IN THE CIRCUIT COURT FOR THE

NINETEENTH JUDICIAL CIRCUIT IN AND FOR

ST. LUCIE COUNTY, FLORIDA

TAMARA BLACK, individually and as natural parent and friend of JAHIDA BLACK, a minor, Plaintiff, versus LAWNWOOD REGIONAL MEDICAL CENTER, INC., ROBERTA SCHAPIRO-HUNTER, M.D., INDIAN RIVER MEMORIAL HOSPITAL, INC., a Florida Corporation, EMSA LIMITED PARTNERSHIP, LTD., a Florida limited partnership, and FERNANDO MIRANDA, M.D. Defendants.	*	CASE NO: 91-1516-CAO-I

The testimony of ELIAS GEORGE CHALHUB, M.D., taken at the 3217 Executive Park Circle, Mobile, Alabama, on the 8th day of October, 1992, commencing at approximately 2:00 p.m.

A P P E A R A N C E S

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CAROL CARMACK
COURT REPORTER

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EXHIBITS

(Original exhibits retained by Mr. Lucas)

ELIAS GEORGE CHALHUB, M.D., having first been duly sworn to tell the truth, the whole truth, and nothing but the truth, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. LUCAS:

Q Doctor, could you please state your full name?

A Elias George Chalhub.

Q And your current address?

A 1720 Spring Hill Avenue, Mobile, Alabama.

Q And you are a physician?

A I am.

Q And in what specialty do you practice?

A In neurology with special competence in child neurology.

Q Just prior to this deposition you gave me a CV. Can I take it that this is the most recent CV that you have?

A Yes.

Q So we will probably attach that as Exhibit

A or Exhibit 1 for the plaintiff.

(PLAINTIFF'S EXHIBIT 1 RECEIVED AND MARKED FOR IDENTIFICATION.)

BY MR. LUCAS:

Q Doctor, were you employed by either a law firm or a party to be a witness, particularly an expert witness, in this case of Tamara Black against Lawnwood Regional Medical Center, et al.?

A Yes.

Q By whom are you employed?

A By Mr. Gay.

Q At what time chronologically were you employed by him?

A I believe sometime in the fall of 1991.

Q At that time, were you employed for purposes of trial, if that was to be necessary, or were you simply consulted to give your advice?

A No. I assume that that was if it proceeded to that, that I would testify at trial.

Q In what specific areas were you asked to review or to provide expert opinions?

A In the area of causation and life expectancy of this child.

Q Were there any other areas?
A No.
Q Were there any subdivisions of those areas between causation and life expectancy in which you were asked to give opinions?
A Well, give me some examples. I'm not sure I know what you mean.
Q Okay. What I'm trying to do is to make sure that I include all of the areas in which you have or were asked to give opinions, and if there's something that would not be included within causation or life expectancy, I'd like to know that, and if I'm missing anything.
A I don't know what you're alluding to. I don't know what a subdivision of that is.
Q Let me put it this way. Can you give me the opinions that you have formed as to causation as completely as possible and in general before we go into any specifics?
A Sure. This child suffered a viral meningoencephalitis which resulted in severe and global brain damage.
Q When you say severe and global, what does

that mean?

A Severe, I don't know how to define that other than bad and diffuse, involving the entire brain.

Q That's what you mean by global?

A Correct.

Q I may ask you some words that have become extremely clear to me during the process of this litigation, but would not be fair to someone hearing the deposition or the testimony for the first time, such as a lay person on a jury.

A Okay.

Q There are also instances where, notwithstanding the fact that I've been involved with this litigation for some time, I do have difficulty with some medical terminologies, so I ask you to put it into layman's terms?

A I will be happy to.

Q And, as you've already done, if there's something I ask which is not clear, whether it be a word, phrase or paragraph, please let me know, and I'll do my best to rephrase the question so it will be clear.

A Sure.
Q Can you describe with greater detail the specific infection or virus or disease that affected this child?
A Yes. I believe that this child suffered a viral meningoencephalitis, most likely due to an enterovirus, which resulted in vascular and direct injury to the brain of this child.
Q Can you state with any degree of medical probability at what point it becomes clear, from what you have reviewed, that she had had this viral infection, at what point in time?
A At the time that the child began having focal seizures and then had a lumbar puncture.
Q And that would be when?
A Sometime at Indian River Hospital, I believe on either the 23rd or 24th.
Q While we're on that point, may I ask you what you have reviewed in this case, what was sent to you?
A Okay. The Lawnwood Regional Hospital's, Indian River Hospital's, Good Samaritan Hospital's, the University Hospital records; New Medico; Dr.

Charash's report, Dr. Greer's report, some encephalitis statistics from the state of Florida. An affidavit of Dr. Massey. of Dr. Garlisi, G-A-R-L-I-S-I; a report of Dr. Charash, an affidavit of Dr. Reddick; CT scans of 7-23, 7-25-89 and an MRI scan; then about some twenty-odd depositions of Dr. Hutto, Dechoney (phonetic), Cullen, Garlisi, Reddick, Singer, Thornton, Whitley, Hunt, Black, Barriff (phonetic), Greer, Bailey, Schapiro-Hunter, Inwood, James -- I can't read my writing -- is it Murray?

MR. GAY: Massey.

A Massey. I'm sorry. Hosea Fernando Miranda, Mirante (phonetic), Sherry Goldsmith and Janice Hill.

BY MR. LUCAS:

Q I do not remember your mentioning Dr. Charash's deposition. Did you read that? Was that included in that list?

A I don't believe I have his deposition.

Q Okay. And do not have the report.

How do you then -- have you received any reports of the nurses from Lawnwood Regional Medical

Center who were on duty the night that Jahida Black went there, particularly Nurse Rosenburg and Nurse Grundin?

A I don't believe so.

Q Have you read Nurse Macklin's deposition?

A Yes.

Q Have you had described to you in a summary a fashion at all the deposition of Dr. Barrell that was taken one or two days ago? He was the emergency room physician at Indian River Hospital.

A No.

Q In earlier depositions, some people have received copies of all medical records, and some have received summaries or abstracts of some records. Did you receive the bulk of all of those records?

A Yes, I did.

Q Did you rely on all the materials that you have mentioned in formulating your opinion?

A Well, certainly, I took all of the deposition testimony into consideration, Obviously, I rely on the medical records.

Q Am I safe in assuming that you are not

going to be testifying on any issue that deals with standard of care? That's different than causation. That's why I'm asking the question.

A Right. I'm not at this time. That's correct.

Q Are you anticipating that you will be in the future?

A Well, I mean, if Mr. Gay asks me to, then I'm sure he will notify you, and I'll be glad to give you my opinions. But at this time, no, I've not been asked to do that.

MR. GAY: I will also say, if it's comforting, that I don't have any intention of asking Dr. Chalhub to testify on standard of care issues.

BY MR. LUCAS:

Q Okay. July 22nd is the date on which a first contact was made with Lawnwood Hospital, and July 23rd was the date on which contact was first made with Indian River Hospital. Earlier, I had asked you within a reasonable degree of medical probability when it could be defined as to when the viral infection affected this child, and you

indicated when the focal seizures started to appear. And I believe that was at Indian River Memorial Hospital. With or without any degree of medical probability, can you eliminate the possibility of the virus having been present in the child prior to that time in the hospital?

A Present where?

Q Within the child.

A But where in the child?

Q Well, the viral infection, anywhere in the child?

A Well, I think it would be unlikely to have been present in the central nervous system on the 22nd. And, you know, whether the fever was a result of the viral infection on the 22nd, I don't think I can tell you that.

Q Why would it be unlikely?

A The child really had no symptoms related to that.

Q What are the symptoms that would be related to that, to a viral infection of the central nervous system?

A Seizures, stiff neck, bulging fontanel,

positive lumbar puncture, rash, increased liver, increased spleen, clotting studies that are abnormal, elevated liver function studies.

Q You do not mention a fever. Would fever be a symptom?

A Oh, it can, but it's really not very specific. It's not very specific.

Q But would fever be a symptom?

A May or may not be.

Q What about lethargy or a lack of activity in the child's activity?

A What about it?

Q Would that, in your -- would that also be an indication of a viral infection or possible brain damage or possible brain infection?

A Well, certainly not of brain damage. I mean, I think you can be lethargic after a meal. You can be lethargic as a result of medication, as a result of fever from any source. But, you know, it's very nonspecific.

Q Dr. Barrell testified when he saw this child in the emergency room in Indian River Hospital, that he was given the history of the

child's having a temperature of a hundred and one to a hundred and three degree temperature and a history of lethargy, which he also observed and put in his own writing in the records, but for a two-day period.

He testified also that he considered this enough cause to order a variety of tests, including some of those that you've mentioned, including a lumbar puncture, which happened to prove positive, and as he wrote in his own handwriting and testified to that two days ago. That's why I asked you whether you had seen all of that.

These same symptoms that he saw were also seen at Lawnwood and no others. And I guess I have to ask why would it not be -- why would -- if it was enough and sufficient for Dr. Barrell to observe these symptoms on the morning of the 23rd, why those same symptoms would not also have been indicating a viral infection on the 22nd?

MR. GAY: Excuse me. Let me object to the form of the question and the hypotheticals. And, also, the question doesn't quite get there, I don't think, where

you want to be. But you can answer it if you can.

A I don't understand the questions or what you want me to comment on. I mean, you've got a lot of if, and's, but's and --

BY MR. LUCAS:

Q I don't have any if, and's or but's at all. I'm telling you --

A Well, I don't understand the question, so I can't answer it.

Q Dr. Barrell looked at two symptoms in particular himself in the emergency room, and that's when he ordered -- he ordered the lumbar puncture, which proved positive. And he considered both of those symptoms, a high degree of -- a high temperature that had existed over a period of two days plus a reported state of lethargy, to be symbolic of either meningitis or a brain infection. And that's why he ordered those tests. Those same symptoms were presented on July 22nd when the patient visited Lawnwood.

The question is: If those were symptoms enough to initiate Dr. Barrell's taking the tests,

much of which you have suggested here, why would it not be the day before?

MR. GAY: Object to the form and the accuracy of the hypothetical.

A Well, first of all, the child is described as alert and responsive the day before, so certainly the child wasn't lethargic. Second of all, it's a day's difference. And third of all, it's Dr. Barrell's observation in examination of the child, which is also a day different. And if that's the only two things that he would base that on, then I would tell you that Dr. Barrell probably did too many lumbar punctures, and you will just have to ask him why. I can't comment, you know, on what are his reasons for it.

But just based on fever and lethargy, unless the child looked considerably different than is recorded, it would certainly not cause me to do anything differently,

Q The day before, no tests -- you mentioned that the day before the child was seen as alert. That was by Dr. Schapiro-Hunter?

A Correct.

Q And on the same medical record, it indicates that the child was lethargic by the triage nurse and then after by Nurse Grundin. Both of them defined what lethargic meant in their depositions. That's why I asked you whether you had received them. Are you ignoring what the nurses observed as opposed to what the doctor has stated?

A No. I mean, it says here that's by history, chief complaint. Okay? The observation is by the physician, who describes the child as alert.

Q The nurse, Rosenburg, who was the triage nurse, testified that she saw the child, and those were also her observations, And Nurse Grundin -- or whoever wrote the second indication, were making her own observations, not on the history of the child shortly before discharge.

MR. GAY: Object.

BY MR. LUCAS:

Q So it's not totally based on history, according to their testimony, although that was the history that was also given to them. Were these observations somewhat different than Dr. Schapiro-Hunter's? Would you -- are you setting

those aside and accepting just Dr. Schapiro-Hunter's?

MR. GAY: Object to the question entirely, both as to form, and it's argumentative. And he says he's never read their depositions, but he's based his testimony on what he said in the medical record. But answer the question.

A You know, this is what the record states. And, you know, children with fever can appear at times to be inactive, and that's not unusual. The issue is what they appear to on exam by a trained observer, who is a physician that's going to be examining the child, and also is the impression at that time; and then, also, with the lack of any other symptoms.

Q When you say "trained observer," what do you mean?

A I'm talking about a physician.

Q And what makes a particular physician a trained observer?

A Four years of medical school, internship.

Q So graduation from law (sic) school and

licensing from the state would make that physician a trained observer of all cases that came before that physician?

A Wait a minute. You said graduating from law school.

Q I meant medical school.

A Well, repeat your question.

a Graduation from medical school and licensing in a particular jurisdiction, in this case Florida, that would be sufficient to make any physician a trained observer?

A It certainly would give them the credentials to be a trained observer, and if they have passed an accredited medical school and have a licensure, sure.

Q This particular physician who first saw the child at Lawnwood did not examine the fontanel; as a matter of fact, did not order any of the tests which would have produced any of the results that you're talking about, either with the spleen or lumbar puncture or anything else. How would that physician be able to make a determination as to whether that child had a major viral infection, if not making an

examination or ordering the tests, which you say would indicate the presence of the viral infection?

MR. GAY: Object to the form of the question, particularly the statement she didn't examine the fontanel, and she didn't record an examination.

A That's correct. You'll have to ask the doctor. But there certainly is no record, either by the nurses, by the physician, by anybody, that such existed, nor did anybody find an enlarged liver or spleen when the child went to the next facility or a third facility. So, you know, even if they did it, it wasn't there.

Q You said you read the deposition of Dr. Schapiro-Hunter?

A Yes.

Q Did you read the description of what she did when she saw and examined this child?

A Well, I read the deposition, but I read over twenty depositions. If you want to get it out, 1'11 be glad to look at it.

Q I'm asking you if you recall what she did?

A I can't recall, you know, all these pages

by memory, but since it's not a memory contest, I'll happy to look at it.

Q Those items are also not listed on the -- none of those things that you've listed, including the examination of the fontanel, is listed in the medical report.

A That's usually by observation. So, I mean, it's something that, if it's not present, most people don't record.

Q Can you say with certainty, first of all, that the virus was not present on July 22, 1992?

MR. GAY: Object to the form of the question. And, Paul, I don't do this to be confusing, but what he's testified to is his opinion as to when the virus was present in the central nervous system. When the virus was present in the body, he says he doesn't know. But go ahead and answer if you can.

A Repeat your question.

BY MR. LUCAS:

Q I'm asking, first of all, if you can say with certainty that the viral infection was not present in this child in the child's central nervous

system on July 22nd?

A I've already said that, I can't say it any different. Within a reasonable degree of medical probability, it's my opinion that it was not present in the central nervous system on July the 22nd.

Q The question I asked was -- it's the second question has been asked. The first one is: With certainty, which is not medical probability and it's not -- I mean, more likely than not, but with certainty, that it was not present in the child at that time? It's not the required legal standard for an opinion, but I wanted to know how certain you were that that disease did not exist at that time in the child?

A What disease?

Q The viral infection that affected and caused the brain damage she had.

A Well,. I can tell you unequivocally the viral infection that caused this child's ultimate problem didn't exist in the child on the 22nd.

Q How?

A Well, by my knowledge, my experience, my training, my understanding of the proper physiology

and by the evidence present in the chart.

Q You're experience wasn't present on July 22nd because you personally did not examine the child; is that correct? I mean, you didn't see the child on July 22nd.

A That doesn't have anything to do with assimilating the data and understanding the pathophysiology and in understanding what's written in the chart and --

Q I understand --

A Let me finish, Mr. Lucas.

Q No. Because you're not answering the question.

A But you can't interrupt me. Okay?

Q I can. If you're not giving me a responsive question, I will.

A You can --

Q It's one that requires a simple yes or no. It's a simple answer, and we're going to get to the very point that you want in just a moment because --

MR. GAY: Madam Reporter is going to have a most difficult time if we don't get one at a time here. What you're going to have to

do, Paul, if we continue with this deposition, is whether you like his answer or whether you don't like his answer, is let him finish it and then tell him --

MR. LUCAS: I'm not going to -- because I've watched -- you know, I have here about six, seven, different depositions that Dr. Chalhub has given, all for the defense. And in each instance -- in each one of these depositions, there is a constant attempt to avoid, on certainly a direct question and certainly an answer to the question that hasn't been asked. We're probably going to get to the very subject matter that you want to discuss, but I'd like to do it in my way and not in yours.

THE WITNESS: Well, Mr. Eucas --

MR. LUCAS: Because you've just told me that based on your experience and your background that you're going to come to a very strong opinion, and I want to go back and just establish a few facts which are very, very simple, And than I'm going to go on and ask you

how you can apply that experience in these circumstances.

Now, the first one was simply that you did not see the child on July 22nd.

MR. GAY: Well, that's a stupid question, Paul. Of course he didn't. I mean, let's not waste our time here.

BY MR. LUCAS:

Q And you have not seen the child any time since that time?

MR. GAY: Of course he hasn't. I mean, sure.

BY MR. LUCAS:

Q Is that correct? I don't think you've examined the child.

A First of all, you know, I take offense to your remarks because that's not the case. Second of all, either we can give each other the courtesy of allowing -- if you want me to allow you to finish the question, I'll be happy to. And if you'll let me finish my answer, I'll be happy to. Because regardless of whether you want it, I mean, I have my own opinions and my own thought processes, and I

will think that way, whether you like it or not.

So you'll have to accept that. You may not like it, but you can tell me that and ask me to explain it, and I'll be happy to, But you are not going to design the answers for me the way you want them.

Q Well, I won't allow you --

A So I don't want to argue with you.

Q -- to direct my questions --

A I'm not trying to.

Q -- the way you want to.

A I will answer your questions. If you don't like it or don't understand it, then state it, and I will do my best to answer the question.

Q Whether I like it or not is immaterial, but I do want to get some answers. I want to be as specific as possible.

A And I would like to be.

Q I think, judging from your CV, that you have a very broad experience, and judging from all of these depositions that you have a broad experience. And it's a compliment, and a sincere compliment. But that does not explain to me how,

with all of this experience, you can be so certain about something that did or did not exist at a certain period of time, especially given the fact that with all of the experts we've talked to in this case, nobody has come forward with that strong a feeling. So I want to penetrate this concept of experience and background and education and find out specifically what it is that gives you the basis for that opinion.

MR. GAY: Or you might ask him why he's so certain, and he'll tell you.

MR. LUCAS: That's what I'm trying to get at, but not with generalizations: with specific --

THE WITNESS: Well, don't add in all the other peripheral stuff which has nothing to do with the questions and answers, Mr. Lucas. Just ask the question and let's get on with it.

MR. LUCAS: Well, I'm sure that you're experienced in answering and asking questions, and I guarantee you, so am I. And we just are -- but I really did not anticipate having this difficulty, but I know you've had it with one or

two other attorneys, and I have found you didn't have it with some. And I was hoping that we would find ourselves in the latter category.

THE WITNESS: Well, I have a lot to do and I'm a busy person --

MR. LUCAS: So am I and so do I.

THE WITNESS: I want to answer these questions and leave. So let's get on with it.

BY MR. LUCAS:

Q Well, I want to know the basis upon which you can assert that this child did not have a viral infection that was affecting the central nervous system on July 22nd.

A Based on these records and based on what's recorded, in my opinion, the child does not have the symptoms or the signs that are consistent with that. Second of all, based on the subsequent course and the subsequent profile of this child, it's also not consistent.

Q How do you know the child does not have the symptoms if there is no record there and there are no tests that are taken at Lawnwood to indicate some of these symptoms? Some of the things would have to

be taken under certain tests. You just can't look at a child from the outside and know whether there's going to be a problem with the spleen or a problem with the liver. There's nothing there. So how would you know at that time?

A I don't understand your question.

Q I can't understand exactly how you're coming to the conclusion you do, and I'm trying to get at it. We know that fever can be a symptom of a variety of things, including a viral infection, Most of the experts I've had have said that a change in the child's behavior, the child's activity or lethargy, can also be a symptom.

Now, you've given other indications that there can be other symptoms, also, of this viral infection, and that those other symptoms are not present when the child is examined on July 22nd; is that correct?

A I don't understand that question.

Q Well, let's start from the beginning, then. Can fever be a symptom of a viral infection?

A Sure. I've already told you that.

Q All right. And can a lethargic state also

be a symptom of a viral infection?

A Sure.

Q Now, you've also indicated, if we go through these slowly, what other indications you would like to see present to indicate that the child had a viral infection of the central nervous system. Those would be what?

A Now, that's a different question. You said a viral infection, and now you're saying a viral infection of the central nervous system. What do you mean?

Q You are the only person to date -- this is no criticism -- to separate the viral infection that we're talking about that caused the brain damage, and that's the only one I'm concerned about.

A I beg your pardon. A number of people in their depositions have separated that.

Q Well, I have not found them separated in the way you --

A Perhaps you need to reread them.

Q Perhaps I do. But I'm sure that you're going to help me understand and walk through them at the present time.

A Well, I'm trying to. But your questions are -- you're changing them each time, so I can't be consistent.

Q Well, that might be true, but I keep running into stone walls and not answering the question, so I'm trying to rephrase them in a way that I can get some answers.

A Ask your question. I'm trying to answer it.

Q Okay. Well, we understand that -- let's talk about viral infections. And at all times I am going to talk about a viral infection of the nervous system?

A No. Don't do that. Tell me exactly what you mean.

Q That's what I'm going to mean. Right now, I am going to tell you that when I am talking about a viral infection, I am going to talk about the viral infection of the central nervous system, the type of viral infection that can cause the brain damage that this child suffered from.

A Okay.

Q I'm not going to talk about a viral

infection like flu or a cold or anything else. The type of encephalitic infection that we believe caused the brain damage of the child -- I think we all agree that the child is permanently brain damaged by some viral infection. A fever can be a symptom of that type of viral infection. Lethargy can be a symptom of that viral infection, though it also can be -- they can be symptoms of other things.

A Sure, anything is possible.

Q Now, I am saying, let's go through those other symptoms that you would like to see present to indicate the actual existence of a viral infection to the central nervous system, which you do not believe are present on the 22nd?

A That's correct.

Q Those would be?

A Focal seizures that are persistent.

Q All right. Now, the focal seizures were not visible or present by everybody's testimony when the child went on the 22nd to the hospital?

A Absolutely.

Q According to the testimony of the -- and I don't remember -- I do remember you certainly read

the Black depositions, but I don't know whether you also read the depositions of the two neighbors who were Brenda and Rosa Mae Hunt.

A Yes, I did.

Q Okay. Now, they are indicating that they made a telephone call, indicating not only was there an increase in temperature, which the Tylenol and antibiotic did not affect, but that the child was also having, according to one of them, seizures; according to the others, jumping and flopping up and down off the mat on the floor. And this occurred on the night of the 22nd.

A That's certainly not in the record, and that's certainly not what is recorded by the nurse nor told the nurse. So I don't think it's difficult -- and I'm not saying one way or the other, but when somebody says seizures, I believe if they were told that, they would have recorded that.

Q So you're going to -- discounting, then, what the parents -- what the mother and the two neighbors say occurred on the night of the 22nd?

A No. I'm saying what's recorded here and, also, what's consistent, the child didn't have any

seizures when it got to Indian River. And the child that's continuously flopping on the floor or having seizures doesn't stop for five hours and just without any medicine, without anything, and then start having them. I mean, that's unusual.

Q If it's not exactly written as you see in the emergency room records from July 22nd -- 23rd, then it doesn't happen?

A No. I'm just saying that's inconsistent with what's in the records. If that were occurring, why wouldn't somebody take the child to the hospital right then?

Q Did you read the deposition of Nurse Macklin?

A Yes.

Q Nurse Macklin testified that she had a five-minute telephone call with a fifteen-year-old, who at that time was not identified either as the mother or Tamara Black. Subsequently, we are to believe that that was the mother. From those five minutes, we have two or three lines that are written down. Nurse Macklin also testified she does not know whether another call was made or not. She

says, to her, it was not made, but she doesn't know whether one was made.

If we assume that the call -- and I'm going to ask you to make this assumption -- if we assume that the calls are made as they are described by the Blacks and by Rosa Mae Hunt, and we add seizures to a temperature that's spiking up to a hundred and five degrees, and we also have a history of several hours of temperature that has not been reduced by Tylenol or antibiotics, and we have a child who is also reported as having continuous periods of lethargy and virtually no activity, do we then have more reason to suspect that there may be a viral infection of the central nervous system?

MR. GAY: Object to the form.

A You've got fifteen questions there. Ask me which one you want me to answer.

BY MR. LUCAS:

Q I'm putting all of those together.

A I can't remember them all. Why don't you just try to be a little more specific? Are you asking me --

Q Assume, first of all, that the calls that

the Blacks and Rosa Mae Hunt made were made as they say they were. Assume that fact right from the start.

A Which is certainly not recorded or in evidence; is that correct?

Q Well, it is in evidence. It is not recorded on that record.

A Well, it certainly is not recorded --

Q I'm asking you to make the assumption that those calls were made just for the purposes of these questions.

A What are they specifically saying?

Q They are saying that, number one, the temperature not only has not gone down, but that it has gone up as high as a hundred and five degrees and no less than a hundred and two degrees, despite the antibiotics and the Tylenol that were prescribed, and which they say were given to -- that the child, when awake, remains in a very lethargic state and is not active; and three, that the child is having seizures. They're reporting this.

A Well, that's inconsistent.

Q Those things are reported.

A Well, that's inconsistent, so those observations can't be correct.

Q Well, why are they inconsistent?

A Because you can't have seizures and be awake and lethargic. I mean, you've got to have --

Q Why? Are you saying that you must have seizures consistently?

A No. Usually, you have a postictal period. So that's inconsistent, but I will accept that. Go ahead.

Q You're saying that -- well, I take it you're not suggesting that seizures would have to be on a continuous basis?

A I didn't say that.

Q Okay. Then, in those periods when the child is not having seizures, why would it be inconsistent for the child to be essentially listless or lethargic or not acting as it normally did prior to its first visit to the hospital?

A Well, you're saying one thing, then you're saying another; that the child is jumping and flopping off the floor. And children -- generally, children that do that and have a seizure that severe

are postictal. They don't move. They're absolutely immobile, and that's not what's described. So you can't have it both ways, and I'll be glad to take it whichever way you want.

Q Well, the mother is reporting it in the only language she knows, and she's not reporting seizures. Rosa Mae Hunt's live-in companion has seizures. It's something she's seen and is saying the child has seizures. I see this happen to my live-in companion.

A Yeah. But doesn't it bother you that you -- you know, that the young lady that Rosa Mae Hunt was telling had seizures, would not tell that to the nurse?

Q I believe that she did tell it to the nurse. She testified that she told it to the nurse. And I've asked you to assume that she told it to the nurse, yes, in those words, and why she was using that word. I'm asking you to assume that to be true.

A Okay.

Q So if we have the two symptoms that were present, at least according to the nurses, and again

present in terms of the change of the attitude, behavior, spiked temperature up to a hundred and five, a hundred and two, and seizures, would not those three be indications of a viral infection to the central nervous system?

A Oh, its possible, sure.

Q If you were a physician at the hospital in that emergency room or you happened to be called in as a consultant, and you happened to be at the hospital, and the child had a temperature of a hundred and two to a hundred and five, maybe varying, but somewhere in between there, and the child's behavior had changed dramatically, and you had either focal seizures, or you happened to see a general seizure, would you as a physician recommend either tests or observations or anything for that child?

MR. GAY: Let me just do this. If your going ask him those kind of questions, I'm going to withdraw my stipulation as to the scope of this testimony. We stipulated that he would testify as to causation or whatever. Now you're asking him standard of

care questions and what he would do. If you truly want to get into that, I'll just have to withdraw my stipulation because I'm not going to have him both questioned on that and then be limited to what he can testify to at trial.

BY MR. LUCAS:

Q Okay. You're withdrawing your stipulation. My question is not directing -- I'm not trying to criticize him, but I'm trying to, again, get at the question of symptoms and how you would react to them. What constitutes symptoms? What constitutes enough to warrant further activity?

A Oh, I mean, as you were presenting it, I think it would be prudent for a physician to see that child. But, again, I'm saying I have not reviewed this from the standard of care, and I am not at this point testifying --

Q I understand.

A But, given the -- you know, the rather profound and dogmatic outline that you've given, which is not the way I understand the facts, because they're surely not on the chart, yeah, I mean, I

have no problem with seeing the child, and I think the child ought to be seen.

Q If the child were seen, would you then be recommending some of these other tests, such as the lumbar puncture, or looking at the spleen or looking at the liver and doing other things under those circumstances?

A That would depend on my assessment of the child at the time the child returned.

Q Did you give any -- I know you did this, but did you give any -- did you come to any conclusions as to what type of viral infection this child -- specific viral infection this child may have had?

A Well, since there is really no culture or serology to indicate anything, based on the course of this child, based on the pattern of damage and based on the epidemiological data, I would say it's most likely an enteroviral infection.

Q Which means what?

A Which means exactly that.

Q All right, Doctor. Do you have any specific types of viral infections that might

be?

A Coxsackie, echo adenovirus.

Q You're using terms that I have not --

A There are no other terms, Mr. Lucas. That's it.

Q Could it be a herpes simplex encephalitis virus?

A No. I think that's unlikely. I think anything is possible, but that it would unlikely.

Q Why would that be unlikely?

A Well, you have, first of all, no antibody studies that are positive. You have no culture that's positive. In fact, the antibody studies would suggest that it's a type two; at least, that there were only antibodies present, and it was certainly not a type one.

Q You're talking about tests from where? Are you talking about the ones done at University Hospital?

A Well, collectively, or do you want to talk about the studies done at Lawnwood or at Indian River? You asked me about the etiology, and I was giving you the reasons.

Q Okay. And I'm trying to -- and you have given me a specific reference to a particular test, and I believe that the only place that that was done was at University Hospital, but I may be wrong.
A No. You're right. But you didn't ask me at which hospital. You asked me --
Q No, no. I understand that, and I interjected a second question to make sure I knew which test you were talking about.
A Well, if you'll re-ask your question, because I don't think I know what you want.
MR. GAY: Just so we don't get something inaccurate in the record. The tests were drawn twice. They were sent in once and that was the University Hospital.
BY MR. LUCAS:
Q I want to know why, Doctor, and if it was not a herpes -- in your estimation, it was not a herpes simplex encephalitis specifically, then what it might have been besides that? This is ultimately where I want to get.
A Well, I told you --
Q I'm trying get there by steps, and the

first one is -- all right. If you do believe, in your opinion, that it is not herpes simplex encephalitis, I'd like to know why. And I've -- and before you answer, let me explain why.

It's just that at the beginning we have a diagnosis of a viral infection a couple of days, meningitis by Dr. Thornton, the pediatrician. When a we have a diagnosis made of the transfer the child, we *go* into the herpes encephalitis at University Hospital, They proceed with the infectious disease physician on that basis. It becomes a conclusion made by the treating neurologist at the hospital, and she's treated at the Medical Center, according to the records, for opposed peripatetic encephalitic condition.

Now, somewhere along the line people made conclusions that it was. And the various physicians that I have asked, I've asked whether the condition, her clinical condition and development, was consistent with that type of infection. The response has usually been yes, even though it may also be consistent with other infections. Given that, I'm trying to -- and since you have a strong

opinion on this, I just want to get down to the basis as to why it would not be or couldn't be, in your opinion, to a reasonable degree of medical probability, herpes simplex encephalitis.

MR. GAY: Object to the form of the question. The whole preamble has nothing to do with the question. But you may certainly answer that Past question; that is, why in your opinion, is it not.

A Well, I've told you that, first of all, and at this age, in July, the -- and with this pattern of injury, number of cells, it would be unlikely due to herpes simplex and more likely, as the consultant at University Hospital suggested, enterovirus, which is what I've told you.

And because all of your preamble to that question is not entirely accurate, so I'm not agreeing to that. I'm just telling you why I think it's herpes -- I mean, why I think it's an enterovirus.

Q What would be one of those other viruses, then? What's the name of those?

A Coxsackie.

Q What are the symptoms there?
A There's an anesthetizing meningoencephalitis with vascular insult in a child under a year of age.
Q So you're considering the child's age as a major consideration of what type of virus a child might have had?
A Age, time of the year.
Q Anything else?
A Pattern of injury on the CT scan.
Q What does that mean?
A Just what it says.
Q I don't know what you mean by "pattern of injury on the CT scan."
A The pattern of the injury demonstrated on the x-ray.
Q I understand the words, Doctor. I don't understand what you mean by them.
MR. GAY: That's fine. Ask him to explain it, then.
MR. LUCAS: I just have three times.
MR. GAY: No, you haven't. You want to read it back? You haven't asked him to

explain one time. You've said you don't know what he means. But go ahead.

MR. LUCAS: And I don't know.

MR. GAY: Well, he can't help it if you don't know. You can ask him to explain it.

BY MR. LUCAS:

Q Explain to me what you mean.

A The CT pattern is that of a diffuse bilateral cortical and subcortical injury, which -- and my experience and, I think, in the experience of the literature is more consistent with a diffuse involvement on a vascular basis, not a predominantly temporal lobe necrosis that babies see with herpes simplex type one.

Q Is there any way you can break that down into a little simpler language?

A That's about the best I can do.

Q Anything else besides the cat scans, pattern of injury, the age of the child or the time of the year?

A Oh, I think those are the predominant ...

Q What is important about the time of the year?

A Well, it's in July. That's the -- certainly the time that you see the enteroviral infections at their highest peak or other types of viral infections, other than herpes.

Q How frequently does that type of an infection appear?

A Well, depending on where you are, in what a part of the country, sometimes you can see two to three hundred cases per summer.

Q Does that type of infection have any other common names that are more readily available?

A That's it, Coxsackie echo enteroviral meningoencephalitis.

Q Those are general terms.

A No.

Q There are viruses included within those --

A No, they're specific terms, very specific.

Q Did you consider the possibility of any of the other viruses that were mentioned by some of the physicians, beginning with, say, St. Louis, Eastern equine. I think California was mentioned by some. Any of those viruses?

A Well, other than California, it would be

unlikely. An Eastern equine certainly is a possibility. St. Louis is a possibility. I mean, Western equine is unlikely, and Eastern equine is a possibility, I think it's unlikely that's it's Epstein-Barr.

Q What about the age of the child indicates to you that it may not be herpes simplex encephalitis?

A Well, I think in most people's experience the enteroviruses are more common at this age than herpes simplex.

Q I guess what bothers me is we're looking at -- if I understand correctly, the reasons we're considering another virus here, that you're looking at something other than herpes simplex, is because it occurs in July, in the middle of summer, because the child is seven months of age, and because of the pattern of injury in the CT scan.

A Yes. And, certainly, the initial serology would not be suggestive of it. There was no culture positive. I mean, those are pretty strong.

Q Doctor, the strongest of those would appear to me to be the CT scan or pattern of injury. And

let me see if I can't develop something else. Have you done any -- are you aware of any studies, or have you done any studies on herpes simplex encephalitis and the numbers of people it affects below the age of one year?

A No, I have not done any studies.

Q Are you aware of any studies?

A Yes.

Q Can you give me those studies, or can you give me -- and as well as the results of those studies?

A Well, I can't -- you know, I can't recall all the data. There are numerous articles written by Charles Alford, by Sergio Stagno (phonetic), by Andre Namnius (phonetic), by Stole (phonetic); Richard Whitley, Ralph Figun (phonetic); Sheldon Kaplan.

Q I've read some studies of two of the people that you've mentioned. I don't recall anything dealing specifically with the lack of commonness of herpes simplex encephalitis, particularly with children below the age of one or two years of age or anything for that -- that's what I'm out looking

for.

A I'm sorry.

Q Can you give me any guidance as to where I might find that?

A Well, I've given you the names. I can't -- you know, I can't tell you by memory.

Q I've got to ask this: Are you saying that within a reasonable degree of medical probability that a child of seven months of age could not have herpes simplex encephalitis in the state of Florida in the month of July?

A No, no. I did not say that; have never said that. You asked me what I thought was the most probable wild etiology, and based on the fact, based on the laboratory data, based on my experience, based on my understanding of the literature, it would be an enterovirus. It's possible that it's another virus. There's no evidence to suggest that it is herpes.

Q No evidence at all to suggest that it is herpes?

A No.

Q Doctor, what do you think -- do you think

that when the child presented herself to Dr. Barrell in the emergency room in Indian River Memorial Hospital, did this child have a viral infection of the central nervous system?

MR. GAY: Object the form of the question. The child didn't present herself. Go ahead.

A Well --

BY MR. LUCAS:

Q The child was presented by her parents.

A Well, certainly, at that time -- you know, again, the child was really pretty much the same as the -- in terms of the -- as was described. But I believe that more probable than not, the child probably did have involvement of the nervous system at that time.

Q Doctor, I don't know whether you have them in front of you or not, but do you recall where Dr. -- well, first of all, do you recall that Dr. Barrell's lumbar puncture had a positive result?

A What do you mean by a positive result?

Q Well, he indicates that there was a positive laboratory finding when he ordered for a

lumbar puncture, And I wanted to ask you, first of all, whether you remembered that in the record, and, secondly, whether you remembered exactly what that finding was?

A No. He didn't indicate it was positive. Did you have a specific question about it?

Q Yesterday in his testimony and two days ago when he pointed to the record where he placed it in the record himself that he had a positive result of the lumbar puncture test that he had to the laboratory, and the reason I remember that distinctly is because he said, that's my writing and my note. All the other tests he had were negative, but that was the one exception.

A Can you show me where he said that?

Q That would be on the -- I think the second page of the note from Indian River Hospital where he indicates the tests on the right-hand side. And he's got a note indicating positive, if you have those records in front of you.

A Are you asking whether it's abnormal? I don't know what you mean by positive. Positive is a lot of things.

Q First of all, did you review the records of the lumbar puncture that were taken or ordered by Dr. Barrell at Indian River Memorial Hospital?

A I did.

Q Was there anything there consistent, in your opinion, with herpes simplex encephalitis?

A Well, it may possibly be consistent. There was an increase, small increase, in number of cells. But, again, the usual number of cells with herpes simplex is over a hundred: usually in the hundreds, And, you know, I believe it was -- let's see. -- fourteen or nineteen cells; nineteen cells, nineteen white blood cells. Yes, that is abnormal.

Q Could that be a symptom along with the other symptoms of herpes simplex encephalopathy?

MR. GAY: Excuse me. Let me object. It's not a symptom. But go ahead.

BY MR. LUCAS:

Q Well, let me go way back at the very beginning of the deposition when I first began asking you what would be the symptoms of a viral infection of the central nervous system, which would include herpes simplex encephalitis. One of the

things you said was positive L.P. puncture, which we have there. Now, if we're changing the terminology, that's fine with me. But that was one of the things you said at the very beginning.

A Well, I don't believe that was your question. You asked me what it was that led me to believe that that was the case. Now, a symptom is a a physical finding. This is a laboratory test. I mean, we're talking about semantics. But this is a laboratory finding.

Q I understand, But if we went back -- because you were mentioning as a whole group of things, it. began with seizures. Seizures -- the next thing, I think, was a bulging fontanel, and the third or fourth item -- because I think I missed the third item -- the fourth one was a positive L.P. puncture.

A Well, it's a laboratory test --

Q It's a laboratory test --

A -- which you use in your evaluation.

Q I understand. But would that be symptomatic of -- and maybe it is just a matter of terminology, and I'll be glad to change the

terminology. They all came out together at one time or symptoms. You can divide between symptoms and indications that there's a major viral infection, however you want to do it. Tell me how to do it, and I'll --

A Well, first, it doesn't decide whether it was major or minor. Okay? It's an indication that there is an inflammatory response in the central nervous system. Okay? And that's nineteen cells and it is abnormal. I don't call that positive.

Q What would you call positive?

A Well, it depends on what you're asking. Positive for what?

Q Well, I'm asking now for indication of an infection of the central nervous system by viral infection. I'm using your words, positive L.P. puncture.

A No, no. I didn't say positive. Those are your words.

Q Well, okay. Well, I'll put these in quotes from the beginning when I asked you what would be the indications or what we would be looking for, if we could find a major viral infection of the central

nervous system. The words positive L.P. puncture were said by yourself in a completely different countenance. Dr. Barrell also used the term positive results with the L.P. puncture.

A Well, let's put it up abnormal. Positive, you have to tell me, you know, what you're referring to in what context. Now, if you're talking about positive culture, no, there's no positive culture. In terms of abnormality of the spinal fluid as compared to a normal child at that age, yes, I agree it is abnormal.

Q Most of the time when I have tests -- or most of the doctors I speak with, when they talk about having a negative result, they usually indicate that things are normal; go home; it's not a problem. As a matter of fact, Dr. Barrell referred to all of the other tests that he took as negative because everything he took appeared to be normal. When he used the word positive, and he specifically also attached to that, that he (sic) was abnormal. You've used the word positive, and I assume -- only assume, apparently incorrectly, that when I said positive L.P. puncture, that meant something that

was abnormal or unusual, not --

A I don't know what you're hung up on. Dr. Barrell is entitled to express things the way he wants. You know, and if you are asking me now in this context the response to this question, I would refer to the spinal fluid as abnormal or normal; cultures as positive or negative.

Q Okay. That wasn't quite the terminology you used originally.

A Sir, it was in a different context. Okay? I think there was more of the question. But I'm telling you, forget all that. I'm answering the question as I understand it now this way.

Q That abnormality of the lumbar puncture would be consistent with a variety of infections of the nervous system; is that correct?

A That is correct.

Q Included within which could be herpes simplex encephalitis?

A Yes.

Q As well as those viruses which you have specifically mentioned and believe affected this child?

A Yes, alone and only alone; not taken into context with everything else and the clinical condition and the evolution of things and the subsequent clinical picture.

Q We're talking -- when you say, "alone," we're just talking about right now, the --

A Nineteen cells.

Q We're not talking about with anything else? That's just taken by itself?

A You don't practice medicine based on one test.

Q I understand. For the type of viral infection you believe this child had, where does a child normally obtain or acquire this type of infection?

A In the respiratory system or gastrointestinal tract.

Q Is it usually from an intake of water or food or contact with people?

A Usually contact.

Q And if a child takes this viral -- this type of viral infection, can this affect the child in a way that it doesn't affect the central nervous

system?

A Sure.

Q Is that the normal way in which that type of virus affects the child? In other words, it does not affect the central nervous system?

A Viral infections aren't normal, so, no.

Q If a child normally obtains the type of viral infection you believe this child had, does it usually strike the central nervous system?

A You don't acquire viral infections, normally. I don't know what you mean.

Q Let's try to change the words a little so I can be clear and you can be. Let's assume that a child -- that children acquire the type of viral infection which you believe this child has acquired. Once the child has acquired that virus, does it normally affect the central nervous system, or does it normally affect the child in another manner?

A Well, I don't think anybody really knows that answer because you don't do spinal taps on a large number of those children. But the majority of them will have headache, fever, myalgia. And if you did spinal taps on those, I'm sure a lot of them

would have cells in their spinal fluid.

Q Would a lot of them suffer from this type of severe brain damage that this child suffered from?

A No. A small number.

Q Okay. So could you give that in percentages?

A No. Because I don't know how many have involvement of the central nervous system. I'm not sure anybody knows that.

Q How would the -- when -- how would the infection move to the central nervous system? What would normally be the process by which it would affect the brain as this brain has been affected?

A It's usually blood borne.

Q Can you give any type of estimate as to the number -- you said small number -- what percentage at all, ball park?

A You have to know what percentage have cells, and I don't think anybody knows that.

Q Assuming the child had the type of viral infection which you believe the child had, from the objective, scientific evidence -- well, let me go

back again. Two questions I want to ask. Other than -- and I want to put aside age, and I want to put aside time of the year. Other than the CT scan pattern of injury, is there anything else that you see in the record from a scientific viewpoint in an objective record from the tests that were taken that points to that particular type of viral infection?

A Well, really, all of the things I've said, when you take them collectively.

Q So the only scientific thing there that we're talking about is the position or the pattern of injury in the CT scan?

A No.

Q Okay. What else?

A No. I mean, that's not -- everything is scientific. Maybe I don't know what you mean by scientific. I mean, the practice of medicine is scientific. The interpretation of data is scientific. Epidemiological data is scientific.

Q The fact that a child is --

A Wait a minute. You're interrupting me.

Q I'm asking for what in the tests taken anywhere in all of the work that was done on this

child before she arrived at New Medico other than the -- anything, the position of the injury, of the CT scan, points to the viral infection that you believe this child had?

A I've given you those, both the positive and the negative. And I don't know what you mean by New Medico. You're talking about New Medico.

Q It's the facility where she's presently located.

A Oh, okay. Excuse me,

Q That is following University Hospital.

A Okay.

Q When she went to Good Samaritan, she went to Good Samaritan from New Medico. New Medico is a --

Q Well, I'm aware of what New Medico is, but I didn't know what you meant in the context of this.

Q Okay. Essentially, by the time she gets there, people have already made the determination, right or wrong, that she's suffering from a herpetic and encephalitic condition. What they're really treating is the status she now has, not the causation of the disease.

A There is no question that she suffered from meningoencephalitis. I don't think there's any question about that.

Q Is there any way of scientifically making a determination that she did not have that infection when she first arrived at Indian River Memorial Hospital on the morning of July 23rd?

A I don't know what you mean by that.

Q Well, seizures become extremely important as the child's at the hospital, at Indian River. They increase in intensity and increase in number. They're observed at least once an hour, and the parents are reporting them more frequently to the nurses, who only go in once an hour. By this time most of the experts have talked and believe that that infection is rather apparent. It's current. It's there when she's at Indian River Hospital, Is there any scientific way of eliminating the possibility that it existed at the time she came into the hospital?

MR. GAY: Object to the form of the question. But go ahead.

A Scientific ways of eliminating what?

BY MR. LUCAS:
Q In other words, was it possible she had the infection when she went into the hospital at seventy-thirty in the morning at Indian River?
A Sure. I told you an hour ago it was possible.
Q These seizures do not have to occur concurrent with the infection when it first strikes the central nervous system. Would that be a fair statement?
A Now, which infection are you talking about? Are you talking about infection --
Q A viral infection of the central nervous system --
A Any viral infection --
Q -- that can cause the brain damage of this child. Seizures occurred at some process of that infection, and she has seizures now. She will always have seizures.
A Well, I don't know about that. So what's your question?
Q The point is that she could have had the infection, and it could have been penetrating her

central nervous system without her having seizures.
A Yeah. But how are you supposed to know that?
Q Well, that's just the question. You don't know whether she does or not. She could have had the infection without having evidence through seizures.
A Sure. Anything is possible, but it's certainly not evident.
Q You've indicated that within -- two things; with a medical degree of medical probability, she had the viral infection of the central nervous system at some point when she was at Indian River Memorial Hospital, You've also indicated in your opinion within a reasonable degree of medical probability that she did not have that infection at Lawnwood.
A No. You asked me if I thought it was more probable than not, and I think it's more probable than not she did not. Anything is possible.
Q Okay. Doctor, I'm really not trying to trick you.
A But I want to make sure that you

understand what I'm saying and that there's no misunderstanding. See, you tend to ask questions vague and then try to be specific and paraphrase me, which is incorrect.

Q What I try to do --

A Your paraphrasing me is incorrect.

Q I do try and ask general questions then become more specific.

A Don't paraphrase me. Just ask me and then answer the question -- let me answer my own questions.

Q Doctor, I'm trying to do that. And also realize that the standard that we use in Florida is medical degree and reasonable degree of medical probability.

A That's the standard we use in Alabama, too.

Q Absolutely certain it is out -- went out the window, and I'm glad for that. Possibilities exist. And I'm just trying to define these things. Am I correct in stating that in your opinion, within a reasonable degree of medical probability, the child suffered from a viral infection of the central nervous system at Indian River Memorial hospital?

A Yes.
Q Am I also safe in assuming that within a reasonable degree of medical probability the child did not have that infection in your opinion when she presented herself at Lawnwood?
A Yes.
Q Is it possible that she had that infection as early as July 22nd when she first appeared at Lawnwood?
A It's possible, sure.
Q You don't believe that she had it; it's more probable that she did not, but you --
A Plus, there's no evidence that she had that; that's correct.
Q Okay. When you say there's no evidence, you're basing everything solely upon the emergency room records from Lawnwood Hospital from both July 22nd and July 23rd?
MR. GAY: I'm going to object to this. It's repetitive. He's already answered it, and you can ask it again. And I suppose you can.
A Lawnwood, Indian River, University --
BY MR. LUCAS:

Q All right.
A Wait a minute, now. You're going to let me finish. Okay?
Q But I have to go back and ask them.
A You can go back and ask whatever you want. All of the records, all of the clinical picture, okay, that's what it's based on.
Q I understand what you're saying. But do you understand that there's a discrepancy in between the testimony of some of the witness and what appears on the records from Lawnwood Regional Medical Center? You're relying, are you not, on the accuracy of the records from Lawnwood Regional Medical Center on July 22 and 23?
A Sure, I'm relying on that. I'm relying on the subsequent records at Indian River, the subsequent records at the University Hospital; my knowledge, my expertise, my understanding of the pathophysiology of the process and my understanding of medicine. Yes, I'm relying on all that.
Q If there is a discrepancy between the testimony of witnesses and the records from Lawnwood Regional Medical Center, you are choosing to accept

the view -- the records as presented from Lawnwood Regional Medical Center?

A Yeah. Really, this is the only objective data that you have are the records. Now, if that's inaccurate, then you need to tell me that that is inaccurate and that these are thrown out and we're not accepting these and give me a new set of facts.

Q Okay. Doctor, I'm not -- Doctor, I'm really not trying to ask a trick question. I'm simply trying to get that aside and throw it out so that I can then move on to something else.

A Well, I'd be glad to move on to something else, but, you know, the records are the records. I can't change them and you can't change them. I mean, that's what we have to go on.

Q But the question goes back to if there is a conflict between the testimony concerning what calls are made or what information was given, what symptoms the child has and the records you're reviewing. For the purposes of your opinions, you're looking at those records, and you're taking those at face value.

A That's what I have to work with, Mr. Lucas.

Q Okay. That's fair. I'm not -- I don't think I've asked this question. I've asked you about the reasonable probability at Indian River Hospital of having the viral infection; the absence of that at Lawnwood; the possibility that she might have had the infection at Lawnwood.

Now, can you say one way or the other, with a reasonable degree of medical probability, that Jahida Black had or did not have an infection of the central nervous system when she first appeared at Lawnwood Memorial Hospital?

A You've already asked me that five times, and it doesn't change. It's possible.

Q All right, sir. Now, you've answered the possibility. I'm now trying to move to that step of reasonable degree of medical probability when she -- or can you -- that's what I'm saying, maybe one way or the other you can't answer.

A I think based on having subsequent records and having the ability to look at this whole course, it's probable that she did, upon arrival at Indian River, have a viral meningoencephalitis. The fact that it was evident, no.

BY MR. LUCAS:

Q All right. That's fair.

THE WITNESS: Why don't we take a break. Let's give her a break a minute.

MR. LUCAS: Okay.

(BRIEF RECESS)

BY MR. LUCAS:

Q Doctor, I'm going to jump to the other subject matter for a moment. I understand the second -- first of all, are there -- you've expressed the viral infections that you believe this child suffered from which caused her brain injury. You've also indicated that which you do not believe the child has. One of the things we maintain is herpes simplex encephalitis within a reasonable degree of medical probability. One other question has come up on a couple of the different Occasions, and that is the brain -- notwithstanding, regardless of the etiology that led to the seizures, that the seizures of and in themselves could have caused the brain damage, and that if not treated appropriately and quickly, and the seizures repetitiveness in itself can cause the brain damage. Do you agree or

disagree with that?
A I disagree,
Q Okay. Why do you disagree with that?
A Because in this particular case, focal seizures and seizures that this child had would not cause permanent brain damage.
Q Is it safe to say, then, because there are others who've said this, that you cannot separate the seizures from the viral infection and that together they're creating brain damage?
A No, that's not safe to say.
Q Then you don't believe that the brain seizures had any effect on the brain damage other than -- other than themselves?
A No, I don't.
Q Okay. There is one period of time at which the child was at Indian River Hospital, and there was an indication that she had a problem of getting sufficient oxygen to the brain. I believe they ordered a tank and a tent to be placed over her, which at least one observer has said probably was caused by the seizure activity. If the seizure activity is such that it causes a failure of enough

oxygen to get to the brain, would that in any way alter your opinion as to the effect of seizures and the brain damage she suffered?

A It's not the oxygen. It's the lack of blood flow, and I don't think that was sufficient to do that.

Q Well, the lack of blood flow -- one of the problems, though, is it doesn't carry oxygen to the brain; is that not correct?

A That's one of them, but that's not the main problem.

Q Then within a reasonable degree of medical probability, would it be your opinion that the brain seizures of and in and of themselves did not contribute to the child's brain damage?

A That's true.

Q On life expectancy, how long do you expect this child to live?

A Less than two decades.

Q That's within twenty years from the time that she was first infected?

A Yes.

Q Okay. On what do you base that?

A Well, I base that on the fact that the child has severe involvement of the nervous system with profound mental retardation, visual impairment, spastic quadriparesis, is not ambulatory, is not bowel or bladder trained, has contractures, kyphoscoliosis, involvement of the otopharyngeal muscles: and the fact that the literature would support this, the fact that my experience and knowledge taking care of children with severe impairment would support that.

Q When you are speaking of the literature, are you referring to the Ivan (phonetic) Grossman study?

A That's one of them, sure.

Q Is there anything else besides that you're referring to?

A Oh, I think there's a long series of literature over a number of years that would support that. Plus, I mean, that's just the fact of the matter and the way things are.

Q The reason I've asked you that is because the terminology you're using is so similar to the terminology used in the explanation of that study,

both in the book and in the article. And it's essentially based on this approach.

A Well, what other -- those are just descriptions of a severely impaired child. I mean, there's only one way to do it.

Q I take it, then, that you're relying in part, at least, on this particular survey?

A Oh, I think it's good data.

Q There are many who have told me that this is -- up to the time that this particular data was produced, that there was not an adequate data base in the United States on this particular subject, and it's been the best study that has been made on that subject.

A Well, you have to take the data and look at it separately and individually and the parts of it. Collectively, I would agree with you that that's the single best study. But there are certainly subsequent things that have also been quite good, too.

Q What subsequent study?

A Well, there are articles and then additional observations in the literature supporting

the fact that the time periods are quite accurate.

Q Do you know offhand what --

A Well, they've had an article in the New England Journal of Medicine. They've had --

Q They had that in 1991, I think.

A Right. And then there are some -- there are several articles by Bal (phonetic) Bassarini (phonetic).

Q Can you spell that?

A No. I'm not very good at that.

Q Sounds like an Italian name. I'll put down an Italian spelling.

A Yes.

Q Doctor, I asked you earlier whether you had seen this child. You indicated no. You had given a deposition in another case which took place in Florida -- first of all, I'll ask you, have you ever testified in Florida before?

A Yes, I have.

Q And you've been qualified as an expert witness in several courts in Florida?

A Yes.

Q Do you remember how many times you've been

in Florida as a witness.

A In trial?

Q Yes.

A Gosh, less than ten.

Q That has been primarily for the defense?

A Yes.

Q If I remember correctly -- I'd have to go back to your CV, but you're also licensed in Florida?

A Yes, I am.

Q Doctor, in this one particular case, which was Stewart versus Goldschmidt -- and I believe you were asked a number of questions by -- the Searcy firm or for the plaintiff was probably asking you this question. On Page 20 of that deposition, which was taken on July 19th of 1989, you were asked the question (reading): In other cases in which you have testified you have examined the brain-injured child; have you not?

ANSWER: When I have been asked to give life expectancy, yes.

QUESTION: Does the physical. examination of the injured child help you in

arriving at your opinion as to causation?

ANSWER: Yes, sometimes it's very important.

QUESTION: What other factors than that physical examination gives you that (inaudible) review of depositions and charts does not?

ANSWER: Well, I think you know the opportunity is that sometimes when the laboratory data and the sequence of events may be inconsistent, that some of their conclusions help you arrive at your conclusion, just particularly when the child has not been examined by a neurologist or a pediatric neurologist. And most have had general practitioners because one is trained to look at the nervous system in a different way.

Does that sound familiar to you?

A Sure.

Q Did you not feel it necessary to examine this child in order to make your determination in terms of life expectancy?

A No. I mean, you've had the child examined

by Dr. Greer, Dr. Charish. I mean, they're all consistent. I mean, I don't think there are any inconsistencies in the findings.

Q Okay. So you're relying essentially on their examinations?

A Yes.

Q Did you see the report from Dr. Singer?

A Yes.

Q I can't recall -- there are a lot of definitions in this case -- whether you have read the deposition of Dr. Singer.

a I did. But if you're going refer to it, you're going to have to show it to me because I can't tell you that I can remember it.

Q I'm not going to refer to the deposition. As you know, his opinion is somewhat different from both Dr. Greer and that of Dr. Charish.

A On what?

Q The longevity of the child. That's why I asked if you'd seen the report.

A Yes.

Q And he indicates, notwithstanding the condition of the child, which essentially he's

described, as you have, in terms of where the child is today mentally and physically, that the child had up to the fifth or sixth decade of life. He's also based that on some of his own observations and experiences.

A Well, I'd have to say that that's certainly not my experience nor the experience of my colleagues. I'd ask him where those children are because I don't see them.

Q Dr. Spigotto (phonetic) and Meranti (phonetic) and Collin, I believe you read their depositions. I don't think they made reports, but all indicated within the fifth decade, based on their experiences, as did Dr. Bailey.

A Right. I'd just have to tell that they would have to show you where those children are. They don't exist in Alabama. They don't exist in Arkansas. They don't exist in St. Louis. So I don't know where they are.

Q Okay. Doctor, can you give me a little bit of the benefit of the experience you've had in working with children who have been brain damaged --

A Sure.

Q -- and where that experience has been and the type of facilities where that has been?

A I was in charge of all of the chronic care facilities for children in the state of Arkansas for two years and have been involved in chronic care facilities, really, ever since I began practicing in 1976, and certainly in the chronic care facilities in Alabama and Georgia. So I think I've rather extensive experience in that area.

Q I can't recall offhand in which of these depositions, but one of the -- I think one of the depositions indicated that you had two years in a facility that dealt with particularly dangerous patients, people who would either be dangerous to others or dangerous to themselves.

A Well, that's unfortunately the definition in the state of Alabama for children that are severely retarded or adults that are severely retarded. That's the definition for admission.

Q What do they mean by that? Obviously, it's not --

A It means they're either dangerous to themselves or dangerous to others. What does that

have to do with this? I mean, I don't --

Q Well, I'm trying to find out the specifics. That's why I asked specifically the breakdown of the type of experience you've had, which has been broad, but not necessarily explained to me in anything that I've read.

A I was the director of the chronic facilities for children in the entire state of Arkansas. As a pediatric neurologist, I have been in charge of the crippled children's programs, which are severely impaired children in Mobile, and to a certain extent, the southern part of Alabama. I've done that in Arkansas and also in St. Louis at St. Louis Children's Hospital.

Q Okay. I notice that in many of the depositions that you were called as an expert in prenatal or prinatal (phonetic) cases. Do you have a particular specialty in that area, or does it just happen to be coincidental that you were called in cases involved --

MR. GAY: Excuse me. Let me object to the form of the question.

A You know, I mean, I am a pediatric

neurologist. That's what pediatric neurologists deal with, so I am an expert in that area.

BY MR. LUCAS:

Q I understand that. But we're dealing with somebody beyond that age, beyond that point, between seven years and two years. I'm trying to find out what type of -- whether you have concentrated just across the board with all children, with children and adults or children or a specific age?

A Well, I mean, the predominant number of children are involved under a year of age, so you're going to deal with them predominantly. But I am, you know, board certified in both adult and child neurology. So I'm a child neurologist and I deal with children of all ages.

Q Several of the cases in which you testified in Florida dealt with prenatal cases or cases in which brain damage occurred at birth, and you gave some very extensive background in that area. And perhaps I just have not seen some other cases, and that's why I was wondering whether you -- a lot of people concentrate -- some physicians will concentrate on that one particular period of time,

regardless of what they may be board certified in. And I'm just wondering how broad. And you've explained to me that you're not limited to that one area, is that correct, that one age limit, prenatal and --

A Well, but I don't know what you're talking about. I mean, you know, you're talking about something that I'm not aware of, so I can't comment on it,

Q You have testified in Florida?

A Yes.

Q You have testified in cases involving prenatal injuries, particularly brain damaged children, and also occurring shortly after birth?

A Prenatal, natal and postnatal, yes.

Q And that is one of the areas in which you have done a great deal of your work and gathered a great deal of your experience?

A Sure.

Q What I'm simply asking is, and I think you probably have told me that that is not the -- that you don't limit yourself to that area, but your experience has been as varied in other age groups

involving pediatrics and children?
A Yes.
Q That was not apparent from the depositions, and I just wanted to establish that. And I take it, then, that the experience that you've had in Arkansas and the experience you've had in Alabama and St. Louis are across the board in children of all ages?
A Yes.
Q Is your current practice -- is it a private practice, or are you involved with a state agency?
A No. I have a limited private practice now.
Q And that practice is devoted to what?
A To children.
Q Children. Exclusively children?
A Yes.
Q Okay. You also do, obviously, forensic work for the courtroom and for trials. How much of that -- how much of your income is derived from that?
A Oh, I would say this year, probably ten percent or less.
Q When you say you Rave a limited practice,

you mean limited in terms of the age group with which you've dealt, as opposed to limited in the number of patients you see?

A Both.

Q I didn't know what you meant by that.

A Both.

Q But ninety percent of what you're doing is derived from the medical practice that you're providing in the pediatric neurological treatment of children?

A No. I didn't say that.

Q Okay. Then, if ten percent is devoted to forensic work for litigation of various types, what would be, from a medical viewpoint, the sources of your other income?

A Well, my investments; my other income and then my position as president of the Mobile Infirmary.

Q What is the Mobile Infirmary?

A It's a seven hundred and four bed tertiary care hospital.

Q For pediatric patients or --

A No. It's a community hospital.

Q And I take it that that takes up most of your professional time?

A Yes.

Q So when you say the limited practice is that time which you do not have to devote to the administration and responsibilities at the hospital, but the time you do have to devote to patients would be --

A That's correct.

Q Approximately how much of that time is spent with the pediatric patients?

A About five percent of that time.

Q So the, say, seventy-five to eighty percent of the time, then, which you work professionally, is that the administrator and director of this facility?

A You know, I work there every day.

Q I know that but I'm saying in terms of --

A The majority of the time is devoted to the Mobile Infirmary.

Q And the Mobile Infirmary, is there any particular type of patient that they see or any particular type of problem, or is it just a --

A It's the largest nonprofit hospital in the state of Alabama.

Q Approximately how many times do you testify a year?

A Two or three times a year in court.

Q And where do you practice other than Florida and Alabama?

A Depending on where I've been asked. It's predominantly in the southeast.

Q Are you in Florida more than once a year --

A Well, my parents live in Florida so I am, yes.

Q -- in terms of the witness in a case?

A No. I don't think -- it's been a long time since I've testified in court in Florida.

Q You've probably been told, at least for the time being, trial is set for November 10th. I take it that you **will** be available for trial?

A Yes.

Q That doesn't surprise me. Doctor, a couple of things you've mentioned that you had reviewed, and one of them **was** some statistics that you had received from the state of Florida.

A Yes.
Q Would you look at those for a moment?
A Sure.
Q I think I've seen this one before.
A I believe you have.
Q I would just like -- it is a clean copy. I'd like to attach a copy of this as Exhibit B. Going back to the viral infection that you believe affected this child, assuming that that particular virus was diagnosed immediately, what type of treatment can you give to that?
A There is none.
Q And if it does affect the central nervous system, then it would ravage that system without hope of any medication to correct it?
A Well, there is no medication to treat it, that's correct.
Q Okay. That's B. I also asked, I think, in the notice of taking deposition we sent out to review the correspondence that you'd received.
A Sure.
Q Can I look at that, please?
MR. LUCAS: Off the record.

(Off-the-record discussion)

BY MR. LUCAS:

Q Have you received others?

A Twenty-two depositions, yes.

Q All right. And that's in terms of letters and --

A Yeah.

Q -- stock exhibits or --

A Mr. Gay and Mr. Reardon always put a cover letter in.

Q Okay. So --

A And --

Q -- along with a simple cover letter, this is the correspondence?

A That's all I've got.

Q Okay. You had, I take it, a conversation with Mr. Gay today, obviously?

A Yes.

Q Have you spoken with him before on this case?

A Yes, I have.

Q May I see that other document you have in front of you?

A Affidavits, report of Dr. Charish, the subpoena, affidavit of Dr. Massey, an affidavit of Dr. Garlisi.

Q Okay.

(PLAINTIFF'S EXHIBITS 2 & 3 WERE MARKED FOR IDENTIFICATION.)

MR. GAY: The last exhibit and the correspondence was marked three.

BY MR. LUCAS:

Q And I take it that the other things you have before you are the medical records that you reviewed?

A Right. And these are statements by Tamara Black. Is that --

Q Feda (phonetic).

A -- Feda Black and Rosa Hunt.

Q Okay. Those are statements -- they were subsequent depositions that were taken afterwards. Did you also read the depositions?

A Yes, I did.

Q And, also, that one, Brenda, whose last name I can't recall?

A (Witness nods head affirmatively)

Q Doctor, I'm going to go back for one second, and I've got to ask this again. Understand it's because I'm not going to have the opportunity to see you again until trial, and I want to make sure that I've covered everything.

But the basis upon which you believe within a reasonable degree of medical probability a particular virus affected this child, not herpes simplex encephalitis, was the time of the year, July, that the child was infected; the age of the child, which was below one year; and the pattern of the injury and the CT scan?

A And all the negative laboratory data, the subsequent clinical course, my knowledge and expertise in the pathophysiology of viral infections, yes.

Q Is the clinical course of this child's development from the time that she arrives at Indian River Hospital, all the way through University Hospital, is that consistent with an infection from herpes simplex encephalitis in addition to -- I'm saying, also, consistent with other viral infections?

A Well, given the different Circumstances and the situation, yes, it could be. It's possible.
Q The different circumstances being?
A Well, being the fact that it's not in July. It's not a seven-month-old child, It's not the same pattern of injury. It's not all the negative laboratory data. It's not the subsequent clinical course, which is entirely different from the way it is.
Q Why would -- you've explained why July is important in terms of viral infection you think the child had. Why is it important in the elimination of herpes simplex, for example?
A Well, because it's Ear more likely, given this set of circumstances, given this pattern of injury, given this month of the year, to be an enterovirus, just on pure numbers.
Q That doesn't eliminate the possibility that people get herpes -- children get herpes simplex in summer, July, as well as other times?
A I've told you that's possible. But you practice medicine based upon the predominance of facts and the predominance of evidence. And, you

know, that's, you know, the conclusions you come to. Anything is possible. And, you know, if you had a brain biopsy or you had a positive culture, then one might be able to do, say, otherwise.

Q Did you -- if I remember correctly, your views in terms of Eastern equine were what, Doctor?

A I said that's possible that, you know -- and, again, I just can't tell you one way or the other.

Q Okay. Absent a biopsy of the brain, do you think there's any definitive way of having made the determination as to which virus this child was suffering from?

A Absolutely definitively, no.

Q Do you have an opinion as to the efficacy of taking a biopsy of a child, a biopsy from the brain from a child of this age?

A What do you mean, "the efficacy"?

Q Some doctors have criticized that process because when you take a biopsy of a child -- of a portion of the cells, to that child it is much greater than taking a biopsy out of an adult brain. And for that reason, they suggested waiting. Others

say it's --

A Oh, no. I think if it's done in the right hands with the right people for the right indications under the right procedures, it's very accurate.

Q Without a danger to the child?

A Sure.

Q If -- you'd have to be -- in order for that to be a totally effective diagnostic tool, you would have to be taking a biopsy from that portion of the brain which was infected; would you not?

A What do you mean by that?

Q Well, this child had extremely severe brain damage.

A At what point?

Q Well, when you're first trying to -- first of all, let me ask you, when would you recommend taking the biopsy, a brain biopsy of the child, if you suspected a major viral infection?

A When you had an abnormal imaging scan that you can see where the difficulty is.

Q In this case, when would you think that would have occurred?

A On the 26th?
Q On the 26th. If the child did have herpes simplex encephalitis by that time, would not the damage have already have been so severe that it could not be corrected by any therapy, including the use of Acyclovir?
A Say that again.
Q On the 26th, by that time, if the child did have herpes simplex encephalitis, would not taking a brain biopsy at that point be of little use in correcting the damage to the child, even with the early use of Acyclovir?
A Well, so is -- Acyclovir, it's of little use in reducing morbidity.
Q And you believe that given, regardless of the time it's given?
A Excuse me?
Q Regardless of the time at which that drug is given?
A Do I believe what?
Q That it does not have an effect on the morbidity of the child?
A Yes. I don't think Acyclovir has altered

the morbidity of herpes simplex encephalitis, regardless. But, obviously, it's decreased the mortality.

Q So whether it would be given on the first day -- assuming herpes simplex encephalitis -- on the first day or the fifth day, in your opinion, it would not affect the morbidity of the child, but it might affect the --

A Unfortunately, that's what the data supports. That's correct.

Q Which data is that? Can you firm it up?

A Well, I'm talking about the data throughout the literature: Dr. Whitley's data; Dr. Nahmaais's data, et cetera.

Q Okay. Can you spell that last name?

A N-A-H-M-A-A-I-S.

Q The test -- there were tests taken at University Hospital, which indicated that there were antibodies of herpes one and herpes two in the child. Did that have any effect upon you at all in making any determinations?

A Well, it's only one antibody study done in a period of time, and if you were just to take that

one, you would certainly say it would be unlikely that it would be herpes. But, you know, it really doesn't tell you one way or the other.

MR. LUCAS: No more questions.

THE WITNESS: I know you have some questions.

MR. GAY: No. Just so that we don't run into any problems later on, Dr. Chalhub has testified in the areas that he's been asked to render opinions by us. If, depending on the Appellate Court's ruling on this matter of the corporate liability of Prudential and whatever, depending upon that ruling, I may ask Dr. Chalhub to render some opinions in that area as well, but I haven't yet. In fact, I haven't given him things to look at --

MR. LUCAS: Go ahead.

MR. GAY: -- particularly the doctor's credential file. So there's no way he could render an opinion now because I haven't given him whatever he would need to look at in order to render an opinion. But I just want you to know that's out there. And, certainly, if

and when that comes to pass, if you want to talk to him again in that specific area -- that is, corporate liability -- I would agree that you're entitled to do so.

MR. LUCAS: Let me -- off the record here a moment.

(Off-the-record discussion)

MR. LUCAS: As I understand it, the issue which is now on the Appellate Court has to do with the corporate liability based on the credentialing of Dr. Schapiro-Hunter, M.D. Although there is corporate liability already for the hospital because of the actions of its employees, i.e., the nurses, within the scope of its employment, I take it that if that is permitted by the court, the Appellate Court, and we are able to proceed on the credentialing issue, you would then be asking Dr. --

THE WITNESS: Chalhub.

MR. LUCAS: -- Chalhub opinions as to whether or not Lawnwood Regional Medical Center was negligent in its credentialing process of Dr. Schapiro-Hunter; is that correct?

MR. GAY: Yeah.

MR. LUCAS: Okay.

MR. GAY: I mean, I'd ask him his opinion. If I liked his opinion, then I'd offer it. As far as his opinion, I probably wouldn't --

BY MR. LUCAS:

Q That is the area in which -- okay. And Dr. Chalhub, then, you have not at this point been asked to review that or look at that issue; is that correct?

A That's correct.

MR. LUCAS: Now, I have tried not to ask any questions that dealt with the standard of care, and I don't think I have because I've always tried to tie it into causation, But do we have a stipulation at this point that this physician is not going to be asked to address questions on the standard of care?

THE WITNESS: At this point that's correct.

MR. GAY: Yes.

MR. LUCAS: I mean, I don't think I

have asked any questions that were directed toward that.

MR. GAY: Well, that's not entirely true. But --

MR. LUCAS: But I asked questions, that if I follow through and went into other areas, might have developed into that, but I don't think I asked any specific questions that concern --

MR. GAY: It is my intention -- and Dr. Chalhub has worked with this understanding, and my intentions have not changed -- that Dr. Chalhub will be asked to render opinions regarding the causation and the life expectancy of the child, and perhaps the other area if the Appellate Court says we go into that area. And I do not intend to offer his testimony in support of standard of care defense regarding Lawnwood or the nurses or doctors.

MR. LUCAS: Okay.

BY MR. LUCAS:

Q One last question, then, Doctor. I just -- I just said in general you would agree with the

opinions, not only offered by Doctors Charish and Greer in terms of longevity of the child, but also you would follow along the same basis of the opinions that they offered in terms of longevity?

MR. GAY: He hasn't seen Dr. Charish's opinion at all. I don't know if he's seen Dr. Greer's. All he's seen is Charish's report of examination.

BY MR. LUCAS:

Q You haven't read his deposition?

A No.

Q I'm sorry.

A You know, I've told you what I thought, and that's what I'll stand on.

MR. LUCAS: Okay. Thank you.

(END OF TESTIMONY)

C E R T I F I C A T E

STATE OF ALABAMA
COUNTY OF MOBILE

I do hereby certify that the above and foregoing transcript of proceedings in the matter aforementioned was taken down by me in machine shorthand, and the questions and answers thereto were reduced to writing under my personal supervision, and that the foregoing represents a true and correct transcript of the proceedings given by said witness upon said deposition.

I further certify that I am neither of counsel nor of kin to the parties to the action, nor am I in anywise interested in the result of said cause.

Carol Carmack
Court Reporter

DEPOSITION OF ELIAS CHALUB, M.D.
[Tamara Black]

TAKEN ON October 8, 1992
by PAUL D. MARK LUCAS, ESQ.

Pg / Ln	
8/20	Child suffered from viral meningoencephalitis which resulted in **severe** and global brain damage
10/13	Had viral infection at the time the child began having focal seizures and then had a lumbar puncture
14/23	Symptoms related to viral infection of CNS: - Seizures - Stiff **neck** - bulging fontanel - positive lumbar puncture - rash - increased liver - increase spleen - abnormal clotting studies - elevated liver function studies
22/12	Four years of **med** school and one year out would make someone a good observer
34/10-17	Focal seizures that are persistent are evidence of viral infection

43/25 No cultures or serology - "enteroviral infection"

Positive cultures -vs- abnormal lab values (CSF. . . .)

60/20 Abnormal lumbar puncture would. **be consistent** with a variety of infections of the nervous system including Herpes Simplex Encephalitis

98 ?) Acyclovir has reduced morbidity / mortality . . . .brain
or scan shows when you biopsy it
99/ 3

8). Viral meningoencephalitis causing severe & global brain damage.

72). The only objective date we have are the records.

76). Life expectancy - less than 2 decades