of it. Stevens seems to be what comes to mind, but I can't be certain.

Q How is it that you remember that case name?

A How is it that I -- I don't know. I guess my memory allows me to do that.

Q What are the other medical negligence cases that you have testified in since October, the case names?

A I told you I can't remember all of them. I'm not even certain -- if that is the case with your firm, then that is the correct one.

Q You can remember that case but you can't remember the names of the patients in the other cases in which you have testified since October of 1991?

A No, I'm not even certain that is the correct case for you. I mean, if it is, then tell me.

Q It is.

A Well good.

Q And you don't know any others that you have testified in since?

A No, I can't recall the names.

MR. CASE: Do I understand, Jim, that Dr. Chalhub is not going to offer testimony on standard of care?

MR. GLEASON: Correct.

BY MR. CASE:

I Q Doctor, what opinions do you hold in this case?

1 A Concerning what?

1 Q Concerning anything.

1 A You mean concerning the cause of this child's  
1 neurological deficit?

1 Q Do you understand that you are rendering opinions  
1 in any other areas in this case?

1 A It depends on what you ask, Mr. Case. But, in  
1 terms of what I feel caused this child's neurological problem  
1 or the etiology of it, it appears to me that this child had a  
2 chronic, intrauterine problem most consistent with a  
2 developmental abnormality of the brain.

2 Q Is it your opinion that John's problems are not

related to perinatal asphyxi ?

A How do you define perinatal?

Q Around the time of birth.

A That's not the World Health Organization definition so maybe just restate your question again.

Q Why don't you give me the World Health Organization definition of perinatal then.

A From the 28th week of gestation to the 7th day postnatally.

I Q That's not around the time of birth?

I A The 28th week of gestation is around the time of  
1: birth? I guess if you are premature and abort at that time  
1. it is, but that is not the usual case.

1. Q What does "peri" mean?

I! A "Peri" means around.

1. Q What does "natal" mean?

1' A "Natal" means being born.

1. Q Excepting the World Health Organization definition  
1. of perinatal asphyxia, do you believe that John's problems  
2. are caused by perinatal asphyxia?

2: A If you mean whether John's problems are caused by  
2: an intrapartum event, which is during the birth and delivery

process, no, I do not. If you mean whether it is related to something that occurred around the 28th week or about that time, I can't **be** certain, but it would not be inconsistent with a developmental problem.

Q What caused this developmental problem, in your opinion?

A I don't know the answer to that.

Q **Is** it your testimony that you don't know what caused John's problem but it is not an episode that occurred on the 10th or 11th of April?

A It is not an intrapartum event; that is correct.

Q Can you be any more specific as to what the cause of his problem is other than it was a developmental problem?

A Well, 70 percent of children with neurological impairments fall into that category where it is difficult to define the exact citing of the etiological agent that caused the developmental malformation of the brain. We simply have no way to mark that on an intrauterine process. I mean, considerations would be some metabolic defect in the mother, an infection, some type of trauma or toxic agent or some abnormality in the genetic **pool**.

Q Are you aware of any metabolic problem that Mom had

that caused or contributed to John's current status?

A No, but those can be transient, and they may not be able to be detected at the time of birth.

Q Are you aware of any documentation of any such transient episode?

A No.

Q Are you aware of any genetic abnormality in John?

A Well he certainly has dysmorphic features, which would be consistent with that.

1 Q What information do you have on any genetic  
1 abnormality that John has, other than that he has dysmorphic  
1 features?

1 A That is evidence enough, Mr. Case.

1 Q Have you seen the report of Dr. Rosenbaum, the  
1 geneticist at Children's Hospital?

1 A Yes.

1 Q Is it your conclusion that he believes there is a  
1 genetic abnormality.

1 A I'll just have to pull that report out, if we can  
2 find it. I can't remember exactly what he said. Again, it  
2 depends on what you mean by genetic.

2 MR. GLEASON: Harlow, I'm looking for that report,

if you want him to look at the result of it, so bear with me for a second.

BY MR. CASE:

Q The sentence that I am concerned with, Doctor, is that Dr. Rosenbaum, who is the Director of Medical Genetics at Children's Hospital here, is apparently of the belief that on the basis of physical examination he does not feel that John has a recognizable dysmorphic syndrome. Do you agree with Dr. Rosenbaum?

1 A Well, you mean in terms of a name for the dysmorphic  
1 syndrome; yes, I would agree. But that does not mean that  
1 the child does not have dysmorphic features and could  
1 possibly have a genetic abnormality. Anybody would agree  
1 with that.

1 Q You are aware that anticonvulsant therapy can cause  
1 dysmorphic features; are you not?

1 A I'm not certain that is true.

1 Q You then disagree with Dr. Rosenbaum, the geneticis  
1 at Children's Hospital, who says it is possible these  
2 findings are the result of anticonvulsant therapy?

2 A I would disagree with that, yes.

2 Q You **do** disagree with Dr. Rosenbaum?

A    **No**    I disagree with the statement you made.

Q    What is your experience or your expertise in genetics?

A    As a neurologist and as a pediatrician one sees  
5 children with genetic diseases and dysmorphic syndromes as  
6 well as mental retardation, and I have done so virtually for  
the past 22 years.

Q    Do you believe he has a recognized dysmorphic syndrome?

1       A    Yes, he has recognized dysmorphic features. In  
1 terms of a name attributable to a syndrome, no -- but that is  
1 the majority of children that I would see that have delayed  
1 development and motor deficits.

1       Q    **Are** you aware of any genetic testing that has been  
1 done on John?

1       A    Yes, he has had chromosomes done.

1       Q    What is the result of those tests?

1       A    **Those are normal, but that is only for chromosomal**  
1 disorder.

2       MR. CASE: Jim, do I have those test results yet?

2       MR. GLEASON: Yes, you do, Harlow.

2       MR. CASE: Where?



1           MR. GLEASON: You cited them to me at the mediation  
2 conference. I assumed that you must have gotten them from  
3 Rosenbaum himself because it was just on the day that they  
4 came into my office. If you don't have them I will send them  
5 to you. It is a one- or two-page report, Harlow, that just  
6 simply indicates that the chromosomal study was negative.

7           MR. CASE: How about the karyotype findings?

8           THE WITNESS: Same thing.

9           MR. CASE: I haven't seen those, Jim. I mean, I've  
10 got his two-page report that is typewritten that is dated,  
11 apparently, April 6th, but I don't have anything else.

12          MR. GLEASON: If you want to take a break I can get  
13 stuff faxed from my office now, if you think it is important  
14 enough for you to ask questions about it here, Harlow. I  
15 genuinely believed and understood that you had them, and it  
16 was simply an oversight that they weren't sent to you.

17          MR. CASE: I don't doubt that, Jim. The last  
18 sentence of Rosenbaum's report says, "Blood was obtained  
19 today for a karyotype including a fragile X study along with  
20 serum quantitative amino acids and T4 and TSH." Do you have  
21 the results of those?

22          MR. GLEASON: They are not here with us right now.

MR. CASE: But do you know the results, Jim?

MR. GLEASON: Negative.

MR. CASE: All right.

MR. GLEASON: I mean,. the results were reported as normal.

MR. CASE: All right.

7 BY MR. CASE:

8 Q Do those results impact on your opinions at all,  
Doctor?

1 A Well, sure; you take everything into consideration,  
1 Mr. Case.

1 Q I'm sure we do. Does that impact on your opinions  
1 that John has some dysmorphic syndrome?

1 A John has dysmorphic features. I don't know what  
1 you mean by impact. I mean, it is evidence that you take  
1 into consideration of all the facts.

1 Q What types of anticonvulsant therapy has John had  
1 over his lifetime?

1 A He has had a number of medications and -- I'm not  
2 sure, without having all the charts to go to, to be honest  
2 with you -- I may leave some out: phenobarbital, dilantin,  
2 valproic acid, Valium, tegretol and there are some others,

but I did not look, so I don't know.

Q Which of those medications over time can cause an individual to develop dysmorphic features?

A I'm not aware that any of them can do that.

Q When is the last time you looked at that issue?

A I look at it all the time.

Q Today; yesterday?

THE WITNESS: Hold on just a second for me. I have to take a call.

1 [Break.]

1 BY MR. CASE:

1 Q What is the cause of the unnamed dysmorphic  
1 syndrome that you believe John has?

1 A I don't think anybody knows the answer to that, as  
1 to why there are abnormalities in development of organs and  
1 brains. I **don't** know the answer to that.

1 Q Do you believe that this boy has lysosomal-storage  
1 disease?

1 A Do I believe that he has a lysosomal-storage  
2 disease? No; I don't.

2 Q Why not?

2 A He doesn't fit the criteria.

Q Do you know Susan Farrell?

A Do I know her? No, I don't know her personally.

Q Do you know her by reputation?

A Yes.

Q What was John's condition at birth?

A John was depressed at birth.

Q How depressed?

A It doesn't say how depressed. The operative report says he was depressed and meconium-stained and was given  
1 Apgar's **of** 1 to 2 at 1 minute and **4** to **6** at **5** minutes.

1 Q Do you know what he got the 1 to 2 1-minute Apgar  
1 points for?

1 A No, I don't believe that is itemized.

1 Q You don't believe that is what? Excuse me, Doctor?

1 A Was itemized or delineated. At least I am not  
1 aware that it **is**.

1 Q To your knowledge, was he born with a heartbeat?

1 A **It** says that he was not -- it really is not  
1 commented on by the obstetrician or in the progress notes, so  
2 I assume that he was.

2 Q Was he born blue?

2 A I don't know. It says he was depressed and

meconium-stained.

Q Was he born limp?

A If he had Apgar's of 1 to 2, I would assume he probably was.

Q Was he born not breathing?

A He was depressed.

Q Do you know whether he was born breathing or not?

A It depends on which report you read. The report of the pediatrician on 4-12 says "not breathing and with no  
1 heartbeat." However, the operative report says he is  
1 depressed and the progress notes say that he has Apgar's of 1  
1 to 2, so he has to at least be breathing and have some heart  
1 rate to have Apgar's of 1 to 2.

1 Q What are **you** assuming was his condition at birth?  
1 Are you assuming he was or wasn't breathing, or you don't  
1 know?

1 A I'm assuming from the records that he was depressed

1 Q What specifically, regarding his respiratory  
1 status, are you assuming, Doctor -- that he was breathing or  
2 that he wasn't breathing or you don't know?

2 A I don't know. I mean, it is on the reports he was  
2 depressed, and whether that means he had a gasping respiration

1 or no respiration, I don't know.

2 Q Why was there this condition at birth?

3 A Why? Because he was neurologically impaired

4 Q Do you know or believe?

5 A No, I don't believe so.

6 Q Do you have an opinion what the cause of John's  
7 right wrist drop was that is recorded in the records?

8 A It was probably due to some neurological impairment  
9 during development

10 Q How long did that wrist drop last?

11 A I don't know exactly It was described at the time  
12 of birth I don't see it commented on a later time, so I  
13 can't tell you.

14 Q Isn't that important for you to know in order to  
15 render an opinion that the left drop is associated to  
16 neurologic damage that he sustained in utero?

17 A No.

18 Q Why not?

19 A Because to have a wrist dropping, whether it is on  
20 a transient or a permanent basis, implies that either there  
21 was malpositioning or maldevelopment, and if it was  
22 persistent, it would have been described and indicated

1 some other structural damage.

2 Q It is my understanding that you have discounted  
3 malpositioning as a cause; is that true?

4 A I have discounted malpositioning as a cause? I  
5 don't understand that question.

6 Q *Are* you discounting malpositioning as a cause of  
7 this child's right wrist drop at birth?

8 A No, I'm not discounting that.

9 Q Do you believe that the right wrist drop is caused  
10 by malpositioning?

11 A It could be.

12 Q Do you have an opinion to a reasonable degree of  
13 medical certainty in this case that his right wrist drop is  
14 associated with malpositioning?

15 A It is certainly a possibility, and if it would it  
16 would indicate that the child was neurologically impaired and  
17 malpositioned.

18 Q Why is that?

19 A Why is what?

20 Q Why is what you just said?

21 A I don't understand what you mean by why is what.

2 Itemize that for **me**.

Q Is it your testimony that the only child who is malpositioned in utero is a neurologically-damaged one?

A Categorically and unequivocally in every, single situation, no; but in this situation, yes.

Q Why?

A Because this child has dysmorphic features, the child **has** evidence of a chronic problem, he is neurologically impaired and has right wrist drop.

Q When are dysmorphic features first noted in John?

A I think at about 19 -- about a year of age, I believe. I would have to go back and look at the exact month.

Q Can you do that, please?

A Well, I would have to go through all the records. I think it is at approximately a year of age.

Q Who did that?

A I don't remember.

Q Under what circumstances did that person do that?

A I believe an examination.

Q What type of examination?

A A physical examination.

Q Well was it a physiatrist? Was it a neurologist?



Was it a geneticist? Do you know who did it?

A I don't recall the name.

Q Do you know what type of doctor it was?

A No.

Q Does the status of John's fontanelle -- is that of any significance to you in this case?

A No.

8 Q Is that a yes?

9 A "No," I said.

10 Q You observed the status of his fontanelle at birth?

11 A I observed it?

12 Q In the records.

13 A Yes, I observed the records. I have no difficulty  
14 with it.

15 Q YOU don't believe that that tends to prove or  
16 disprove either this was caused by perinatal asphyxia or by  
17 some neurologic developmental disorder?

18 A No, I don't believe that that either proves or  
19 disproves that.

20 Q Do you have an opinion as to what was causing the  
21 Type-2 dips that Dr. George saw in this case?

2 A I'm sorry; I missed that. Say that again?

Q Yes; do you have an opinion as to what was causing the Type-2 dips that Dr. George saw in this case?

A No, I don't.

Q Doctor, **do** you have an opinion as to what effect, if any, the X-rays that **Ms.** Merriweather apparently had during the first trimester had in this case?

A Do **I** have an opinion **as** to what they had?

Q What effect they had, if any.

A No, well, I mean, **I** don't know if there is any specific and direct relationship. You know, 14 to 16 X-rays during a pregnancy certainly could be some type of inciting event in terms of development. Whether it is or not, there is just no way for me to tell you that.

Q Did you review -- why don't you give me a list of the materials that *you* did review in this case.

A **Sure. The** Freedman's Hospital records **of** Donno Merriweather and John Merriweather; the Group Health Association records of **1973**; Howard University records --

MR. GLEASON: Do you want me to help with this, Harlow?

MR. **CASE:** Please.

THE WITNESS: -- Easter Seal Society records, and

4 there are various dates of those; Dr. Walton's records --

2 MR. GLEASON: That's the prenatal record.

3 THE WITNESS: -- and the series with Children's  
4 Hospital records, and that will take me a while if you want  
4 every single date.

6 MR. GLEASON: Let me give you the beginning date  
7 and the end date of the hospitalizations, and if you want all  
8 the ones in between, I'll do it but they are mostly emergency  
9 treatment record notes. They start on January 24th of '82  
10 and the last one is June 10th of '91 at Children's. He also  
11 has other records from Children's beginning -- let's see,  
12 we've got -- July 18th of '77, July 4th of '83, July 27th of  
13 '88, August 23rd of '89, August 31st, '89, December 12th,  
14 '89, August 14th of '90 and September 21st of '91.

15 He also, of course, has Donno Merriweather's and John's  
16 from Freedman's. He has also received some other Group  
17 Health records from me more recently, and those would be  
18 those **that go** back -- let's see if I can find some dates on  
19 here -- in essence it is all of Donno Merriweather's records  
20 from GHA.

21 MR. CASE: Okay.

22 THE WITNESS: Then there are three CT scans. The

1 dates of those are 7-27-88, 7-5-83 and 8-89.

2 MR. GLEASON: All those are from Children's.

3 THE WITNESS: Then, also, a number of depositions,  
4 of Drs. Cherish, Abramson, Crawford, Nathanson, Brown -- did  
5 I mention Cherish?

MR. CASE: Yes.

7 THE WITNESS: It seems to me there was one more. I  
8 believe that's it. There may be an additional one. I don't  
9 have -- I just couldn't carry all the depositions today.

10 BY MR. CASE:

11 Q Did you review the depositions of Drs. Lofton and  
12 George and McMahon?

13 A Yes.

14 Q And Mrs. Merriweather?

15 A Yes.

16 Q How many hours did it take you to review all these  
17 materials?

18 A I believe about 10 hours.

19 Q And your hourly rate is what?

A \$175.

Q Doctor, you indicated you reviewed the prenatal  
2 chart for Mrs. Merriweather at Dr. Lofton's office?

A Yes.

Q Is there any information in there that causes you concern?

A No.

Q Is there anything about her weight gain that cause: you concern?

A No.

Q Anything in the fetal heart rates reported there that leads you to believe that they are suggestive of an impending neurologically-compromised infant?

A That's probably out of my area of expertise. I really have no comment.

Q Why is that out of your area of expertise?

A I am not an obstetrician.

Q Do you have an opinion one way or the other whether this baby is growth-retarded?

A Yes. I don't believe the baby is significantly growth-retarded.

MR. CASE: That's all I've got, Doctor. Thank you very much, Jim. Thank you, Doctor.

THE WITNESS: Thanks a lot. I would like to read and sign that if I could, please.

(Whereupon, at 3:05 p.m., the taking of the  
deposition concluded.)

(Signature not waived.)

4

**MILLER**  
*Reporting*  
**COMPANY**  
INC.

55495

July 38, 1992

Harlow R. Case, Esq.  
Jack H. Olender & **Assoc.**  
11th Floor  
1634 Eye Street, N.W.  
Washington, D.C. 20006

re: Merriweather v. Howard  
Univ. Hospital, et al  
Pages 1 thru 32  
May 29, 1992

Dear Mr. Case:

Enclosed, please find the Original (unsigned) deposition of ELIAS CHARLES CHALHUB, M.D. as attempts to have the deponent read and sign the deposition has failed. This deposition is being SENT without signature,

Very truly yours,

*Robert E. Bailey*  
Robert E. Bailey

cc: Despina Tahmin, Esq.  
Marianne I. Dunaitis, Esq.  
James P, Gleason, Esq.

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## CERTIFICATE OF REPORTER

THE UNITED STATES OF AMERICA  
IN THE DISTRICT OF COLUMBIA

I, Alice Toigo, Notary Public, before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing pages was duly sworn by me; that the testimony of said witness was recorded by me by stenomask and thereafter reduced to typewritten form; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition is taken; and, further, that I am not a relative of or employee of any attorney or counsel employed by the parties thereto, nor financially or otherwise interested in the outcome of the action.

-----  
Alice Toigo  
Notary Public  
My commission expires:  
July 14, 1992



ORIGINAL

TRANSCRIPT OF PROCEEDINGS

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

CIVIL DIVISION

-----	)	
	)	
DONNO R. MERRIWEATHER, as Mother	)	
and Next Friend of	)	
JOHN MERRIWEATHER, a Disabled Minor,	)	
	)	
Plaintiff,	)	
	)	
--vs--	)	Civil Action No.
	)	91-CA4094
HOWARD UNIVERSITY, INC., t/a	)	
HOWARD UNIVERSITY HOSPITAL,	)	Calendar 10
et al.,	)	
	)	
Defendants.	)	
	)	
.....	)	

Deposition of ELIAS CHARLES CHALHUB, M.D.

Pages 1 thru 32

Washington, C.C.  
May 29, 1992

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DEPOSITION OF ELIAS CHALUB, M.D.  
[Estate of John Merriweather, disabled minor]

TAKEN ON MAY 29, 1992  
by HARLOW CASE, ESQ.

Pg/Ln

9/18 In response to did he have info available as to when con-  
tacted: "I don't keep cover letters:

25/18 Fontanelle neither proves nor **disproves** perinatal asphyxia  
at **time** of birth

5.29.1992.

1.202.296.8984.

MERVIN. U. HOWARD.

9/15 - I don't keep cum letters.

25/18 - fontmelle mirth proves new  
disproves - perinatal asst  
at time of birth.

ELIAS CHALHUB, M.D. - Deposition Index  
Merriweather vs. Howard University, Inc., et al.

- 4) Treating doctor in a back injury case.
- 11) Chronic intrauterine problem consistent with a developmental abnormality of the brain.
- 13) Don't know what caused it; not an intrapartum event.