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THE STATE OF OHIO,)
) SS:
COUNTY OF CUYAHOGA.)

IN THE COURT OF COMMON PLEAS

Lynn Martello, Executrix of)
the Estate of Edna P.)
Martello,)
)
Plaintiff,)
)
vs.) Case No. 427286
) Judge Eileen A.
Southwest General Health) Gallagher
Center, et al.,)
)
Defendants.)

- - -

Deposition of JOSEPH D. COOPER, D.O., Defendant,
called for the purpose of cross-examination before
Ronald M. Rua, a Notary Public within and for the
State of Ohio, taken at the Law Offices of Joseph L.
Coticchia, Suite 1640, Standard Building, 1370
Ontario Street, Cleveland, Ohio, commencing at 10:10
a.m., on Thursday, the 16th day of August, 2001, on
behalf of the Plaintiff.

- - -

5/20/01

ROBERT J. RUA & ASSOCIATES

Court Reporters

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1 APPEARANCES:

2 Joseph L. Coticchia, Esq.
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 4 1370 Ontario Street
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 6 (216)861-6622,

7 on behalf of the Plaintiff;

8 Bonezzi, Switzer, Murphy & Polito, by
 9 Donald H. Switzer, Esq.
 10 Suite 1400, Leader Building
 11 526 Superior Avenue
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14 on behalf of the Defendants Southwest
 15 General Health Center;

16 Ulmer & Berne, by
 17 Jeffrey W. VanWagner, Esq.
 18 Suite 1400, Penton Media Center
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 20 Cleveland, Ohio 44114-1583
 21 (216)621-8400,

22 on behalf of the Defendant Emergency
 23 Physicians Services, et al.

17 STIPULATIONS

18 It was stipulated by and between counsel for
 19 Plaintiff and Defendants that this deposition may
 20 be taken in stenotype by Ronald M. Rua, and
 21 that all requirements of the Ohio Rules of Civil
 22 Procedure with regard to notice of time and place
 23 of taking this deposition are waived.
 24 ---
 25

1 ---

2 JOSEPH D. COOPER, D.O., of lawful
 3 age, Defendant, called by the Plaintiff
 4 for the purpose of cross-examination,
 5 as provided by the Ohio Rules of Civil
 6 Procedure, being by me first duly sworn,
 7 as hereinafter certified, deposed and
 8 said as follows:
 9 ---

10 MR. COTICCHIA: This is the
 11 deposition of Joseph Cooper, D.O.,
 12 and the deposition is being taken
 13 by notice and agreement; is that
 14 correct?

15 MR. VANWAGNER: That is
 16 correct.

17 MR. COTICCHIA: Mr. Switzer,
 18 is that correct?

19 MR. SWITZER: Yes, it is
 20 correct.

21 CROSS-EXAMINATION OF JOSEPH D. COOPER, D.O.

22 BY MR. COTICCHIA:

23 Q Doctor, will you please state your full name and
 24 spell your last name.

25 A Joseph Donald Cooper, C-O-O-P-E-R.

1 Q What is your occupation?

2 A Physician.

3 Q What is your home address?

4 A 4352 Valley Forge Drive.

5 Q Where is that?

6 A Fairview Park.

7 Q Are you employed?

8 A Yes.

9 Q Who is your employer?

10 A Erie Shores Emergency Physicians.

11 Q And what hospitals does Erie Shores service?

12 A Fairview.

13 Q Fairview?

14 A Correct.

15 Q That's the only hospital?

16 A Correct.

17 Q Were you employed by Erie Shores on, I will get the
 18 date straight here.

19 MR. SWITZER: 1/31/'00.

20 Q 1/31/'00?

21 A No.

22 Q Who was your employer at that time?

23 A EPS, Emergency Physicians Services.

24 Q What hospitals at that time did Emergency Physicians
 25 Services service?

1 A Many, I don't know all the names. The ones I worked
 2 at were Southwest General Health Center and prior to
 3 the date indicated I also worked at Geauga Hospital
 4 for the same company.

5 Q When did you start employment with Emergency
 6 Physicians Services?

7 A That would be July, '99.

8 Q And when did you start with Erie Shores?

9 A February of 2000 and -- 2001, February, 2001.

10 Q 2001?

11 A Yes.

12 Q All right. What was your reason for leaving
 13 Emergency Physicians Services?

14 A The opportunity to be a partner in a group versus an
 15 independent contractor.

16 Q You are now a partner with Erie Shores?

17 A I am in a partnership tract.

18 Q Oh, it was an opportunity to become an independent
 19 partner?

20 A Correct, to be a partner as opposed to an independent
 21 contractor.

22 Q On January 31, 2000 I think you just testified you
 23 were an employee of Emergency Physicians Services?

24 A Correct, as an independent contractor.

25 Q And who is Emergency Physicians Services?

1 A That's a group I worked for.
 2 Q All right. But you were contracting with Emergency
 3 Physicians --
 4 A Correct.
 5 Q -- is that correct?
 6 A Correct.
 7 Q So you were self-employed and you had a contract with
 8 Emergency Physicians Services?
 9 A Correct.
 10 Q All right. So you were not on any kind of a salary
 11 where Emergency Physicians Services would deduct
 12 taxes or Social Security?
 13 A Correct.
 14 Q You were contracting with them --
 15 A Correct.
 16 Q -- Emergency Physicians Services, and they in turn
 17 contracted with Southwest?
 18 A Correct.
 19 Q And Geauga?
 20 A Correct.
 21 Q All right. Do you remember the plaintiff in this
 22 case, Edna Martello?
 23 A Yes.
 24 Q Before today's deposition did you review the hospital
 25 record pertaining to Edna Martello?

1 A The ER record only.
 2 Q The emergency record only, okay. Did you review the
 3 ambulance report? As part of the emergency record
 4 did you review the ambulance run report?
 5 A I did.
 6 Q All right.
 7 ---
 8 (Plaintiff's Exhibit 1
 9 marked for identification.)
 10 ---
 11 Q For the record, I am showing you what has been marked
 12 Exhibit 1 and it is the January 31 Cuyahoga County
 13 EMS report. And I will show counsel a copy.
 14 When you reviewed the emergency records did you
 15 review what has been marked Exhibit 1?
 16 A Yes.
 17 Q Now, going back to the date of January 31, and by the
 18 way, the punch holes are right in front of what
 19 normally would be January in the upper right hand
 20 corner; is that correct, Doctor?
 21 A Yes.
 22 Q When the patient Edna Martello was taken by ambulance
 23 to the emergency room what time did she arrive?
 24 A 15:15.
 25 Q And that is military time; is that correct?

1 A Yes,
 2 Q So, in laymen's terms, that would be 3:15 in the
 3 afternoon?
 4 A Correct.
 5 Q When she arrived at Southwest did you look at this
 6 EMS report?
 7 A I don't remember.
 8 Q What is your normal practice when a patient arrives
 9 by ambulance?
 10 A For the critical patients I tended to always review
 11 the case or at least talk with the paramedics first
 12 hand. This was a patient that was not deemed
 13 critical, so I don't remember if I looked at it or
 14 not.
 15 Q Okay. One of the notes after Mrs. Martello's address
 16 is, "D-I-F-F, urinating." Does that mean difficulty
 17 urinating, if you know?
 18 A I presume. I don't know for sure.
 19 Q You don't remember seeing this entry at the time she
 20 was admitted?
 21 A No.
 22 Q It goes onto say, the chief complaint is the patient
 23 complains of pain in the lower abdomen.
 24 A Mm'hmm.
 25 Q "Found sitting in a chair alert and oriented times

1 four." What does the abbreviation, U/A, mean
 2 following A & O times four?
 3 A I have no idea.
 4 Q "Patient states she has pain in lower abdomen and
 5 constipation. Also trouble with urinating." Do you
 6 remember seeing that entry?
 7 A No.
 8 Q Then there is a negative sign with a circle around
 9 it. What does that mean to you? Or a minus sign
 10 with a circle around it. What does the symbol mean
 11 to you?
 12 A I believe it means no other complaints or signs or
 13 symptoms of any pain or problems.
 14 Q Is there anything other than the complaint that she
 15 has with regards to the other entries unusual or
 16 abnormal from what you can gather from this report?
 17 A Could you clarify that, please?
 18 Q Is there anything other than the history, the
 19 description of what the patient complains, is there
 20 anything else in this document, the EMS run report,
 21 that you as an emergency physician would consider
 22 abnormal?
 23 A Abnormal in what sense, complaints, vital signs?
 24 Q Vital signs for a 77 year old woman.
 25 A Just that the patient refused IV.

1 Q Now, this IV refused, that would have been
2 administered by the ambulance attendants?
3 A Correct.
4 Q Is there anything unusual with regards to the vital
5 signs regarding blood pressure, pulse or
6 respirations?

7 A No.

8 ---

9 (Plaintiff's Exhibit 2
10 marked for identification.)

11 ---

12 Q I want to show you what has been marked Deposition
13 Exhibit 2. And I am handing copies to counsel.

14 MR. SWITZER: Joe, is this the
15 original?

16 MR. COTICCHIA: No. I put
17 stickers on it. It was easier that
18 way.

19 Q Doctor, I call your attention to what has been marked
20 Plaintiff's Exhibit 2. It is the Southwest General
21 Health Emergency Medical Record. And up in the upper
22 left hand corner it has got the name of Edna
23 Martello. First of all, before today's deposition
24 did you review this document, including the attached
25 pages? It is a total of three pages.

1 sorry. "Tender right lower quadrant, bowel sounds
2 active all quadrants."

3 Q What does it mean when they say, bowel sounds are
4 active all quadrants?

5 A We generally divide the abdomen in four quadrants and
6 they can hear bowel sounds in all quadrants.

7 Q Is that a normal sign?

8 A It may be.

9 Q Can you tell from this entry who made that entry?

10 A No.

11 Q Would that have been a nurse or a physician
12 assistant?

13 A A nurse.

14 Q Do you know who the nurse was?

15 A No.

16 Q Will you go onto the next entry which looks like it
17 is 17:30. Can you read that?

18 A No.

19 Q Does that word look like, "awaiting?"

20 A "Awaiting," yes.

21 Q "Awaiting," physician or physical, if you can tell?

22 A I can't tell.

23 Q All right. Do you recognize the initials?

24 A No.

25 Q In January, January 31st, 2000, do you know who some

1 A Yes.

2 Q Is your handwriting anywhere on the first page?

3 A No.

4 Q I call your attention under the area of, patient
5 assessment, and 17:00. What does that entry say?

6 A I have no idea.

7 Q You cannot read that?

8 A 17:00?

9 Q Yes.

10 A No. To room, maybe. I don't know.

11 Q All right, all right. At 17:10 can you read that
12 entry?

13 A "Complains of severe right sided abdominal pain since
14 the a.m.," something, nausea.

15 Q Go ahead. Go ahead, if you can read it.

16 A I can't read it.

17 The third sentence says; "tender right lower
18 quadrant, bowel sounds active all quadrants."

19 MR. VANWAGNER: Would this be,
20 "abdomen large and round?"
21 (Indicating.)

22 A "Abdomen large and round."

23 Q I didn't see that.

24 A I think on the second line it may be; "abdomen large
25 and round. Tender right lower quadrant," -- I'm

1 of the nurses were that you worked with, some of the
2 men and women --

3 A No, not off the top of my head.

4 Q -- in the emergency room?

5 A No.

6 Q How long had you been working there at that time?

7 A Four months.

8 Q Is that right? You said you started in July of '99,
9 correct?

10 A Correct.

11 Q So, at that time it is seven months, right?

12 A I started in July, it is January; no, it is four
13 months.

14 MR. VANWAGNER: Well, did you
15 not start right at Southwest?

16 A No, wait. I guess you're right. I'm sorry. Yes, my
17 math is screwed up.

18 Q By the way, I am in no way going to try to trick you.
19 If you don't understand a question or you
20 misunderstand, let me know.

21 A Okay.

22 Q The next entry after 17:30 is 18:00, which is 6:00
23 p.m.; is that correct?

24 A Correct.

25 Q And it says, "Doctor Cooper;" is that correct?

1 A Correct.
 2 Q Is that a, TO, after your name?
 3 A I don't know.
 4 Q Whose initials are they, if you know, following your
 5 name?
 6 A I don't know.
 7 Q What does that entry represent at 18:00 with your
 8 name under intervention?
 9 A I don't know.
 10 Q Do you know when you first came in to contact with
 11 Edna Martello? Would that represent when you were
 12 called in?
 13 A Most likely.
 14 Q All right. At 6:25 it says, 350 ccs of soap suds
 15 enema instilled.
 16 A Correct.
 17 Q Are those initials following the word, "instilled?"
 18 A I believe so.
 19 Q Do you know who that is?
 20 A No.
 21 Q Was that an order that you made?
 22 A Yes.
 23 Q And that was at 18:25, correct?
 24 A That's when it was given or instilled, yes.
 25 Q All right. What was the purpose of the enema?

1 A Patient's request for an enema to relieve her
 2 abdominal pain, constipation.
 3 Q Before -- all right. The patient complained of
 4 abdominal pain and constipation; is that correct?
 5 A Correct.
 6 Q And based on that you ordered an enema; is that
 7 correct?
 8 A That's not correct.
 9 Q All right. Tell me what you did, if anything?
 10 A I conversed with her about her situation, why she was
 11 there, got the history that I dictated from her, and
 12 explained to her that we would like to do some tests
 13 on her and evaluate why she was having the
 14 constipation and the abdominal pain. But the patient
 15 would not allow me to do those tests right away.
 16 Q The patient would not allow you to do what tests?
 17 A Any tests.
 18 Q My question is this: Now, are you saying -- based on
 19 the history and the examination where in the record
 20 is your examination of Edna Martello that precedes
 21 the 350 cc installation of soap suds enema?
 22 A Where on the record?
 23 Q Yes.
 24 A Well, I don't have it in front of me.
 25 Q Well, can you find it in the record?

1 A Yes, right here. (Indicating.)
 2 Q And that is --
 3 ---
 4 (Plaintiff's Exhibit 3
 5 marked for identification.)
 6 ---
 7 Q Let me show you what is marked Plaintiff's Exhibit 3
 8 and ask you if this is a copy of what you are
 9 referring to?
 10 A Yes, it is.
 11 Q All right. I am going to hand a copy of it to
 12 counsel, as well.
 13 Doctor, according to this entry, which says
 14 at the top, Southwest General Hospital Emergency
 15 Room.
 16 A Yes.
 17 Q And it is dated February 1, 2000 --
 18 A Yes.
 19 Q -- is that correct?
 20 A Correct.
 21 Q And it was -- if you turn to the very last page.
 22 A Correct.
 23 Q Page three, lower left hand corner. It says,
 24 "ksh:02/01/2000." Does that mean when it was
 25 dictated or when it was typed?

1 A That's when it was transcribed.
 2 Q All right. So, this was the next day, wasn't it?
 3 A It was transcribed the next day.
 4 Q When did you dictate it?
 5 A That night.
 6 Q So, your physical examination is dictated into what?
 7 A Into this. (Indicating.)
 8 Q You have a portable dictator or tape recorder?
 9 A Yes, we have dictaphones.
 10 Q So, you have no manual entries in the record; is that
 11 correct?
 12 A Correct.
 13 Q Regarding this physical examination; is that correct?
 14 A Correct.
 15 Q How were you able to determine that this patient was
 16 constipated --
 17 A I couldn't.
 18 Q -- based on your report here dated February 1st?
 19 A Purely from history.
 20 Q Purely from the history?
 21 A Correct.
 22 Q All right. The next entry is 18:40.
 23 A Yes.
 24 Q Which is 15 minutes later?
 25 A Yes.

1 Q And it says, "400 ccs SSE." What does that mean?
 2 A Soap suds enema.
 3 Q And that was infused?
 4 A Correct.
 5 Q And do you know whose initials are following that
 6 entry?
 7 A I do not.
 8 Q Is that based on your order?
 9 A Correct.
 10 Q Why did you order a second enema?
 11 A Patient's request.
 12 Q Was the patient, Edna Martello, able to have a bowel
 13 movement after the first enema of 18:25?
 14 A No.
 15 Q Was the second enema of 18:40 successful in inducing
 16 a bowel movement?
 17 A No.
 18 Q Your entry on the last page, treatment and
 19 disposition, states, among other things; "The patient
 20 was given a soap suds enema with no improvement and
 21 actually had some spitting up per the nurse." What
 22 was she spitting up?
 23 A It was undetermined.
 24 Q Is there any entry in your hand regarding the
 25 spitting up?

1 A Just what you read.
 2 Q Okay.
 3 A It was concluded it was not emesis.
 4 Q It was concluded it was not emesis?
 5 A Yes.
 6 Q What is, "emesis?"
 7 A Vomiting.
 8 Q Doctor, I want you to turn back to Exhibit 2.
 9 A Okay.
 10 Q And turn to the second page. We are now into the
 11 early hours of February 1st, correct?
 12 A Correct.
 13 Q There is an entry at the time it says 5:10 or 05:10.
 14 Do you see that?
 15 A Mm'hmm. Yes, I do.
 16 Q Can you read that entry?
 17 A "Assumes care. Patient denies any relief of
 18 abdominal pain. Patient expectorating fecal
 19 smelling, brown feces. Abdomen distended. Pain
 20 localized to right lower quadrant. Tenderness but
 21 palpation there causes pain elsewhere. Unable to
 22 auscultate bowel sounds. Doctor Graber aware." Sat
 23 was 80 percent, call placed to Doctor Narichania.
 24 Q Were you still on duty at that time?
 25 A No.

1 Q What does that tell you? That's a sign of something,
 2 isn't it?
 3 A I wasn't there, I can't comment.
 4 Q I understand you weren't there. That's not the
 5 purpose of my question.
 6 A Okay.
 7 Q My question is, what does that tell you as an
 8 emergency physician?
 9 MR. VANWAGNER: Joe, before
 10 you answer that I want you to read
 11 it again because I'm not sure --
 12 A "Assumes care. Patient denies,"--
 13 MR. VANWAGNER: Read it to
 14 yourself. Because that word there
 15 is, "fluid."
 16 A "Patient expectorating fecal smelling brown fluid,"
 17 okay. Would you repeat the question?
 18 Q Yes. As an emergency room physician, and I
 19 understand you said at that point you were no longer
 20 present.
 21 A Yes.
 22 Q What does that tell you?
 23 MR. VANWAGNER: Objection. Go
 24 ahead and answer that, Joe.
 25 A That the patient had some vomiting, that her abdomen

1 was distended and that she had pain.
 2 Q What does, "expectorating fecal smelling brown
 3 fluid," mean to you?
 4 A I'm not sure why a nurse would write that. You can't
 5 vomit feces.
 6 Q Why not?
 7 A Because by the time it turns to feces it is too far
 8 in the intestinal tract to be vomited up.
 9 Q Can it happen if there is a rupture --
 10 A No.
 11 Q -- in the bowel?
 12 A No.
 13 Q It can't happen if there is a rupture in the colon?
 14 A No.
 15 Q Now, your last paragraph on Exhibit 3 states that;
 16 "Upon return of her blood work she is noted to have
 17 leukopenia." What does that mean?
 18 A It is an incidental finding.
 19 Q What is, "leukopenia?"
 20 A A low white count.
 21 Q Is that of any significance to you as an emergency
 22 room physician?
 23 A No. It is simply stated so as to allow the admitting
 24 persons and Doctor Graber to be aware that there was
 25 other issues besides her abdominal pain and

1 constipation.
 2 Many people have leukopenia and have normal
 3 pathology or lack thereof.
 4 Q And it says, "some renal insufficiencies." What does
 5 that mean?
 6 A That based on her blood work, which I don't have in
 7 front of me, that she had some type of renal
 8 insufficiency which could be from many, many things.
 9 Q What is, "renal insufficiencies?"
 10 A The kidney function is not as perfect as one would
 11 expect. And that may be only because of dehydration
 12 and because there is actually true renal problems.
 13 Q And then you dictated, "and hypokalemia." What is
 14 that?
 15 A Low potassium.
 16 Q Is that a significant finding?
 17 A No. It was low but it was not significantly low that
 18 could not be supplemented with IV fluids.
 19 Q And then you go onto state, "Intravenous fluids were
 20 started along potassium supplementation. The patient
 21 still have nonspecific abdominal discomfort, but
 22 again with no peritoneal signs."
 23 A Correct.
 24 Q What do you mean by, "with no peritoneal signs?"
 25 A She had what we would classify a nonsurgical abdomen.

1 At that time she still had a very soft abdomen.
 2 Q It says; "I have ordered a CAT scan of the abdomen
 3 and pelvis with po contrast and a lactic acid level."
 4 What is a CAT scan?
 5 A It is a specialized x-ray that allows us to see bowel
 6 and intestine.
 7 Q And why did you order that?
 8 A Because at this time her entire work-up had been
 9 normal yet she had subjective pain.
 10 Q What does, "po contrast," mean?
 11 A Oral contrast.
 12 Q So, it means what, she was going to swallow some kind
 13 of fluid?
 14 A Correct.
 15 Q And why did you order a lactic acid level?
 16 A To assess other possibilities, possibly ischemic gut,
 17 ischemic bowel.
 18 Q What is, "ischemic bowel?"
 19 A If the blood supply to the bowel gets obstructed then
 20 tissue will die. And one way to indirectly assess
 21 for that is to check for lactic acid level.
 22 Q Did you order the CAT scan?
 23 A Yes.

24 ---
 25 (Plaintiff's Exhibit 5)

1 marked for identification.)
 2 ---
 3 Q I am going to hand you what has been marked
 4 Plaintiff's Exhibit 5. Showing counsel a copy.
 5 Actually, this is three pages. The first page
 6 says, "exam date/time, January 31st, '00, 8:30." I'm
 7 sorry, 20:31, which is 8:30 p.m. Were you on duty at
 8 that time?
 9 A Yes.
 10 Q Did you order that x-ray?
 11 A Yes.
 12 Q What was the purpose to order the x-rays?
 13 A To see if we could see any type of other pathology on
 14 x-ray that wasn't picked up on physical exam.
 15 Q It is true that you provided or ordered both of these
 16 enemas before you ordered an x-ray, didn't you,
 17 Doctor?
 18 A At the patient's request.
 19 Q That's not my question, Doctor.
 20 A Yes.
 21 Q Is it true that you ordered this x-ray dated January
 22 31st, 2000 at 20:30?
 23 A Yes.
 24 Q And isn't it true that this x-ray was ordered after
 25 you ordered Mrs. Martello to undergo two enemas?

1 A Yes.
 2 Q And why did you order the x-ray?
 3 A Because at the patient's request the enemas were
 4 given and she still had abdominal pain and I felt it
 5 necessary to further investigate the cause of her
 6 abdominal pain and constipation.
 7 Q And what did this x-ray dated January 31st tell you?
 8 A That so far there was nothing that could be seen on
 9 x-ray or physical exam that would identify the cause
 10 of her pain, other than possibly fecal material as it
 11 states.
 12 Q I am going to read the findings. "There is gas
 13 in the small bowel and colon with fecal material."
 14 What does that mean?
 15 A That so far that's a normal appearing x-ray, that
 16 there was fecal material in there which may suggest
 17 the constipation the patient was complaining of.
 18 Q Is it normal to find gas in the small bowel and
 19 colon?
 20 A Yes.
 21 Q Is it normal to find fecal material in the small
 22 bowel and colon?
 23 A Yes.
 24 Q The next statement says; "There is no evidence of
 25 obstruction." What does that mean?

- 1 A No evidence of a bowel obstruction.
 2 Q Would the obstruction be something independent of
 3 fecal material?
 4 A It could be caused from fecal material or it could be
 5 a direct effect from fecal material.
 6 Q Well, my concern is this statement says, there is no
 7 evidence of obstruction.
 8 A Right.
 9 Q And yet you are saying, or are you saying that the
 10 presence of fecal material may represent a bowel
 11 obstruction?
 12 A In this particular case, no. In general, yes, at
 13 this point there was no obstruction.
 14 Q All right. The next sentence says; "There are no
 15 suspicious calcifications or free air identified."
 16 What does that mean to you?
 17 A Some of the things that we look for in terms of
 18 calcification are gallstones or kidney stones and
 19 they didn't detect any; two other reasons why someone
 20 may have abdominal pain.
 21 And then free air would suggest a bowel
 22 perforation if it was present.
 23 Q Free air being present where?
 24 A Anywhere on the abdomen.
 25 Q Anywhere?

- 1 A Usually seen under the diaphragm on the lateral view
 2 or the supine view on the most superior aspect of the
 3 film.
 4 Q Would that include looking for free air in the bowel?
 5 A Yes.
 6 Q You don't expect to see that in a normal bowel,
 7 correct?
 8 A You expect to see it in the bowel. You expect to see
 9 gas air in the bowel. You don't expect to see free
 10 air outside the bowel.
 11 Q Okay, all right. So when this statement is made --
 12 A Yes.
 13 Q -- "there are no suspicious calcifications or free
 14 air identified," are you speaking independent of the
 15 bowel?
 16 A I'm not sure I am following you.
 17 Q Well, you are referring to gas air in the bowel?
 18 A Correct.
 19 Q You expect to see that, correct?
 20 A Yes, correct.
 21 Q Is there a difference between gas air and free air?
 22 A Yes.
 23 Q Okay.
 24 A Gas air is contained within the intestinal tract and
 25 free air would be outside the intestinal tract

- 1 suggesting a perforation.
 2 Q Okay. And at this point we don't see any free air?
 3 A Correct.
 4 Q There is also another diagnostic study which is
 5 dated, 2/1/2000, and it has in capital letters near
 6 the top middle, it says, "CAT scan." Do you see that
 7 in Exhibit 5, Doctor?
 8 A I do.
 9 Q I am going to jump down to where it says, "CT scans
 10 of the pelvis," the last paragraph, it says; "There
 11 is a small amount of free fluid in the pelvis."
 12 Is that of any significance to you as an
 13 emergency room physician?
 14 A Yes.
 15 Q What does it mean?
 16 A That the patient has perforated some type of viscus.
 17 Q Viscus, being part of what?
 18 A The intestinal tract.
 19 Q Is this the CT scan that you ordered?
 20 A Yes.
 21 Q Were you aware of this report?
 22 A At the time?
 23 Q Yes.
 24 A When it came back, no.
 25 Q What time did you complete your shift?

- 1 A 1:00 a.m., and I ordered the CAT scan.
 2 Q I want to make this clear. Both the x-ray of January
 3 31st and the CAT scan of February 1st were ordered
 4 and done after Mrs. Martello had the two enemas; is
 5 that correct?
 6 A Correct, that's correct.
 7 Q Why didn't you order the x-ray and the CAT scan
 8 before you gave Mrs. Martello an enema?
 9 A The patient would not allow me.
 10 Q Would not allow you to order an x-ray or CAT scan?
 11 A Yes.
 12 Q Where in the record does it say that?
 13 A "Treatment and disposition: The patient's initial
 14 request; she asked for soap suds enema and initially
 15 did not want any other work-up other than this."
 16 Q Is it your practice when a patient comes in to allow
 17 the patient to tell you how to be treated?
 18 A No.
 19 Q This is a 77 year old lady, correct?
 20 A Correct.
 21 Q And she has steadily increasing abdominal pain,
 22 correct?
 23 A It never changed during my assessment.
 24 Q Well, I don't have it directly in front of me, but
 25 when she was asked ten out of ten --

1 A Yes.
 2 Q -- she says the pain is ten out of ten?
 3 A Not to me. She may have told a nurse that.
 4 Q Well, when you come in do you read the record?
 5 A I do not have the nursing record in front of me, no.
 6 Q Will you please look at Exhibit 2.
 7 A Yes.
 8 Q There is an entry there, it looks like 23 something.
 9 A Correct.
 10 Q "Pain continues ten out of ten."
 11 A Correct.
 12 Q Did you or did you not see that entry when you were
 13 treating Edna Martello?
 14 A No, I did not.
 15 Q Why not?
 16 A I don't look at the nurses' note.
 17 Q Why don't you look at nurses' notes?
 18 A I look at the patient.
 19 Q Well, there is a patient assessment and response that
 20 she had this entry.
 21 A Mm'hmm.
 22 Q Isn't that important since you are not always with
 23 the patient at all times to know what the patient's
 24 symptoms are?
 25 A Yes. There is also communication between a nurse and

1 a doctor.
 2 Q Is it your testimony that you were unaware of this
 3 entry at the time you ordered the x-ray or the CAT
 4 scan?
 5 A Yes.
 6 Q Before the x-ray and before the CAT scan is your
 7 ordering of an enema within the standard of medical
 8 care for a patient like this, Edna Martello?
 9 A A lucid individual with a nonsurgical abdomen, yes.
 10 Q How do you know that this patient is nonsurgical?
 11 A She was lucid appropriate, oriented to her baseline,
 12 and she had a very soft abdominal examination, stable
 13 vital signs and normal rectal exam.
 14 Q Okay.
 15 A The request on her part was not outside of the
 16 standard of emergency medicine.
 17 Q She had complained that she was constipated for
 18 several days, I think four or five days, didn't she?
 19 A Correct.
 20 Q That's not normal, is it?
 21 A That's not normal.
 22 Q And she complained of ongoing abdominal pain,
 23 correct?
 24 A Correct, correct.
 25 Q Did you examine her rectum?

1 A Yes.
 2 Q Independent of the report that you dictated on
 3 February 1st is there anything in the record?
 4 A As to that fact?
 5 Q Yes.
 6 A Yes, there is.
 7 Q Where is that?
 8 A That's what I am referring to, February 1 of 2000.
 9 Q Okay.
 10 A Under, GI system, rectal exam, "Good tones, brown
 11 stool which is guaiac negative with no masses."
 12 Q My question is you dictated this on February 1st,
 13 correct?
 14 A I dictated that at the end of my shift, yes.
 15 Q And that was at 1:00 a.m.?
 16 A Correct.
 17 Q Independent of this report is there anything in the
 18 record of your examining Edna Martello, at least with
 19 regards to the rectal examination?
 20 A No, not that I know of.
 21 Q Did you examine her rectum digitally?
 22 A Correct.
 23 Q Were you able to find any sign of constipation with
 24 that examination?
 25 A Constipation will not be felt on regular digital exam

1 and fecal impaction will.
 2 Q Well, is fecal impaction the same as constipation?
 3 A Not at all.
 4 Q All right. What this the difference?
 5 A Fecal impaction is a ball of stool which is
 6 gelatinous, very firm, will not allow the person to
 7 have the bowel movement because it is too large to
 8 pass the rectum.
 9 Q All right.
 10 A Versus constipation is higher up; it can be
 11 obstructed anywhere in the intestinal tract.
 12 Q All right.
 13 A It cannot be removed digitally. Whereas the fecal
 14 impaction can be removed digitally.
 15 Q So you didn't find fecal impaction?
 16 A Right.
 17 Q But that does not necessarily rule out constipation?
 18 A Correct.
 19 Q Correct? Because that is higher up in the bowel?
 20 A Correct.
 21 Q But the results to the patient are the same, the
 22 patient cannot have a bowel movement?
 23 A Yes.
 24 Q Who is Doctor Graber?
 25 A One of my associates over at EPS.

1 Q On December 31st did he have the same employer you
2 had?
3 A Yes.
4 Q That was EPS, Emergency Physicians Services?
5 A Correct.
6 Q Is he an independent contractor as you were on that
7 day?
8 A I believe so.
9 Q Was he coming in as a normal part of the shift or was
10 he called in?
11 A Normal shift change.
12 Q All right. When you are treating a patient like Edna
13 Martello, do you confer and talk over the patient
14 with Doctor Graber when he comes in?
15 A Yes.
16 Q What was your diagnosis at the time you dictate this
17 report of February 1st, 2000?
18 A Basically -- the exact diagnosis as dictated on the
19 chart?
20 Q Well, yes.
21 A I hand wrote, "intractable abdominal pain."
22 Q What Exhibit are you referring to?
23 A This would be the third page, Exhibit 2.
24 Q Now, did you write that before you dictated your
25 report which is marked Exhibit 3?

1 A I did it at the same time.
2 Q So that would have been February 1st?
3 A Correct, at 1:00 in the morning.
4 Q All right. I am looking at, it would be the third
5 page; is that correct --
6 A Correct.
7 Q -- of what has been marked Exhibit 2, all right.
8 A Yes.
9 Q Show me where your handwriting is, or at least
10 tell us on the record where your handwriting is
11 located?
12 A Under diagnostic impressions.
13 Q I want to move up a little bit.
14 A All right.
15 Q There is a line above that.
16 A Correct.
17 Q Whose handwriting is that?
18 A That's mine.
19 Q What does that say?
20 A "Decreased bowel movement lasting approximately five
21 days."
22 I'm sorry. "Last bowel movement approximately
23 five days ago."
24 Q I'm sorry, let's start over.
25 MR. SWITZER: Where are you

1 guys?
2 MR. COTICCHIA: We are on the
3 third page.
4 MR. SWITZER: I see, okay.
5 MR. COTICCHIA: Of Exhibit 2,
6 which is the ER record.
7 MR. SWITZER: Okay.
8 Q Now, let's start again.
9 A Okay.
10 Q There is a section near the bottom along the left
11 that says, "diagnostic impressions."
12 A Correct.
13 Q All right.
14 A Yes.
15 Q What is the entry on the line above where you have
16 number 1 circled?
17 A It says, something, "sigmoid diverticulum." I
18 believe it says, "ruptured."
19 Q "Ruptured sigmoid diverticulum."
20 A That's what I believe it to say.
21 Q That's your handwriting?
22 A That's not my handwriting.
23 Q Whose handwriting is that?
24 A That's Doctor Graber's.
25 Q All right. So your diagnostic impressions start with

1 number one; is that correct?
2 A Yes.
3 Q And tell me what it says there?
4 A "One, intractable abdominal pain, two hypokalemia.
5 Three, renal insufficiency, and four, leukopenia."
6 Q Is that your handwriting under treatment?
7 A Yes, most of it.
8 Q Okay. Will you read that for the record.
9 A "6:00 p.m. soap suds enema; repeat if no relief.
10 Demerol 50 milligrams IV. Phenergan, 12.5 milligrams
11 IV."
12 Q And what is that for?
13 A The patient's pain.
14 Q Okay. Go ahead, please.
15 A Then, "repeat above," meaning repeat Demerol and
16 Phenergan. And then the next phrase is written by
17 Doctor Graber as, "call Doctor Narchania."
18 Q And it does not say what time that call was made,
19 does it?
20 A Not, it does not.
21 Q Not at that point anyway?
22 A Correct.
23 Q Along that same line there are several zeros. What
24 does that represent?
25 A I believe it to be the time that the IV fluids were

1 started.
 2 Q And then it is crossed off and it says, "error."
 3 A Correct.
 4 Q Do you know who did that? Do you recognize the
 5 handwriting?
 6 A That would be the nurse. I don't know who did it,
 7 but it would be a nurse.
 8 Q All right. What is the next line?
 9 A "Femcath per verb order per Doctor Cooper."
 10 Q So what does that mean?
 11 A Miss Martello had not had any urine output at that
 12 point and we normally allow a patient so long to give
 13 us urine output before we decide to put a femcath in,
 14 which means to manually drain the bladder to send out
 15 for urinalysis.
 16 Q What is the next entry on that line?
 17 A Some initials, and then it says; "Normal saline at
 18 150 ccs an hour, add 40 milligrams of KCL to IV fluid
 19 bag."
 20 Q What does that mean?
 21 A We were instilling IV fluid potassium.
 22 Q Is that because of her low potassium count?
 23 A Correct.
 24 Q Is that your signature under, ED physician?
 25 A Correct.

1 Q And is there anyone else's signature down there?
 2 A Yes, Doctor Graber's.
 3 Q Where is his signature?
 4 A His is right after mine, that large G.
 5 Q Okay. So that's how he signs his name, just a large
 6 G?
 7 A I don't know if that is supposed to be his name or
 8 his initial.
 9 Q And then they have a name of Juglion.
 10 A Correct.
 11 Q Do you know Doctor Juglion?
 12 A I know of him professionally, yes.
 13 Q Was he identified by the patient?
 14 A Correct.
 15 Q Was he called in to examine Mrs. Martello?
 16 A No.
 17 Q What caused the rupture of the sigmoid diverticulum?
 18 MR. VANWAGNER: Objection. Go
 19 ahead.
 20 A I don't know.
 21 Q Did you cause it when you ordered the enema?
 22 A I don't believe so.
 23 Q Could it have been caused when you ordered the enema?
 24 MR. VANWAGNER: Objection. Go
 25 ahead.

1 A Highly unlikely.
 2 Q Before the rupture of the diverticulum, independent
 3 of what you say is intractable abdominal pain, did
 4 you have a diagnosis?
 5 A No.
 6 Q Do you have a diagnosis today?
 7 A Yes.
 8 Q And what is it?
 9 A Perforated diverticulum.
 10 Q Okay. First of all, what is the diverticulum?
 11 A It is a weakening in the wall of the colon and you
 12 get a balloon effect where you get small grape-like
 13 structures attached to the side of the intestine
 14 sometimes, very common especially in elderly people.
 15 Q I noticed in your diagnostic impressions and even
 16 in the letter you dictated, I don't see any reference
 17 to "diverticulum." Would you have not considered
 18 that with a patient like Edna Martello?
 19 A Yes.
 20 Q Do you have that anywhere in your handwritten entries
 21 or your dictated report?
 22 A No.
 23 Q Why not?
 24 A Because the differential would be vast until --
 25 Q The differential of what?

1 A Of her abdominal pain. She had no known history for
 2 diverticular disease.
 3 Q Did you call Doctor Narichania when you were on duty?
 4 A No.
 5 Q Who called him?
 6 A Doctor Graber put the page out to him.
 7 Q Did you find anything in the record where Doctor
 8 Graber -- withdraw that question.
 9 Did you read the report of Plaintiff's expert
 10 Doctor Kiehl?
 11 A I did.
 12 Q K-I-E-H-L. Do you have a copy of it with you?
 13 A I do not.
 14 ---
 15 (Plaintiff's Exhibit 7
 16 marked for identification.)
 17 ---
 18 Q I am going to hand you what has been marked
 19 Plaintiff's Exhibit 7.
 20 A Okay.
 21 Q And handing a copy to counsel.
 22 By the way, when you were treating Edna Martello
 23 did you meet or talk to her daughter, Lynn Martello,
 24 if you remember?
 25 A I remember family members being present, including

1 her husband. I don't remember the specifics of the
 2 conversation.
 3 Q Did you read a summary of Lynn Martello's deposition?
 4 A I saw it. I did not read it in its entirety, no.
 5 Q Lynn Martello testified that she spoke to you and her
 6 testimony was and she was quoting you, that if Edna
 7 Martello had not complained of constipation you would
 8 have done a full court press. Do you remember making
 9 that statement or something like that?
 10 A Not in that fashion.
 11 Q Well, in what fashion do you remember making a
 12 statement similar to that because I am summarizing?
 13 A That Mrs. Martello requested enemas or else she would
 14 go home if we didn't provide her with the enemas and
 15 that we needed to provide her with a full court press
 16 and it was being provided at that time because what
 17 she requested failed.
 18 Q What did you mean by, "full court press?"
 19 A Typically, we start by ordering the blood work and
 20 the x-ray first before supplying somebody with an
 21 enema.
 22 Q And in this case you did not do that?
 23 A No.
 24 Q And that was because of the statements that the
 25 patient made?

1 A Correct.
 2 Q And these statements were made by a patient in the
 3 emergency room?
 4 A Correct.
 5 Q Correct?
 6 A That's correct.
 7 Q So, had you to do this again would you have done the
 8 blood work, the urine work and the diagnostic studies
 9 first --
 10 MR. VANWAGNER: Objection.
 11 Q -- independent of providing the enema?
 12 A In the same scenario, again I had a lucid lady with a
 13 nonsurgical abdomen who was requesting me to do
 14 something that was not outside of the realm of
 15 standard emergency medicine, I would do it again.
 16 Q Let's assume she does not ask you for an enema.
 17 A Correct.
 18 Q Would you have then done the physical exam, the urine
 19 and blood analysis, x-ray and CAT scan?
 20 A Yes.
 21 Q All right. I am going to start with Exhibit 7. And
 22 the first paragraph states that he has reviewed the
 23 record and that this 77 year old woman was admitted
 24 at 3:15 into the emergency on January 31st. Now, it
 25 states in the next paragraph; "The first description

1 by the emergency department of her problem is
 2 recorded in the chart at 17:10, approximately two
 3 hours after her arrival."
 4 My question to you is when did you first see
 5 Edna Martello?
 6 A Closely prior to 6:00 p.m.
 7 Q Why had you not seen her sooner in time, because it
 8 looks like, you know, that's two hours, 45 minutes
 9 after her arrival in the ER?
 10 A She was felt to be stable, we were seeing more
 11 critical patients.
 12 Q You were seeing more critical patients?
 13 A The nurses were triaging the patients and we were
 14 seeing them based on triage assessment.
 15 Q Do you remember this particular day independent of
 16 Edna Martello?
 17 A No.
 18 Q So, when you say there were more critical patients,
 19 you are just saying based on your experience, but you
 20 don't remember this particular day?
 21 A I am not saying there were more critical patients
 22 ahead of her. I am just saying based on the triage
 23 scenario and triage is based on the acuity of the
 24 patient. And I picked up the chart when I had it
 25 available to me.

1 Q I am not going to go over every entry, but I want to
 2 ask you some questions about Kiehl's report.
 3 Assuming that you did the CAT scan before you
 4 did the enema and you found free air and fluid in
 5 Edna Martello's pelvis, what would you have done at
 6 that point to treat her?
 7 MR. VANWAGNER: Objection. Go
 8 ahead.
 9 A I would have contacted the surgeon on-call or I would
 10 have contacted her primary physician for a surgical
 11 referral.
 12 Q All right. Please, turn to page two of Exhibit 7.
 13 First paragraph, it says; "By way of analysis, this
 14 is a most unfortunate case which was grossly
 15 mismanaged in the emergency department." Next
 16 sentence; "It is well known and published in the
 17 Emergency Medicine literature that an older person,
 18 that is, someone greater than the age 50, who
 19 presents with abdominal pain must be assumed to have
 20 a surgical abdomen until proven otherwise."
 21 Do you agree with that statement?
 22 MR. VANWAGNER: Objection. Go
 23 ahead.
 24 A I do.
 25 Q Why?

- 1 A Because of the possibility of a scenario such as
2 this.
3 Q You don't agree -- first of all, have you read
4 emergency department medical literature that says --
5 A Correct.
6 Q -- patients over 50?
7 A I don't recall any particular article or any
8 particular book and I don't recall any particular
9 age, but as a general rule the elderly population,
10 and to me 50 is a little young for the statement, but
11 the elderly population we tend to do a work-up, yes,
12 before we intervene in any particular fashion.
13 Q How old was Edna Martello when she came into the
14 emergency room?
15 A 77.
16 Q 77. So based on that age and her symptoms would you
17 not presume that until otherwise proven that this was
18 a surgical abdomen?
19 A I think a surgical abdomen is stretching it.
20 I think an acute abdomen is more of an exact
21 definition.
22 Q Did she have an acute abdomen?
23 A She did not have an acute abdomen.
24 Q Even though she said she had been having these pains
25 throughout the day --

- 1 A Yes.
2 Q -- you didn't consider that acute?
3 A Well, many people have pains for days and days and
4 they don't have acute abdomen. A kidney stone will
5 cause pain for days but it is not an acute abdomen.
6 Q The next sentence states; "To administer an enema
7 which increased colonic intraluminal pressure and in
8 this particular case caused perforation and fecal
9 contamination of the peritoneum which, combined with
10 the lengthy delay of going to surgery, resulted
11 in the patient's shock, myocardial infarction and
12 eventual death."
13 Do you agree that administering an enema
14 increases colonic intraluminal pressure?
15 A Yes.
16 Q Could this have caused the perforation of Edna
17 Martello's diverticulum?
18 MR. VANWAGNER: Objection. Go
19 ahead.
20 A Not likely.
21 Q Could it have caused?
22 A I don't know. I'm not assuming.
23 Q Would you agree it is a possibility?
24 MR. VANWAGNER: Objection. Go
25 ahead.

- 1 A Yes. In the realm of possibility, yes.
2 Q You can't rule that out as the cause, can you?
3 A I cannot rule it out.
4 Q "Combined with the lengthy delay of going to
5 surgery," we know, will you agree with me, that
6 surgery for Edna Martello did not start until 7:30
7 the following morning?
8 A I don't know what time it started. It says here, "to
9 OR, 6:45," on what I have in front over me.
10 ---
11 (Plaintiff's Exhibit 6
12 marked for identification.)
13 ---
14 Q All right. I am going to hand you and your attorney
15 what has been marked Exhibit 6. It is the Southwest
16 Anesthesia Record for Edna Martello.
17 A Okay.
18 Q For the record, it says, "Southwest General Hospital
19 Anesthesia Record," and in the upper right hand
20 corner it has the name, "Martello, Edna." Do you
21 know Doctor Jinn?
22 A I do not.
23 Q Do you know Doctor Narichania?
24 A I know who he is, yes.
25 Q The procedure is an exploratory, I assume that's a

- 1 laparotomy, sigmoid resection colostomy. Did I quote
2 that correctly?
3 A Yes.
4 Q What is a sigmoid resection?
5 A To take out the part of the sigmoid colon.
6 Q And why did Doctor Narichania want to do that?
7 A Because of the perforated diverticulum.
8 Q And I assume he cuts that out and he reattaches the
9 sigmoid colon?
10 A Correct.
11 Q What is a colostomy?
12 A A colostomy is when you re-route the colon to the
13 skin and provide a bag on the abdominal -- on the
14 outside of the abdomen to allow feces to drain.
15 Q And why is that done under these circumstances?
16 A I'm not a surgeon, but what I know is that you do
17 that because there is not enough bowel to reconnect.
18 If it is higher up in the intestine sometimes you can
19 reconnect the two pieces together. But there
20 probably was not enough of the distal piece to allow
21 that re-anastomosis. So they have to re-route it up
22 to the skin.
23 Q Do you see right below that line in the middle, it
24 says, "anesthesia start?"
25 A Yes.

1 Q What time is it?
 2 A 7:30.
 3 Q Why did it take so long for Edna Martello from the
 4 time she came into the emergency room to go to
 5 surgery?
 6 A I can't completely answer that question because I
 7 wasn't there for her entire case.
 8 Q Well, in the chain of events when a Doctor Graber,
 9 who I assume at the time was an associate of yours,
 10 correct?
 11 A Correct.
 12 Q Did you tell him you ordered a CAT scan?
 13 A Yes.
 14 Q Had you been aware of the results of that CAT scan
 15 would you call for a surgical consult at that point?
 16 A If I was aware at that time?
 17 Q Right.
 18 A Yes.
 19 Q What time would that have been?
 20 A Had I been there?
 21 Q Yes.
 22 A And I had the CAT scan when I left?
 23 Q Well, no. Let's stick to what we have on the record.
 24 Hold on one second, I will get that Exhibit out.
 25 So Exhibit 5, the third page, it is 2:45 a.m.,

1 impression, free peritoneal fluid and free peritoneal
 2 air, and that's Exhibit 5. You have it, right?
 3 A Okay. This is the time it was dictated. I don't
 4 know the time Doctor Graber received it.
 5 Q Doesn't the radiology department report to the
 6 ordering physician in the ER before it is dictated?
 7 A Sometimes.
 8 Q I mean, this is an emergency, isn't it?
 9 A Yes.
 10 Q And that is something that you would want to know
 11 right away, isn't it?
 12 A Correct.
 13 Q Now, had you been told when it was taken --
 14 A Yes.
 15 Q -- and before it was dictated that air and fluid were
 16 present in the abdomen and there was the finding of,
 17 "most likely related to perforated diverticulum," at
 18 that point would you have called for a surgical
 19 consult?
 20 A Yes.
 21 Q And if that had been done at that point and within a
 22 reasonable period of time under an emergency
 23 situation the resection of the sigmoid colon was
 24 done, is it more likely than less likely that Edna
 25 Martello would have lived?

1 MR. VANWAGNER: Objection.
 2 MR. SWITZER: Objection.
 3 A I don't know the percentages of people who survive
 4 and don't survive with peritonitis. I don't know
 5 those percentages.
 6 Q Will you agree in this case Mrs. Martello developed
 7 sepsis?
 8 A I have not reviewed the chart, I am not at liberty.
 9 Q You don't know. Well, what normally happens when
 10 there is a perforation and diverticulitis and it is
 11 not diagnosed right away?
 12 A The patient can ultimately develop a rigid
 13 peritonitic abdomen and ultimately lead to their
 14 demise for any reason, usually end organ failure
 15 and/or sepsis.
 16 Q And in this case Mrs. Martello had all those things,
 17 didn't she?
 18 A Again, I have not reviewed her autopsy.
 19 Q Would you agree or disagree she had sepsis?
 20 A I don't know. I have not reviewed it.
 21 Q Would you agree or disagree that she had septic
 22 shock?
 23 A Not during my course of attending to her.
 24 Q You said you read Doctor Kiehl's report?
 25 A Yes.

1 Q He said she was in shock?
 2 A I am reading his report. I am not reading anything
 3 else.
 4 Q Would you agree or disagree with that statement?
 5 A I can't make comments I don't know because I have not
 6 read the official hospital report.
 7 Q Did you read the death certificate?
 8 A No.
 9 Q Did you read the autopsy?
 10 A No.
 11 Q Did you read the coroner's verdict?
 12 A No.
 13 Q Do you agree or disagree that with regards to renal
 14 failure she started having a breakdown in the
 15 kidneys?
 16 A She did not have renal failure.
 17 Q Not at the time you were there?
 18 A Correct.
 19 Q How about at the time of her death?
 20 A (Nodding negatively.)
 21 Q You don't know?
 22 A I don't know.
 23 Q Did she have what is referred to as ARDS? What is
 24 ARDS? Have you ever heard that phrase?
 25 A Yes.

- 1 Q What does that mean?
- 2 A Adult respiratory stress syndrome.
- 3 Q Is that a symptom of sepsis resulting from
- 4 perforation of the diverticulum?
- 5 A It can be a cause. It does not necessarily mean
- 6 sepsis. They can go hand in hand, but you can have
- 7 one without the other.
- 8 Q I want you to assume she had that, she had renal
- 9 failure, she had sepsis, she had septic shock and she
- 10 had a myocardial infarction. Will you assume that,
- 11 please?
- 12 A Yes.
- 13 Q All right. What is myocardial infarction?
- 14 A A heart attack.
- 15 Q Would you agree that the failure to -- let me
- 16 rephrase this.
- 17 Do you agree that if the ruptured diverticulum
- 18 had been promptly repaired following that CAT scan,
- 19 assuming the CAT scan was done early, that this
- 20 patient would not have gone onto the develop all of
- 21 these symptom and died?
- 22 MR. VANWAGNER: Objection.
- 23 MR. SWITZER: Objection.
- 24 A Again, I don't know what the percentage of people who
- 25 develop those subsequently secondary to perforated

- 1 diverticulum, but my assumption as not being a
- 2 surgeon is we take them to surgery to avoid those
- 3 complications.
- 4 Q Because I am not a doctor and I don't know all the
- 5 phrases as an emergency room doctor, you are the
- 6 first line of defense when a patient comes in,
- 7 correct?
- 8 A That's correct.
- 9 Q When a patient like Edna Martello comes in you have
- 10 to look at her, you examine her and you have got to
- 11 make a diagnosis, correct?
- 12 A Well, you can't just look at her and make a
- 13 diagnosis.
- 14 Q Well, I agree.
- 15 A Correct.
- 16 Q The point is it is your responsibility as an
- 17 emergency room physician to make the determination
- 18 whether or not you call for a surgical consult?
- 19 A That is true.
- 20 Q Correct. And you make that determination, number
- 21 one, by physical examination, correct?
- 22 A Correct.
- 23 Q Physical examination is usually followed or usually
- 24 follows a history, correct --
- 25 A Correct.

- 1 Q -- if the patient can tell you what is going on. And
- 2 that physical examination also, if necessary,
- 3 includes diagnostic studies, such as blood work,
- 4 urine, correct?
- 5 A That's correct.
- 6 Q Diagnostics such as an x-ray, correct?
- 7 A Correct.
- 8 Q Diagnostic studies such as a CAT scan?
- 9 A That's right.
- 10 Q Had you done all of these things before you gave Edna
- 11 Martello an enema, assuming that you were there at
- 12 1:00 a.m. when the CAT scan results were
- 13 communicated --
- 14 A The CAT scan result was not communicated until 2:45.
- 15 Q Well, wait a minute. How do you know that?
- 16 A At least, 2:45.
- 17 Q How do you know that?
- 18 A Just based on the time it was transcribed I am
- 19 assuming that. I don't know that.
- 20 Q I thought you just testified that before it is
- 21 transcribed if it is a serious condition you expect
- 22 the radiology department to communicate that to the
- 23 emergency room?
- 24 A No. I said sometimes that occurs.
- 25 Q Well, what is the practice at Southwest Hospital?

- 1 The doctor doesn't know until this is dictated, typed
- 2 up and handed to him?
- 3 A We usually get a wet reading.
- 4 Q What is a wet reading?
- 5 A It is a handwritten description of what occurred.
- 6 Q How long does that take from the time the x-ray or
- 7 the CAT scan is done until the time it is given back
- 8 to you as an ER doctor?
- 9 A It depends on the radiology tech that is taking the
- 10 information how quickly they can get it to us.
- 11 Q So, are you saying there is some kind of delay here
- 12 with this information?
- 13 A No, I don't know that. All I know is what time it
- 14 was transcribed.
- 15 MR. VANWAGNER: You mean
- 16 dictated or transcribed?
- 17 A Transcribed, dictated, same thing.
- 18 Q You're saying dictation and transcription are the
- 19 same?
- 20 A Correct.
- 21 Q Isn't this dictated into some kind of portable
- 22 recorder?
- 23 A Right.
- 24 Q And somebody takes the portable recorder and types it
- 25 up or puts in the word?

1 A I don't know if there's spontaneous transcription or
 2 if it is delayed in the radiology department, I don't
 3 know.
 4 Q Isn't it true, Doctor, if you had done these things,
 5 assuming you didn't leave at 1:00 a.m., all right,
 6 took a history, physical, examined the patient, had
 7 blood and urinalysis done and x-ray and CAT scan done
 8 and the CAT scan comes back, and I quote,
 9 "Impression, free peritoneal fluid and free
 10 peritoneal air predominantly in the lower abdomen and
 11 pelvis most likely related to perforated
 12 diverticulitis," at that point, assuming that this
 13 CAT scan result had been promptly reported to you, at
 14 that point would you have not called for a surgical
 15 consult?
 16 A I believe Doctor Graber called as soon as it was
 17 available. I don't know it would have been any more
 18 available had I been there or Doctor Graber.
 19 Q Had the surgery been promptly done is it more likely
 20 or less likely that Edna Martello would have lived?
 21 MR. VANWAGNER: Objection.
 22 MR. SWITZER: Objection.
 23 A More likely.
 24 Q Getting back to Exhibit 7, page two, the second
 25 paragraph; "Administration of an enema prior to

1 thorough evaluation including CT of the abdomen was
 2 totally inappropriate and was the root cause of the
 3 patient's eventual demise." Do you agree or disagree
 4 with that statement?
 5 MR. VANWAGNER: Objection.
 6 A Disagree.
 7 Q Why?
 8 A Because we don't know if she had bowel perforation
 9 prior to enemas ever being given.
 10 Q Would you want to know if Edna Martello had a bowel
 11 perforation before you gave her an enema?
 12 A If you have a surgical abdomen, yes. People with
 13 diverticular disease day in and day out in nursing
 14 homes receive fleets enemas.
 15 Q What kind of enemas?
 16 A Fleets enemas, soap suds enemas, molasses enemas, any
 17 type of enemas.
 18 Q Is it your testimony that if you had diagnosed an
 19 acute abdomen you would not have ordered an enema of
 20 Edna Martello?
 21 A I would have more strongly encouraged -- I retract
 22 that. I would have still encouraged not to have
 23 provided her with that.
 24 Q What does it mean when the doctor or the nurse is
 25 unable to auscultate bowel sounds?

1 A That she's not hearing bowel sounds when she
 2 auscultates.
 3 Q What does that mean to a layman? I am a layman.
 4 A Well, it could mean many things. It is just that
 5 she's not hearing bowel sounds. It means she could
 6 be having a lack of bowel sounds at the time of
 7 auscultation or her bowels could be stunned from
 8 anything from constipation all the way to anything
 9 that would be surgical abdomen.
 10 Q Is that a sign of a ruptured diverticulum?
 11 A No.
 12 Q Unable to find bowel sounds is not a sign?
 13 A It is not solely a sound of ruptured diverticulum.
 14 It could be indicative of anything.
 15 Q Is that something you would at least want to take
 16 into consideration if you were going to make a
 17 diagnosis of ruptured diverticulum?
 18 A Yes. And I'm sorry, can you tell me what time that
 19 was at.
 20 Q This says at 5:10 a.m.
 21 A Okay.
 22 Q Would you turn to page two of Exhibit 2.
 23 A Okay.
 24 Q That entry at 5:10 a.m. where I just talked about the
 25 unable to auscultate bowel sounds, can you read what

1 it says after that?
 2 Is that, "Doctor Graber arrived?"
 3 A "Doctor Graber aware."
 4 Q "Aware," okay. What is that word after that?
 5 A Respiration, respirs.
 6 ---
 7 (Plaintiff's Exhibit 4
 8 marked for identification.)
 9 ---
 10 Q Okay, thank you. Handing you what has been marked as
 11 Plaintiff's Exhibit 4. It is the Physician's Order.
 12 In the upper left hand corner it is dated, 2/1/00
 13 and I am handing your attorneys copies.
 14 When you reviewed the medical record of Edna
 15 Martello did you see this Physician's Order?
 16 A No.
 17 Q Do you know if Doctor Graber called Doctor
 18 Narichania?
 19 A It says on the order sheet to call Doctor Narichania.
 20 Q Okay. So you can assume that he did?
 21 A Yes.
 22 Q And Doctor Narichania, I assume, this was by
 23 telephone, correct?
 24 A Yes, it says, telephone order.
 25 Q TO, does that mean telephone order?

- 1 A Yes.
- 2 Q Now, at this point it is about 3:30 a.m., correct?
- 3 A Correct.
- 4 Q This is after the CAT scan, correct?
- 5 A Correct.
- 6 Q And it says, "diagnosis, abdominal pain," correct?
- 7 A Correct.
- 8 Q Do you know whose handwriting that is?
- 9 A Jay Morrow.
- 10 Q Jay Morrow, the nurse?
- 11 A Correct.
- 12 Q Where would she have gotten that information?
- 13 A From Doctor Narichania.
- 14 Q Would she not have gotten it from Doctor Graber?
- 15 A No. It says, "telephone order Doctor Narichania."
- 16 Q I don't know, but is it fair to assume that after the
- 17 CAT scan report was communicated to Doctor Graber he
- 18 called Doctor Narichania?
- 19 A Yes.
- 20 Q But we don't know what Doctor Graber told Doctor
- 21 Narichania?
- 22 A We do not.
- 23 Q In the middle of the page right after, TO Doctor
- 24 Narichania, and the sitting of Jay Morrow, whose
- 25 signature is that underneath Doctor Narichania?

- 1 A I'm not sure who that nurse is.
- 2 Q Knowing that the CAT scan had the impression of
- 3 ruptured diverticulum, would you not expect the
- 4 diagnosis to be a little more definite than,
- 5 "abdominal pain?"
- 6 A Yes.
- 7 Q Okay.
- 8 A That was the nurse's diagnosis, but not the
- 9 physician.
- 10 Q But the nurse got that from somebody, didn't she,
- 11 from some record?
- 12 A She got the order, the actual order, maybe not
- 13 necessarily the diagnosis.
- 14 Q I know you can't answer for her, but knowing what we
- 15 know of the CAT scan, this diagnosis really describes
- 16 a symptom the patient has. It is not really a
- 17 diagnosis, is it?
- 18 A Correct. The nurse might not have known the actual
- 19 diagnosis at that time.
- 20 Q At 3:30?
- 21 A She might not have known what the CAT scan showed but
- 22 knew that the patient needed admission.
- 23 Q Doctor Kiehl states in paragraph two, page two, of
- 24 his report, which we have already marked as Exhibit
- 25 7, and I am going down to the third last sentence.

- 1 right in the middle.
- 2 A Okay.
- 3 Q "But the patient clearly had an abdominal emergency
- 4 from the time of her initial evaluation by the nurse
- 5 shortly after 17:10."
- 6 Do you agree that this was an abdominal
- 7 emergency based on the nurse's evaluation?
- 8 MR. VANWAGNER: Objection. Go
- 9 ahead.
- 10 MR. SWITZER: Objection.
- 11 A Let me read it again. "But the patient clearly had
- 12 an abdominal emergency from the time of her initial
- 13 evaluation by the nurse shortly after 17:10."
- 14 Based on the physical examination I would say
- 15 that's a presumed statement. Based on the CAT scan
- 16 result I would say that is a true statement.
- 17 Q The entry at 17:10 is the second entry under the
- 18 patient's assessment marked Exhibit 2. Do you have
- 19 that in front of you? Will you look at that, please.
- 20 A We are back to this? (Indicating.)
- 21 Q Yes, the first page. Do you have that there?
- 22 A Correct.
- 23 Q What does it say following the entry of 17:10?
- 24 A Severe.
- 25 Q "Complains of?"

- 1 A "Complains of severe right side abdominal pain since
- 2 the a.m.," I believe something, nausea, "denies
- 3 nausea," I don't know. "Abdominal large round.
- 4 Tender lower right quadrant. Bowel sounds active all
- 5 quadrants."
- 6 Q So, you don't consider that a symptom of and a sign
- 7 of an abdominal emergency?
- 8 A Really quickly I have to retract, when I was seeing
- 9 17:10, my earlier comment about, yes, I was thinking
- 10 that we are talking about 2:10 in the morning. At
- 11 17:10 this is an incorrect statement. At 17:10 this
- 12 is not a surgical abdomen, no. (Indicating.)
- 13 Q You don't agree?
- 14 A No, I don't agree.
- 15 Q Why don't you think it is a surgical abdomen?
- 16 A She had no peritonitis, no peritoneal signs, no bowel
- 17 sounds.
- 18 Many, many people present with bowel pain
- 19 without a surgical abdomen. We go based on the
- 20 actual physical examination of palpation and
- 21 auscultation and the vital signs.
- 22 Q Had you considered an ultrasound as part of the
- 23 diagnostic study?
- 24 A Yes, I considered it.
- 25 Q Okay. Have you ordered ultrasounds for other

1 patients who have abdominal pain when they come
 2 in the emergency room?
 3 A Yes.
 4 Q Why didn't you order one for Mrs. Martello?
 5 A Initially, again, I was not allowed to order any
 6 tests. She requested that.
 7 Q So, you see, this is a question I have to ask you.
 8 Is it your testimony that you recommend certain
 9 treatment to a patient --
 10 A Yes.
 11 Q -- and the patient says, I don't want an x-ray, I
 12 don't want a CAT scan, even though she's complaining
 13 of severe abdominal pain in the right lower quadrant,
 14 you just say, well --
 15 A You are making a generalization and then trying to
 16 focus on one case, no.
 17 My practice to always hear the story, do my
 18 physical exam, assess the patient, and determine what
 19 I think is in the patient's best interests. Then I
 20 converse with them about what I would like to do and
 21 the majority of the time that's what is usually
 22 provided.
 23 In this particular case her demands were that I
 24 either do the enemas or she would leave.
 25 Q Is that in your report of February 1?

1 A In so many words.
 2 Q Is that in your report of February 1?
 3 A Yes.
 4 Q Where does it say that?
 5 A "Patient declined any other treatment."
 6 Q Under what section?
 7 A Treatment and disposition. "Patient's initial
 8 request; she asked for a soap suds enema and did not
 9 initially want any other work-up other than this."
 10 Q All right. Now, let me ask you, I assume you are
 11 familiar with medical literature that discusses
 12 patients who walk into an emergency room with acute
 13 abdominal pain?
 14 A I have reviewed much literature, yes.
 15 Q I am going to ask you if these are symptoms of a
 16 patient with diverticulitis.
 17 More than 90 percent of cases of diverticulitis
 18 occur after the age of 50 and the average age of the
 19 patient with diverticular complaints is 60 years or
 20 older. Do you agree with that statement?
 21 A I would agree with that statement.
 22 Q The onset of symptoms, 50 percent of patients are
 23 symptomatic for less than one month. Do you agree
 24 with that statement?
 25 A Yes.

1 Q Mrs. Martello complained of being constipated for
 2 about five days, didn't she?
 3 A Yes, being constipated.
 4 Q And that her pain had started earlier in the morning
 5 that day?
 6 A I don't recall exactly off the top of my head without
 7 reviewing the chart when exactly the pain started in
 8 relation to the constipation.
 9 Q Are these symptoms over diverticulitis, abdominal
 10 pain that is initially vague?
 11 A Yes.
 12 Q Bowel sounds that are normal at the first exam?
 13 A Yes.
 14 Q Constipation and abdominal cramping?
 15 A Yes.
 16 Q Pain that is constant?
 17 A Yes, no. Are you talking about a ruptured
 18 diverticulum or are you talking about diverticular
 19 disease? Many people have diverticular disease with
 20 no pain at all.
 21 Q I am not talking about a ruptured diverticulum. Let
 22 me ask you a question: Knowing what you know now --
 23 A Yes.
 24 Q -- when she first presented in the emergency room did
 25 Mrs. Martello have a ruptured diverticulum?

1 MR. VANWAGNER: Objection.
 2 MR. SWITZER: Objection.
 3 A I have no way of knowing that she did not have a
 4 surgical abdomen.
 5 Q So, you don't know if she had a ruptured diverticulum
 6 before she got to the emergency room?
 7 A I do not know.
 8 Q And you don't know if she had a ruptured diverticulum
 9 at some point after she got to the emergency room?
 10 A She clearly had it after.
 11 Q It was discovered after? --
 12 A Correct.
 13 Q But you don't know when that occurred; is that
 14 correct? --
 15 A Correct.
 16 Q Do you have an opinion within reasonable medical
 17 certainty when it happened?
 18 A I believe that it probably likely occurred before the
 19 enemas were even given.
 20 Q She had a ruptured diverticulum before the enema was
 21 administered?
 22 A Likely.
 23 Q Okay. Getting back to the symptoms of
 24 diverticulitis. Abrupt onset of abdominal pain; do
 25 you agree with that?

1 A Well, again, this is one literature's theory. No, I
 2 don't agree with that. Just because you have
 3 diverticular disease does not mean you have any of
 4 those symptoms.
 5 Q How about leukopenia, is that a symptom?
 6 A No. The symptoms you are describing have many, many
 7 possible etiologies. They do not focus on
 8 diverticular disease.
 9 Q But taken into consideration with the presence of
 10 these symptoms you cannot rule out?
 11 A Correct.
 12 Q Do you agree that a soap suds enema is
 13 contraindicated with an impaction?
 14 MR. VANWAGNER: Objection.
 15 A With an impaction?
 16 Q Yes.
 17 A No. They are given to relieve impaction.
 18 Q Do you agree that administration of fluids by mouth
 19 is contraindicated with increasing abdominal pain
 20 within this setting, within the circumstances?
 21 A Not if you were trying to get a good look at the
 22 intestinal tract, no. Sometimes we have to put
 23 fluids down people just to get the fluid beyond the
 24 stomach? So you can do that.
 25 ---

1 (Plaintiff's Exhibit 8
 2 marked for identification.)
 3 ---
 4 Q Showing you what has been marked Plaintiff's Exhibit
 5 8. It is your curriculum vitae and at the top it
 6 says, Joseph Donald Cooper, D.O., and I am handing
 7 copies to counsel.
 8 Doctor Cooper, do you have any additions --
 9 well, first let me ask you, when did you prepare this
 10 C.V.?
 11 A I don't have a date written down? It most likely
 12 looks to be probably the one I did before, just
 13 before I finished my residency, which would have been
 14 June of '99.
 15 Q So you had completed your residency before Edna
 16 Martello had came to the hospital; is that correct?
 17 A Right, correct.
 18 Q Are you board certified?
 19 A Yes.
 20 Q Okay. What board certified you and in what
 21 specialty?
 22 A Emergency medicine board.
 23 Q Is there a specific board for osteopaths as compared
 24 to medical doctors or is it the same board?
 25 A For emergency medicine training they are separate.

1 But I am board certified by the medical doctors. I
 2 did an allopathic residency.
 3 Q What is an allopathic residency?
 4 A An M.D. affiliated residency.
 5 Q And where did you have that?
 6 A Akron General.
 7 Q Have you ever had -- well, are there any additions
 8 that you want to make to this C.V.?
 9 A Besides having another child, the fact that I am
 10 board certified.
 11 Q When did that happen?
 12 A You take written followed by oral and the oral was
 13 completed, I believe, September, October of last
 14 year.
 15 Q September, October of 2000?
 16 A Correct.
 17 Q So almost a year ago?
 18 A Correct.
 19 Q ~~From~~ All right. So you were not board certified as an
 20 ~~emergency~~ emergency room physician at the time you treated Edna
 21 Martello?
 22 A No. I was what is called board eligible.
 23 Q Did you pass all of your board certifications the
 24 first time?
 25 A Yes.

1 Q I notice you are credentialed by the National Board
 2 of Osteopathic Medical Examiners.
 3 A Correct.
 4 Q But that's not in the area of emergency medicine,
 5 is it?
 6 A No, that's true.
 7 Q What hospitals do you currently have privileges to
 8 treat patients at?
 9 A Fairview.
 10 Q Are you no longer with Metro?
 11 A No.
 12 Q Why are you not with them any more?
 13 A Choice.
 14 Q Have you ever been asked to resign?
 15 A No.
 16 Q Have you ever had your privileges revoked or
 17 suspended by any hospital?
 18 A No.
 19 Q Before today's deposition have you ever given any
 20 testimony under oath?
 21 A No.
 22 Q Have you ever been sued as a defendant in a medical
 23 malpractice case?
 24 A Prior to this one?
 25 Q Yes.

- 1 A No.
- 2 Q In here you mention that -- now I lost my place and
- 3 there's only two places, you would think I could keep
- 4 track. Somewhere you mention you work with residents
- 5 who are rotating through or don't you do that
- 6 anymore?
- 7 A We do that presently at Fairview, yes.
- 8 Q Are you some kind of clinical professor of medicine?
- 9 A The clinical professor, when you're at Metro and you
- 10 are a life flight physician they deem many of the
- 11 flight physicians as professors. I was an associate
- 12 professor at Case Western Reserve just by my
- 13 position.
- 14 Q All right.
- 15 A Presently I no longer hold that position, so, no.
- 16 Q You don't actually lecture medical students at the
- 17 medical school, do you?
- 18 A No.
- 19 I have been asked to give lectures back at my
- 20 old residency in Akron, but I have not done so.
- 21 Q At the time of your treatment of Edna Martello did
- 22 you have medical malpractice liability insurance?
- 23 A Yes.
- 24 Q Do you know the name of your insurance company?
- 25 A Off the top of my head I forget.

- 1 MR. COTICCHIA: Okay. Well, I
- 2 will have to get that by another
- 3 form of discovery. I am about
- 4 done. I am mindful of
- 5 Mr. Switzer's tight schedule here.
- 6 You may cross-examine.
- 7 MR. SWITZER: I have no
- 8 questions.
- 9 MR. COTICCHIA: You have no
- 10 questions?
- 11 MR. SWITZER: No questions.
- 12 MR. COTICCHIA: Most unusual.
- 13 MR. SWITZER: You are a very
- 14 thorough guy.
- 15 MR. COTICCHIA: I wish. Give
- 16 me just a couple minutes to go over
- 17 my notes and then I think I am
- 18 done.
- 19 ---
- 20 (Short recess had.)
- 21 ---
- 22 MR. COTICCHIA: Back on the
- 23 record.
- 24 Q Doctor Cooper, are you a member of the Allen Memorial
- 25 Medical Library which is at Case Western Reserve?

- 1 A No.
- 2 Q Have you ever used that library?
- 3 A No.
- 4 Q Are you a member of any medical libraries?
- 5 A I have access to medical libraries. I am not a
- 6 member of any particular libraries.
- 7 Q Okay. What medical libraries do you have access to?
- 8 A Akron General, Metro.
- 9 Q Is there a medical library at Southwest General?
- 10 A There is not a medical library that I am aware of.
- 11 But we keep articles and journals and books in our
- 12 ER.
- 13 Q What journals and medical books do you subscribe to?
- 14 A Books I carry, Rosen. I carry Harwood and Nuss,
- 15 Tintinelli's.
- 16 Q How do you spell Tintinelli's?
- 17 A T-I-N-T-I-N-E-L-L-I.
- 18 Q One of those hard to write Italian names. Any other
- 19 medical books that you subscribe to?
- 20 A Harwood and Nuss.
- 21 Q How do you spell that, Nuss?
- 22 A N-U-S-S. And Rosen is, R-O-S-E-N.
- 23 Q Right, I got those, and Tintinelli.
- 24 A Those are some of the books, yes.
- 25 Q Any journals or periodicals?

- 1 A Yes.
- 2 Q Which ones?
- 3 A Emergency Physicians Monthly, Emergency Medicine
- 4 Practice, Pediatric Emergency Medicine Reports, The
- 5 D.O.
- 6 Q The D.O.?
- 7 A Correct.
- 8 Q Meaning, The Doctor of Osteopathic Medicine?
- 9 A Correct.
- 10 Q Anything else?
- 11 A Other throw aways that I get for free.
- 12 Q Have you ever read The Five Minute Emergency Medicine
- 13 Consult published by Lippincott, Williams & Wilkins?
- 14 A I don't think so.
- 15 Q Ever heard of it?
- 16 A It may have been something I read at one point or
- 17 another in my training but I don't recall.
- 18 Q Have you ever read Hospital Medicine Editor, written
- 19 by Doctors Wachter, W-A-C-H-T-E-R, Goldman &
- 20 Hollander, also published by Lippincott, Williams &
- 21 Wilkins?
- 22 A No.
- 23 Q Have you ever read a publication known as, The Annals
- 24 of Emergency Medicine?
- 25 A Yes.

- 1 Q Do you recall an article describing or captioned,
2 Acute Abdominal Pain in the Elderly?
3 A No, I don't recall that one.
4 Q I am going to read to you from this article which is
5 dated December 19th, 1990, page 50/1386. This is a
6 conclusion. "Elderly patients with acute abdominal
7 pain often require hospitalization and surgery using
8 extensive laboratory and radiographic testing,
9 as well as liberal surgical consultation. The ED
10 staff is able to make specific diagnoses in the
11 majority of cases, particularly in patients who
12 ultimately require surgery."
13 Do you agree with that statement?
14 MR. VANWAGNER: Objection.
15 A As a generalization, yes, most elderly people get
16 worked up until either they have a diagnosis or
17 they are pain free.
18 Q Have you read or do you subscribe to Harrison's
19 Principles of Internal Medicine published by
20 McGraw-Hill?
21 A No.
22 Q Have you read or do you subscribe to Differential
23 Diagnosis of Acute Pain by Body Region, published by
24 Doctor Weener or written by Doctor Stanley Weener,
25 rather?

- 1 A No.
2 Q And published by McGraw-Hill?
3 A No.
4 Q Have you read or do you subscribe to Principles of
5 Surgery, Sixth Edition, published by McGraw-Hill, and
6 the authors are Doctor Schwartz, Shires and Spencer?
7 A No.
8 Q Have you read or do you subscribe to Signs and
9 Symptoms in Emergency Medicine, by Doctors Mark
10 Davis, Scott Vote, V-O-T-E, and Greg Greendow?
11 A No.
12 Q Publisher is Mosby?
13 A That's a book or is that a chapter?
14 Q That is a book?
15 A No.
16 Q I am going to quote, and ask you if you agree or
17 disagree. Under the heading of colonic
18 diverticulitis -- well, we have already talked about
19 all of this here.
20 Do you agree, with work-up diverticulitis is
21 primarily a clinical diagnosis. Do you agree with
22 that statement?
23 A Diverticulitis?
24 Q Yes.
25 A Correct, yes.

- 1 Q A CT scan with intravenous and oral contrast, with
2 rectal contrast, if needed, demonstrates periodic
3 inflammation abscess both at the site of the
4 perforation and at distant sites in the abdomen. Do
5 you agree with that?
6 A Yes.
7 Q WBC is of limited value. Do you agree with that?
8 MR. VANWAGNER: Objection.
9 A No, I disagree.
10 Q Abnormal x-rays -- I'm sorry, I misquoted.
11 Abdominal x-rays may be useful for ruling out
12 free air or bowel obstructions but otherwise provide
13 little diagnostic information. Do you agree with
14 that statement?
15 A I disagree.
16 Q Why do you disagree?
17 A Because they are just making a general assumption
18 that it does not find any pathology. It finds many
19 pathologies. It is always a starting point.
20 Q When you use the word, "pathology," in these
21 circumstances, what do you mean?
22 A Anything from feces to, you know, fecal impaction,
23 constipation, bowel obstructions, ischemic perforated
24 viscus. So, in a case like this with a nonsurgical
25 abdomen you would always start with an x-ray.

- 1 Q This is probably just to get some terms clarified.
2 Is there a difference and what is it if there is, a
3 difference between a perforated sigmoid colon and a
4 perforated viscus?
5 A A viscus is just a generalization. It could be small
6 bowel, large bowel, any open organ.
7 Q Okay. Within a bowel?
8 A Within the GI tract, yes, stomach, esophagus, small
9 and large intestine.
10 MR. COTICCHIA: I don't have
11 any more questions.
12 MR. SWITZER: No questions.
13 MR. VANWAGNER: Okay. We will
14 read it.
15 MR. COTICCHIA: I would like a
16 transcript please.
17 ---
18
19
20 JOSEPH D. COOPER, D.O.
21 (Deposition concluded.
22 Signature not waived.)
23
24 ---
25

1 STATE OF OHIO,) CERTIFICATE

2)
3 COUNTY OF GEAUGA.)

4 I, Ronald M. Rua, a Notary Public
5 within and for the State aforesaid, duly
6 commissioned and qualified, do hereby certify
7 that the above-named JOSEPH D. COOPER, D.O.,
8 was by me, before the giving of his deposition,
9 first duly sworn to testify the truth, the whole
10 truth, and nothing but the truth; that the
11 deposition as above set forth was reduced to
12 writing by me by means of stenotype, and was
13 later transcribed into typewriting under my
14 direction; that said deposition was taken in
15 all respects pursuant to the stipulations of
16 counsel herein contained, and was completed
17 without adjournment; that the foregoing is
18 the deposition given at said time and place
19 by said JOSEPH D. COOPER, D.O., that I am
20 not a relative or attorney of either party
21 or otherwise interested in the event of this
22 action. IN WITNESS WHEREOF, I hereunto set my
23 hand and seal of office at Cleveland, Ohio, this
24 29th day of August, A.D. 2001.

25 _____
Ronald M. Rua, Notary Public
My commission expires: 5/13/05.

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