

1 THE STATE of OHIO,
2 COUNTY of SUMMIT. : SS:

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4 IN THE COURT OF COMMON PLEAS

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6 JACK ANDREWS, et al.,
7 plaintiffs,

8 vs. : case No.CV 98 124723

9 ALICE DENTON, M.D., et al.,:
10 defendants.

11 -----

11 Deposition of ALICE DENTON, M.D. a
12 defendant herein, called by the plaintiffs for the
13 purpose of cross-examination pursuant to the Ohio Rules
14 of Civil Procedure, taken before Constance Campbell, a
15 Notary Public within and for the state of Ohio, at the
16 offices of Buckingham, Doolittle & Burroughs, 1375 East
17 Ninth Street, Cleveland, Ohio, on WEDNESDAY, APRIL 28TH,
18 1999, commencing at 2:35 p.m. pursuant to agreement of
19 counsel.

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APPEARANCES:

ON BEHALF OF THE PLAINTIFFS:

Donna Taylor Kolis, Esq.
Donna Taylor Kolis Co., LPA
330 Standard Building
Cleveland, Ohio 44113
(216) 861-4300.

ON BEHALF OF THE DEFENDANT ALICE DENTON, M.D.:

Peter S. Voudouris, Esq.
Buckingham, Doolittle & Burroughs
1375 East Ninth Street
Cleveland, Ohio 44114
(216) 621-5300.

ON BEHALF OF THE DEFENDANT ANTON MILO, M.D.:

David M. Best, Esq.
4900 West Bath Road
Bath, Ohio 44333.

I N D E X

WITNESS:-

ALICE DENTON, M.D.

PAGE

Cross-examination by Miss Kolis

4

PLAINTIFFS' EXHIBITSMARKED

1 - Dr. Denton's curriculum vitae

5

(FOR COMPLETE INDEX, SEE APPENDIX)(IF ASCII DISK ORDERED, SEE BACK COVER)

1 ALICE DENTON, M.D.

2 of lawful age, a defendant herein, called by the
3 plaintiffs for the purpose of cross-examination pursuant
4 to the Ohio Rules of Civil Procedure, being first duly
5 sworn, as hereinafter certified, was examined and
6 testified as follows:

7 -----

8 MISS KOLIS: Dr. Denton, ■
9 believe of course we've been introduced, ■'■■ identify
10 myself for the record, my name is Donna Kolis, I now
11 represent the Estate of Jack Andrews. As you are aware,
12 I filed a lawsuit in which you are a named defendant.

13 My purpose today is to go over with you
14 the clinical records which you prepared during the
15 course of your care and treatment with Mr. Andrews.

16 -----

17 CROSS-EXAMINATION

18 BY MISS KOLIS:

19 Q. Let me ask you before we get started with the
20 questioning portion, prior to today have you ever had
21 the opportunity to give a deposition before?

22 A. NO.

23 Q. A good guess would be that your attorney reviewed
24 some of the basic deposition rules I guess with you, I'm
25 going to state them for the record.

1 You have an obligation to answer each
2 and every question in a verbal fashion; do you
3 understand that?

4 A. Yes.

5 Q. If I ask a question that you do not understand,
6 please indicate that you don't know what I'm asking.
7 The reason for that is if you answer a question I've
8 asked you, we're going to assume you understood the
9 question, okay?

10 A. okay.

11 Q. ■ If you need to confer with your attorney,
12 Mr. Voudouris, I take no objection to that: You can
13 simply indicate you would like to speak with him; do you
14 understand that direction also?

15 A. Yes.

16 Q. ■ have just been handed what apparently is your CV
17 and the court reporter is going to mark it as
18 Plaintiffs' 1.

19 -----

20 (Plaintiffs' Exhibit 1 marked for identification.)

21 -----

22 Q. Briefly, since I haven't had a chance to read it,
23 tell me about your education that led to your occupation
24 as a physician beginning with college?

25 A. I went to college at Carnegie-Mellon University.

1 You want the degrees?

2 Q. Sure.

3 A. Got a Bachelor of Science in chemistry. Then went
4 to the Medical College of Ohio in Toledo where I got my
5 M.D. Proceeded to Akron City Hospital for their
6 internal medicine residency.

7 Q. what year did you complete your medical degree?
8 '94 it says; is that right?

9 A. Yes.

10 Q. Then you proceeded directly -- did you match at
11 Akron, is that how you got that position?

12 A. Yes.

13 Q. You proceeded into a three year residency in
14 internal medicine?

15 A. Correct.

16 Q. Have you taken the Boards?

17 A. Yes.

18 Q. You passed those Boards; is that right, for
19 internal medicine, I'm sorry?

20 A. NO.

21 Q. You are currently Board eligible?

22 A. Correct.

23 Q. I'm sorry, I should have asked it a different way.

24 Have you already at least sat for the
25 Boards, or you haven't done that yet?

1 A. I sat for the Boards.

2 Q. You did not successfully complete that

3 examination?

4 A. That is correct.

5 Q. Fair enough.

6 Doctor, during the time that you saw

7 Jack Andrews, what was your relationship to Akron City

8 Hospital? Your employment relationship, if you had one?

9 A. I had an employment contract with them as a

10 resident.

11 Q. Now, you were seeing patients in the Internal

12 Medicine clinic; am I stating that correctly?

13 A. Yeah.

14 Q. Because I was a little confused, the Internal

15 Medicine clinic where you saw Mr. Andrews, that's a part

16 of the hospital?

17 MR. VOUDOURIS: YOU mean physically

18 part?

19 Physically part?

20 A. It's in a building across the street.

21 Q. To your knowledge, the Internal Medicine center,

22 is that an independent business entity apart from the

23 hospital?

24 A. I don't know.

25 Q. If you don't know, that is okay.

I MR. VOUDOURIS: she doesn't know
2 what the business structure is at IMC in relation to the
3 hospital.

4 Q. Did you round with doctors in the hospital as part
5 of your residency, or did you see patients exclusively
6 in the Internal Medicine Clinic?

7 A. I did both from time to time.

8 Q. Can you break it out for me during the course of
9 your three year residency how your time was essentially
10 spent?

11 A. we were assigned rotations throughout the three
12 year period, it would depend on the rotation what you
13 would do. Some rotations are spent primarily in the
14 hospital like when you were in the intensive care unit.
15 Some rotations were considered outpatient, where you
16 would spend more time in the outpatient clinic,
17 sometimes Internal Medicine Center, sometimes other
18 physician's offices.

19 Q. You saw Mr. Andrews from the reading of the
20 record, you can correct anything I've misread, in the
21 Internal Medicine Clinic essentially from November of
22 1995 if I'm looking at the notes right?

23 A. Correct, November, '95.

24 Q. Through the time that you left the program; is
25 that right, through May to June, clarified at the

1 deposition, of '97?

2 A. Yes.

3 Q. Is that when you actually completed your program?

4 A. Yes.

5 Q. when you referred to other doctors' offices were
6 you referring to an office other than internal medicine,
7 what do they call this group, Akron --

8 MR. VOUDOURIS: IMC.

9 A. I don't understand your question.

10 Q. You indicated you spent some time in the hospital
11 specifically when you were doing an ICU rotation,
12 sometime in the clinic, that is what we're referring to?

13 A. The Internal Medicine Clinic.

14 Q. Sometime at other doctors' offices?

15 A. Correct.

16 Q. Mr. Andrews was not a patient at other doctors'
17 offices, you exclusively saw him at IMC?

18 A. I'm not sure of your question. He was seen at
19 other doctors' offices.

20 Q. But not by yourself?

21 A. Not by myself.

22 Q. All the times you saw him were at IMC?

23 A. yes.

24 Q. Have you had an opportunity before today to review
25 the medical records that you generated regarding this

1 patient?

2 A. Before today?

3 Q. Yes.

4 A. Yes.

5 Q. Have you looked at any other medical records
6 regarding care and treatment of Mr. Andrews not rendered
7 by yourself?

8 A. NO.

9 Q. As I went through the notes, once again that is
10 why we are here so you can correct anything I don't
11 appreciate appropriately for each and every note
12 generated for this patient, ■ don't see a signature for
13 an attending physician; do you agree with that?

14 MR. BEST: While she's looking
15 through that, Peter, are there a lot of pages? I
16 haven't seen a lot. ■ there an extra copy I can look
17 at?

18 MISS KOLIS: This is a set ■
19 originally got.

20 MR. VOUDOURIS: Her note is on like
21 five or six of these pages.

22 A. They were not countersigned.

23 Q. Let me ask you something about your experience at
24 ■ MC. when did you begin work at IMC?

25 A. Roughly July of '94. Maybe August, that Summer.

1 Q. Did you then continuously see and treat patients
2 at IMC through the end of your residency?

3 A. Yes. we had assigned days of the week when we
4 would spend a half day in IMC.

5 Q. Did people that you saw during those half days at
6 IMC become your patients for purposes of continuing
7 care?

8 A. Yes. Yes and no.

9 Q. Explain the yes and no.

10 A. They would try to assign each patient to a
11 resident so they could build a rapport and stay with
12 them.

13 Q. For the continuity of care issues?

14 A. Correct. However, all the residents would cross
15 cover for each other. sometimes you would be asked to
16 see patients that were not your own. sometimes patients
17 not seen in the clinic as much, on a regular basis,
18 wouldn't get a regular physician.

19 Q. That was just the question I had, generally if
20 they were trying to assign a patient to a resident?

21 A. Yes, they tried to.

22 Q. We're going to go through most of your exams. I'm
23 pretty certain hopefully not in such excruciating
24 detail.

25 Each and every time you examined

1 Mr. Andrews, did an assessment, was an attending present
2 with you to confirm the results of your physical
3 examination, the plan you wrote based on that
4 examination?

5 MR. VOUDOURIS: Do you mean
6 physically in the room with her?

7 MISS KOLIS: Yes, that.

8 MR. VOUDOURIS: In the building?

9 Q. Not in the building. Were you attended by an
10 attending?

11 A. Not physically in the room with me.

12 Q. Explain how that worked.

13 A. There was an area inside the IMC called the bull
14 pen, all of the residents working that day would have
15 access to a place to dictate, there would be an assigned
16 attending to monitor the IMC that morning or that
17 afternoon. You would see patients, go back and discuss
18 it with the attending. If you had questions,
19 occasionally they could go in and see the patient.

20 Q. If I misstate it, you tell me. AS a general
21 matter it was not required that an attending come in and
22 independently confirm the results of your physical
23 examination?

24 A. when you first started with IMC, for the first few
25 visits it was required. As you progressed it was not.

1 Q. when you say when you first started at IMC for the
2 first few visits, are you referring to the patient's
3 first few visits or your particular?

4 A. The resident's, the new resident's first few
5 visits.

6 Q. Your first few visits would have been 1994?

7 A. Correct.

8 Q. Thereafter at some point in time, do you recall
9 what point in time you were accorded I guess the
10 responsibility of examining the patient on your own?

11 A. I don't recall when I was on my own.

12 Q. So that I'm perfectly clear, I think I heard you
13 properly, the physician would only come in at the level
14 you were at in your residency on physical exam if you
15 had questions or issues that you wanted to discuss with
16 an attending?

17 A. Correct.

18 Q. Otherwise, if I'm hearing what you are saying, at
19 the end of your half day at IMC would you go back to the
20 bull pen, sort of -- I don't want use the word triage --
21 go over with the attending the actual exams you had done
22 that day, or did I misunderstand that?

23 A. I misunderstood what you said.

24 Q. The way you described it to me that you saw
25 patients half day, morning or afternoon, doesn't matter,

1 at the end of seeing patients for the half day you would
2 review those findings with the attending?

3 A. You did not have to review all the findings every
4 day with the attending at the end.

5 Q. Then I did misunderstand you.

6 Did you dictate your examination notes
7 at that point, place them in the chart?

8 A. Yes. If you had questions the attending was there
9 to answer them.

10 Q. Let's go to your initial visit with Mr. Andrews,
11 once again for clarification you are indicating for the
12 record you have not looked at his subsequent treatment
13 records?

14 A. No.

15 Q. Have you ever seen his Saint Thomas
16 hospitalization records?

17 A. I had them in a binder, leafed through them
18 quickly, did not read them.

19 Q. Out of curiosity, had you ever seen the Saint
20 Thomas records at any time while Mr. Andrews was still
21 your patient?

22 A. I saw the discharge summary, that was it.

23 Q. Was the discharge summary faxed to you?

24 A. Upon my request.

25 Q. That was after you discovered he had been to

1 Saint Thomas Hospital?

2 A. Correct.

3 Q. Saint Thomas is part of Summa, correct?

4 A. I believe so.

5 Q. At the time in question?

6 A. At that time it was.

7 Q. Therefore you could just pick up the phone, they
8 would send it over probably, is that how you recall it
9 happening?

10 A. I don't remember specifically what happened.

11 Q. Let me ask you a couple other questions about
12 records and notes. I'm sorry, we will go back to what I
13 want to deal with.

14 In the records that you have is there a
15 correspondence section of any sort?

16 A. I don't know what you mean. These records have
17 been provided to me.

18 MR. VOUDOURIS: Let me clarify. She
19 didn't look at the records exactly the way they came
20 from the chart. She looked at the records after I had
21 gone through them, a nurse maybe from the office
22 organized them. The way she looked at them is not the
23 way they were initially in the chart.

24 Q. You haven't had an opportunity since the
25 initiation of this lawsuit to look at the original

1 chart?

2 A. No.

3 Q. In the records that have been provided to you, to
4 refresh your memory or whatever, is there a
5 correspondence section, letters to you or the Internal
6 Medicine Clinic from other doctors?

7 A. There are some in here, yes.

8 Q. Tell me who there are consults or correspondence
9 from contained in the Internal Medicine chart?

10 A. There is a consultation to the ophthalmology
11 clinic September 25th, patient was seen by Carl Senft,
12 s-e-n-f-t.

13 Q. In 1996?

14 A. September 27, 1996.

15 Q. what was the name?

16 A. s-e-n-f-t.

17 Q. what kind of doctor is he?

18 A. Ophthalmology resident. There is a letter from
19 Dr. Stringham to Dr. Milo. There is a letter or
20 consultation from Dr. Milo to me. Actually says to
21 Dr. Stringham from September 26th of '96.

22 Q. Anything past your date of care I don't care
23 about, if that makes sense to you.

24 A. Yes.

25 Q. I think that is it.

1 MR. VOUDOURIS: Do you mean records
2 too that were sent to her such as the MRI report? So
3 you're clear.

4 A. Yes, there was an MRI report in here.

5 MR. VOUDOURIS: You had some
6 discharge summaries in here.

7 A. I have a discharge summary in there from saint
8 Thomas admission in December of '96 you referred to. Do
9 you want anything more specifically?

10 Q. No, that's pretty good. It's certainly not your
11 problem, I requested a set of reports that Mr. Best is
12 now looking at, maybe I didn't know how to appropriately
13 file the request because basically what I got were your
14 notes I am assuming contained within the original chart.

15 You originally did get a consult letter
16 from Dr. Milo, a copy of the MRI report?

17 A. I believe so.

18 MR. BEST: Do you need these?

19 MISS KOLIS: No, I wanted to make
20 sure she had access to these at the time she was
21 treating Mr. Andrews.

22 Q. If you could turn to the first visit with
23 Mr. Andrews, I think November 7, 1995. Hopefully yours
24 is in chronological order.

25 Do you know how you came to be assigned

1 Mr. Andrews on this date, for what it's worth?

2 A. I have no idea.

3 Q. He became your patient ■ guess, is that okay if I
4 say that?

5 A. (Indicating affirmatively.)

6 Q. During the first visit you did a physical
7 examination of the patient; is that right?

8 A. Yes.

9 Q. At the time if you would turn ■ think it's on the
10 second page of your dictated note at the top, you
11 indicated a finding of chronic scarring and irritation
12 of right TM, left TM clear, good anterior right reflex;
13 do you see that?

14 A. urn-hum.

15 Q. At that time was Mr. Andrews in your opinion
16 symptomatic for any disease processes that were related
17 to this chronic scarring of the right TM?

18 MR. VOUDOURIS: objection.

19 Q. Let me ask you the question a different way: This
20 is a finding you made, is that fair to say, he has
21 some --

22 A. That was my physical exam.

23 Q. Did you have a plan of care for him based upon the
24 chronic scarring and irritation of the right TM?

25 A. I'm not sure I understand your question, but --

1 MR. VOUDOURIS: If you don't
2 understand the question, tell her.

3 A. what do you mean plan of care?

4 Q. You did a physical examination, resulted in a
5 finding that you've put in the chart that he had chronic
6 scarring?

7 A. um-hum.

8 Q. And irritation of the right TM. We will limit to
9 that at the moment.

10 As a result of that finding was there
11 anything medically you wanted to do?

12 A. Yes, Mr. Andrews told me he had repeated,-
13 infections in that ear, he had already been taking
14 Claritin, anti-histamine, he said it didn't work a lot
15 or very well. He was already on an anti-histamine so ■
16 added Beconase AQ to help with the drainage.

17 Q. You wrote in the chart has irritation of the right
18 TM. Can you today sitting here tell me what you saw
19 that made you put this in the chart?

20 MR. VOUDOURIS: objection. If you
21 know.

22 Q. If you know.

23 A. I don't recall specifically.

24 Q. That's fine. I want to know if you had some
25 assessment since you had an opportunity to review these

1 records.

2 So you basically decided to do what?

3 You told me he had been taking claritin, it didn't help
4 you didn't want him put on an anti-histamine?

5 A. claritin is an anti-histamine. I didn't want to
6 add a decongestant because it would make his blood
7 pressure worse, so I added the nasal steroid to help his
8 drainage.

9 Q. Fair enough.

10 He was scheduled to come back in three
11 months or earlier as I read the chart?

12 A. Yes.

13 Q. Was he told to follow-up on all the conditions
14 that you listed for the repeat infection and sinus
15 drainage?

16 A. Both.

17 Q. I just want to know, I wasn't there.

18 A. I know. Both.

19 Q. I want to know if you had a specific purpose for
20 the return in three months, most people don't come in
21 every three months for a three month physical?

22 A. He had hypertension and diabetes.

23 Q. You wanted to monitor that?

24 A. correct.

25 Q. Were you able to, at the time he became your

1 patient, able to review all his previous medical notes?

2 A. I don't recall.

3 Q. You relied on his history he had chronic ear
4 infections?

5 A. ■ don't remember exactly what ■ relied on.

6 Q. The next contact, tell me if I'm right or wrong, ■
7 can't always read people's handwriting, on 11-28-95, is
8 that your writing or not?

9 A. Yes.

10 Q. Was this based upon a telephone call or can you
11 tell from the note?

12 A. I can't tell from the note.

13 Q. It says, ■'■■ read it, what ■ can read, tell me
14 what you wrote, patient phoned at home, ■ gather this
15 phone number, complains of left shoulder pain.

16 MR. BEST: I'm sorry, what were
17 you reading?

18 MR. VOUDOURIS: Top of the page.

19 MISS KOLIS: Top of the page, no
20 Bates stamp.

21 MR. BEST: Thanks.

22 Q. Do you see this entry?

23 A. I understand what you are saying.

24 Q. Does that help you know what --

25 A. This note means ■ called the patient at home, used

1 that phone number, he was complaining of left shoulder
2 pain.

3 Q. Do you know why you phoned him on that date?

4 A. I don't know.

5 Q. Says ■ must get in contact with Dr. Roe about the
6 patient's colonoscopy, that was something you talked
7 about on your first exam?

8 A. Correct.

9 Q. I will call back patient with results of
10 follow-up; is that what that is?

11 A. Result and follow-up.

12 Q. In a few weeks. Patient also complained of heavy
13 feet. I assume the heavy feet is related to the
14 diabetes or hypertension?

15 MR. VOUDOURIS: Do you know what
16 heavy feet was related to back then?

17 A. I can make an assumption now.

18 Q. You just put a note in there that is what he
19 complained about; is that right?

20 A. Correct.

21 Q. Then your next contact, is that next one your
22 signature?

23 A. 12-7-95.

24 Q. This is a phone call to the physician or note
25 about the patient?

1 A. Phone call to Dr. Roe. In my previous note on
2 11-28, I'm not sure why, found out that the patient had
3 had a colonoscopy I wasn't sure when he needed a
4 follow-up, so I called Dr. Roe to discuss *it* with him.

5 Q. It indicates he wanted a repeat colonoscopy in
6 October of '96?

7 A. I'm sorry?

8 Q. The last sentence *of* your note, October, '96
9 repeat colon with Dr. Roe?

10 A. Correct.

11 Q. That was the upshot of your conversation, he
12 doesn't need *it* now, he can come back in October *of* '96?

13 A. Correct.

14 Q. The next contact that I see is 3-13-96. Patient
15 calling, still having pain in shoulder, requests an
16 appointment with Dr. Denton on 3-14, right?

17 A. Yes.

18 Q. 3-14 he comes in, he has got what complaints?

19 A. On 3-13 that was from a nurse. On 3-14 go -- go
20 ahead.

21 Q. Is this next note your note, the one following the
22 nurse saying *it* must be --

23 A. Yes.

24 Q. You hand write notes, you dictate notes?

25 A. Yes. I hand write reminders or points to myself,

1 dictate a full note.

2 Q. can I go through your handwritten portion with
3 you, all your handwriting is fairly legible?

4 A. Yes.

5 Q. Subjectively complained of pain in the left
6 shoulder and elbow, constant pain in both legs, needs
7 meds refilled apparently?

8 A. That is not my handwriting, I think it's what it
9 says.

10 Q. This is not your handwriting?

11 A. Not until you get to where it says Dilantin, that
12 handwriting above that I didn't write, I'm not sure,
13 somebody MA, medical assistant.

14 Q. Do you recognize that person, probably not?

15 A. No.

16 Q. Do you have medical assistants at the Internal
17 Medicine Clinic?

18 A. Yes.

19 Q. what would they do?

20 A. Ask the patient a few basic complaints, get their
21 vitals, then document them and tell us the patient was
22 ready.

23 Q. So you obviously knew he was having a complaint
24 about it looks like shoulder and elbow pain, his legs,
25 then where it begins with Dilantin, that is your

1 writing, the medication he's on at present?

2 A. Correct.

3 Q. Says he complains of tremors. Tremors are related
4 to what? I don't mean medical condition, tremors in the
5 arms, the leg, can you tell me?

6 A. It's not clear from my note.

7 Q. You don't have an independent recollection of what
8 body part you would have been referring to?

9 A. No.

10 Q. Not that I expect you to this far down the road,
11 I'm just asking if you have one.

12 Then of course we have your dictated
13 note from your examination. Let me ask you this: when
14 you need to have an attending's input into a case, do
15 you list that somewhere in your dictated note?

16 A. I never did.

17 Q. How would I be able to determine on what occasions
18 you would have elected to ask an attending's opinion
19 about a physical examination?

20 A. I don't know.

21 Q. Let's go over some of your findings from this
22 visit, specifically I would like to ask you a couple of
23 questions. when you examined him this time, right TM is
24 erythematous, with purulent material behind it. That
25 was a different situation than what you had seen in

1 November?

2 A. correct.

3 Q. Because you describe it as an irritation, that is
4 why I was asking what you remember. Now you see
5 erythematous, reddening I'm assuming is what you were
6 referring to, red and swollen with purulent material,
7 retracted, distorted membrane. what do you mean when
8 you say distorted membrane, what are you personally
9 describing?

10 A. I'm not sure I can say exactly what I was
11 describing then, I was a resident. what it meant to me
12 then may not mean the same thing now. My education or
13 knowledge basis changed.

14 Q. correct. Do you know what you would have meant by
15 that at that time in your career?

16 A. I'm not sure I could say clearly or definitively.
17 I can say that it was distorted meaning that it was
3.8 retracted. That it was pulled in.

19 Q. At that time did you believe that he had an active
20 infection in the ear or did you believe what you were
21 seeing was a result of a chronic process, if you know?

22 A. I believe that at the time he had an acute
23 infection.

24 Q. what did you base your assessment that he had an
25 acute infection on, why did you think acute?

1 A. The physical exam.

2 Q. what part of the physical exam led you to the
3 belief **it** was an acute --

4 A. The retracted eardrum, the purulent material.

5 Q. Did you order any **b**lood work for the patient on
6 that visit?

7 A. I'm not sure. I don't see any marks that **I** did.

8 Q. Your assessment and plan number four indicates
9 that you determined that he had right otitis media,
10 obviously based on your physical exam.

11 The next sentence also has allergic
12 rhinitis, can you tell me how you drew that assessment,
13 what you were referring to?

14 A. Not specifically. I don't have **it** clearly marked
15 that he complained of a runny nose or anything like
16 that.

17 Q. You really don't know why that is in there?

18 A. Not at this time, no.

19 Q. So you put him on antibiotics for the otitis
20 media, correct?

21 A. Correct. I may have just added the vancenase
22 hoping **it** would allow the ears to drain better, allow
23 the infection to resolve faster.

24 Q. The **Cl**aritin was given for what reason?

25 A. Same thing. Then I asked him to follow-up.

1 Q. In four months?

2 A. If he continued to have problems he should call
3 back.

4 Q. when you said if he continued to have problems, it
5 was regarding the right otitis media because that is
6 where you placed it in there?

7 A. Correct.

8 Q. Meanwhile was he scheduled for four months later?

9 A. For regular follow-up.

10 Q. Do you know for what period of time you would have
11 prescribed the antibiotic? ■ only ask that because ■
12 don't have any copies of scripts.

13 A. what is the date of that visit?

14 MR. VOUDOURIS: 3-14-96.

15 A. NO.

16 Q. I'm sorry, I was waiting until you flipped through
17 all the papers, no what?

18 MR. VOUDOURIS: You didn't know how
19 long she prescribed.

20 A. I didn't know how long I prescribed the
21 antibiotics.

22 MISS KOLIS: I might suggest this
23 doesn't have anything to do with you, maybe we should go
24 down and look at the original chart at ■ MC. I don't
25 have anything with prescriptions on it.

1 MR. VOUDOURIS: That's fine.

2 Q. How long, if you know, based upon right otitis
3 media being the diagnosis, you thinking it was acute at
4 that time, how long would you as a matter of medicine
5 have written the initial prescription for?

6 A. Probably seven to 10 days. Again, what I know
7 now, what I knew then, I don't clearly understand. I
8 can't clearly differentiate the two.

9 Q. we will accept your answer probably seven to 10
10 days.

11 would you at that time, based upon your
12 knowledge as an internal medicine resident, have
13 anticipated an improvement of symptoms of the right
14 otitis media with a seven to 10 day prescription?

15 MR. VOUDOURIS: Again, this is based
16 on your knowledge base if you remember back when you
17 were a third year resident. I know it's difficult to
18 differentiate. If you can, you can, if you can't, you
19 can't.

20 A. I'm not sure I can differentiate. I would assume
21 that it would get better in seven to 10 days, ask the
22 patient to call back if it didn't.

23 Q. Are there people who are resistant to treatment
24 for otitis media with antibiotics?

25 A. Yes.

1 Q. At what point in the course of recurring otitis
2 media do you term **i t** chronic or resistant otitis media;
3 do you know what **I'm** saying?

4 MR. VOUDOURIS: Back then or today?

5 Q. Back then, what you did know, how do you feel
6 differently about **i t** today, has medicine changed that
7 much?

8 A. Medicine has changed that much, some antibiotics
9 have changed that much, my knowledge has changed that
10 much.

11 MR. VOUDOURIS: YOU want to rephrase
12 question?

13 Q. Back in March of 1996 **i f** a person's otitis media
14 didn't clear up from the first prescription -- by the
15 way, would you know what antibiotic you would have
16 prescribed?

17 A. I wouldn't know, I might have used one of several.

18 Q. If **i t** didn't clear up in seven to 10 days based on
19 an antibiotic administration, what would be your next
20 plan?

21 A. You're asking me to speculate on something that
22 didn't happen, I don't know what I would have done. He
23 didn't call back. I can only assume now that **i t** got
24 better.

25 MR. VOUDOURIS: We don't want you

1 assuming now what happened back in 1996, okay? So just
2 if you can remember what your thought process was, what
3 your knowledge was in '96, fine. If you can't
4 differentiate it from '96 until today, that's fine too.
5 Iust tell Donna so she knows.

6 A. I thought he had acute otitis media. I treated
7 him. ■ if it didn't get better, ■ told him to call back.

8 Q. He had several health concerns at the time of that
9 visit; would you agree with that?

10 A. Yes.

11 Q. one through eight?

12 A. urn-hum.

13 Q. It looks like, you tell me if I'm reading the
14 chart correctly, on 7-15-96 which would have been about
15 four months later, that is the next entry in
16 handwriting; do you see it?

17 MR. VOUDOURIS: Right here.

18 A. Yes.

19 Q. Called patient back several times, patient left --
20 can you tell what that means?

21 A. ■ have no idea.

22 Q. That's not your handwriting?

23 A. No.

24 Q. In the office at the Internal Medicine clinic if a
25 patients calls in, were their phone calls consistently

1 recorded in the chart or were there other places that
2 phone messages were left; do you know?

3 A. They were usually written in the chart.

4 Q. Fair enough.

5 If you turn to the next page, I'm going
6 to keep my fingers crossed you've got it
7 chronologically, I've got a whole bunch of dates.

8 A. August 13th?

9 Q. On August 13th does this appear to you that the
10 patient called, he was in the office?

11 A. The patient was actually in the office.

12 Q. Patient had complaint of head pain; is that right?

13 A. um-hum.

14 Q. Do you know what the next word is?

15 A. Patient complained of, quote, bad pain in the
16 head, end of quote, was in ER.

17 Q. Then we've got your handwriting, that's your
18 handwriting from the days, D on the side or not?

19 A. Yes.

20 Q. Right temporal headache times three weeks?

21 A. Correct.

22 Q. Right inner mouth, right puffy. Can you tell me,
23 first of all I believe I know what a temporal headache
24 is, what are you describing?

25 A. Headache in the -- without using the word

1 temporal?

2 Q. That's right.

3 A. Pain in the area lateral to the right eye.

4 Q. Then says right inner mouth, what does that mean?

5 A. complained of pain inside his right inner mouth.

6 Q. You see I have to ask these really stupid
7 questions because the way they are written I can't infer
8 things that aren't there.

9 When you put right inner mouth, circled
10 it, that clearly means to you he was complaining of
11 right in the mouth, on the right side, inside?

12 A. Yes.

13 Q. what about right puffy, what right was puffy?

14 MR. VOUDOURIS: Are you able to
15 tell?

16 Q. If you know?

17 A. Hold on. He had some puffiness around the right
18 parotid gland.

19 Q. Are you referring to the -- ■ know where the
20 parotid is.

21 A. Inner upper check.

22 Q. So that area seemed to have some swelling
23 associated with it?

24 A. Correct.

25 Q. You know that from reading what portion of your

1 note, probably one I didn't pay attention to?

2 A. Farther in the objective says he has a puffiness
3 around the right parotid, no lymphadenopathy, it's very
4 tender.

5 Q. This portion that you wrote when you say the
6 puffiness, were you indicating you felt it on the inside
7 or you expressed it from the inside; do you know what
8 I'm asking you?

9 A. I don't know which I felt it with, inside or
10 outside.

11 Q. Swelling in that area, the parotid, do you know
12 what it can mean, medically?

13 A. I can give you a list of some of it.

14 Q. Right at that time that you were a resident in
15 August of 1996, if a person presented with swelling of
16 the parotid gland -- because that is what is swollen,
17 right?

18 A. correct.

19 Q. That's what you are indicating?

20 A. I'm not sure I can differentiate what I knew then
21 and now. There are some basic things I would have known
22 now like infection, a stone can get in the parotid
23 itself, gets acutely tender.

24 Q. Based upon this examination, we're going to go
25 back and go through it, do you have a recollection

1 whether or not you asked the advice or guidance of an
2 attending?

3 A. I don't have a recollection at this point.

4 Q. You knew he had been in the emergency room,
5 correct?

6 A. Correct.

7 Q. Were those records available to you to review so
8 that you could see what Mr. Andrew's description was of
9 his headache pain?

10 A. I don't recall. Mr. Andrews told me he had a CT
11 of the head. I recall getting the CT results somehow.
12 I think it was over the phone.

13 Q. would you usually make a note that you had
14 received a CT report?

15 A. I usually signed the report itself or initialed
16 it.

17 Q. In your subjective portion of the chart you wrote
18 they gave him an IV., sent him home on nothing. said
19 after the CT of head there was nothing wrong with him.

20 On close inspection of the CT of the
21 head it's noted a small amount of mucous is present in
22 the right maxillary sinus. May I inquire, the closer
23 inspection, was that performed by yourself of the actual
24 CT films?

25 A. No, I never actually saw the CT film.

1 Q. So this is -- I hate to use the word anecdotal --
2 did you call someone, they told you?

3 A. I believe that is what happened.

4 Q. At that time, were you in a habit of looking at
5 CAT scans?

6 A. No.

7 Q. Are you capable of looking at -- were you capable
8 of looking at CAT scans, interpreting what you would
9 see?

10 A. I have very limited training in interpreting CAT
11 scans.

12 Q. So that is why this is in the subjective portion,
13 that's being reported as history to you?

14 A. Correct.

15 Q. You are not certain what gave you this
16 information?

17 A. correct.

18 Q. At this point did you believe Mr. Andrews had
19 otitis media?

20 A. I believed he had a right sinusitis, probably a
21 parotid infection.

22 Q. Your diagnosis or assessment and plan, let's call
23 it assessment and plan not diagnosis, was right temporal
24 headache, correct?

25 A. Um-hum.

1 Q. Did you take an independent history from him as to
2 the nature, extent and location of these headaches?

3 A. To some extent. I asked him how long he had the
4 headaches, he said three weeks. I asked him where the
5 pain was, he said in the gums, inner mouth and right
6 temporal area. I'm not sure if you are looking for
7 more.

8 Q. Let me see if can I find a way to ask this.

9 You asked him tell me what your problems
10 are, he describes headaches in his right temporal area
11 for three weeks. You don't make a note that says it's
12 intermittent, that it comes on, goes away, you are
13 describing a fairly constant headache; are you the
14 doctor who wrote this?

15 A. I don't know.

16 Q. Do you recall back then what type of headache you
17 were describing?

18 A. I believe I was describing more of a headache from
19 pressure, like infection. I didn't clearly ask or at
20 least I didn't clearly document if it was intermittent
21 or just constant for three weeks.

22 Q. Let's see if I can distill what you just said.

23 Are you telling me you had an impression
24 he had a right temporal headache from infection in the
25 parotid or some other area contiguous to the temporal

1 area on the right?

2 A. At that time I believe that is what I thought the
3 headache was from.

4 Q. Did you do any blood work at that time?

5 A. I'm not sure. It's not clear that I did.

6 Q. Let's go and look.

7 A. I have to go through the labs. We will look for a
8 minute at your objective examination. You said that he
9 has very congested nasal mucosa, is that the basis upon
10 which you believe he may have had a sinusitis, first
11 line of your exam after blood pressure, temperature?

12 MR. VOUDOURIS: Are you able to
13 answer that?

14 A. It's a constellation that made -- it wasn't one
15 thing that made me think he has right sinusitis, that
16 one line in itself didn't make me think that. I'm
17 confused by your question.

18 Q. I didn't mean to confuse you, honestly.

19 You believed he had a right temporal
20 headache, we established that you felt that it may have
21 been pressure related to an infective process, parotid
22 gland, or did you have an alternative guess if it wasn't
23 infected parotid what might be causing the temporal
24 headache?

25 A. I can't clearly say at that time there was

1 something else I was thinking of specifically that day.

2 Q. Maybe we can make this pretty simple. You
3 believed the patient has a right maxillary sinusitis and
4 possible parotiditis. Did you believe that he had the
5 right maxillary sinusitis independent of a possible
6 infection in the parotid gland?

7 A. what do you mean by independent?

8 Q. were these two separate findings, did you clearly
9 in your mind believe he had a right maxillary sinusitis,
10 then he might have had an additional condition?

11 MR. VOUDOURIS: objection. Are you
12 able to differentiate?

13 A. I don't understand what you are asking me.
14 Sometimes infections are contiguous. You can't
15 distinguish them like that.

16 Q. That is what I'm asking you. I'm asking if you
17 thought it could be one thing or two things?

18 A. I thought they were related.

19 Q. There you go.

20 what constellation of physical findings
21 or objective complaints of the patient led you to the
22 diagnosis of right maxillary sinusitis?

23 A. congested nasal mucosa, the tenderness on the
24 right parotid, he was tender over the right sinus. Also
25 the CT said there was a small amount of mucous.

1 Q. On the right side?

2 A. Um-hum.

3 Q. At that point your plan was to give him a
4 decongestant, antihistamine and a nasal spray?

5 A. Yes.

6 Q. You put him on Bactrim?

7 A. um-hum.

8 Q. For 14 days?

9 A. um-hum.

10 Q. You wanted him to follow-up to make sure the
11 condition was clearing?

12 A. Correct.

13 Q. Have ■ stated all this pretty fairly?

14 A. Yes.

15 Q. About seven days later there was another contact;
16 do you see that?

17 A. Um-hum.

18 Q. This is not your handwriting ■ gather?

19 A. NO.

20 Q. Let me see if I can sort of separate this out. It
21 says phone call from wife stated patient has been on
22 Bactrim and Seldane D and vancenase spray for one week
23 for sinus infection. Patient still complains of
24 headache with no relief.

25 Were you anticipating one of the

1 underlying causes was sinusitis and probably
2 parotiditis, and giving him the antibiotic and other
3 combination of medications would relieve the headache at
4 the time the infection subsided; is that what your
5 anticipation was?

6 A. I believe I would anticipate that now. I believe
7 I would have anticipated it then.

8 Q. No relief on Tylenol, gone through a bottle of 100
9 pills, no fever. would like to know if the patient can
10 have anything else for congestion. Does not feel he
11 needs to be seen again by M.D.

12 underneath does this say referred team
13 M.D.?

14 A. Yes.

15 Q. Team M.D. is who?

16 A. There were two teams in the Internal Medicine
17 Clinic; team A, and team B. The person ■ believe it was
18 a nurse who took this note, would take the note, then
19 take it to one of the doctors on that team who was in
20 the clinic that day.

21 Q. Is team A and team B like a random, we've got six
22 people on team A, six people on team B?

23 A. Right. Once you are on team A you stay there for
24 three years.

2s Q. who was the leader of the team you were a member

1 of?

2 A. Dr. Chester.

3 Q. Dr. Chester was also a resident?

4 A. Yes.

5 Q. Try Empirin -- I can't -- Entex LA for two weeks
6 and stop other?

7 A. Um-hum.

8 Q. I'm not asking you to guess what he was thinking
9 but I assume you referred to that note as you continued
10 to care for the patient?

11 A. I assume I read it at some point when I saw him
12 the next time, or saw the chart the next time.

13 Q. Do you know based on your care and treatment of
14 the patient if the patient was told to stop everything
15 except what is listed there?

16 MR. VOUDOURIS: objection.

17 A. I don't know what I was told.

18 Q. Fair enough, I was wondering if the patient told
19 you when he came back?

20 A. I'm not sure if the patient -- what the patient
21 did.

22 Q. okay. That's fine.

23 That was 8-20-96. His next contact with
24 the office is 8-26 I think the top of the page, you have
25 a better three hole punch.

1 A. 8-26-96.

2 Q. was he in the office that day?

3 A. No, the patient called.

4 Q. So this is the patient's phone call, the patient
5 wants an appointment, correct, that's the upshot of that
6 phone call?

7 MR. VOUDOURIS: If you know.

8 Q. If you know. It says -- ■ can't read it too well.

9 A. what ■ think it is, is the patient called still
10 complaining of sinus infection, glands in neck swollen,
11 no fever, no chills.

12 Q. Feels rotten, I'm guessing?

13 MR. VOUDOURIS: objection. Let's
14 not guess.

15 A. ■ don't know what it says.

16 MR. VOUDOURIS: The problem is we're
17 reading other people's handwriting. -

18 Q. Correct?

19 A. No relief with medications prescribed. Plan is
20 rest, fluid, I don't know what it says, conscious
21 something. Appointment in a.m., if worse, go to ER.

22 Q. so he then did come in?

23 A. The next day.

24 Q. Let's first go over your written note. I assume
2s that we've got a physician's assistant or someone taking

1 the blood pressure, temperature, stuff like that?

2 A. correct.

3 Q. The patient states he's still having sinus
4 headache pain. In your writing now ■ see right jaw
5 pain, right?

6 A. um-hum.

7 Q. Is that new or is that just increased from the
8 prior visit, if you know, based upon the way you took
9 the notes?

10 A. what was the question, again?

11 Q. I want to know from your assessment previously
12 when he came in, about let's call it two weeks, doesn't
13 matter, the date is there --

14 A. The patient returned complaining of right jaw
15 pain, specifically the right temporal area. Right
16 posterior auricular area, that is behind the ear, the
17 pain in the right jaw more on the parotid area had
18 actually improved.

19 Q. We will go through your notes on that tissue. You
20 added posterior auricular pain, behind the ear in --

21 A. In this area.

22 Q. Stopping right there. Even now as we're going
23 through your notes, at this point did you still believe
24 he was having temporal headaches due to the pressure
25 caused by an infection of some sort?

1 MR. VOUDOURIS: Can you
2 differentiate what you knew back then and what you know
3 today?

4 A. I can't differentiate. I can say I was extending
5 my differential diagnosis at this time to try to include
6 other things that might cause pain in this area.

7 Q. Can we agree by the time the patient returned two
8 weeks later on this date, August 27, 1996, that he had
9 not seen a resolution of symptoms for which you saw him
10 on August 13th?

11 A. Yes. well, they had changed.

12 Q. They had changed. Go ahead, explain.

13 A. well, it says that he had parotid pain in that
14 region prior, that pain had gone away.

15 Q. So now you no longer believe it was a parotid
16 infection?

17 MR. VOUDOURIS: objection.

18 Q. I'm asking would that be your conclusion, do you
19 believe he had an infection, maybe the medication made
20 it go away?

21 MR. VOUDOURIS: do you know what you
22 believed back then?

23 A. I don't know what I believed back then.

24 Q. If you don't, you don't.

25 So now he has right jaw pain, pain

1 behind the ear, in your handwriting I see a star says
2 cluster headaches, watery eyes versus trigeminal
3 neuralgia, right?

4 A. urn-hum.

5 Q. You are smiling. At the time would you tell me
6 what would have been or what was your differential
7 diagnosis, cluster headaches or trigeminal neuralgia?

8 A. Yes, part of my differential was trigeminal
9 neuralgia and cluster headaches,

10 Q. when you say part of your differential, it was
11 both, wasn't one versus the other; is that what you are
12 telling me?

13 A. It wasn't clear to me at that time what the
14 patient had. It wasn't clear to me. He had a
15 constellation of symptoms that I had not seen before.

16 Q. when you say he had a constellation of symptoms
17 you had not seen before, what aspect of the symptoms he
18 presented with had you not seen before?

19 A. He had pain in several locations, like the right
20 temporal area, right posterior auricular area, he didn't
21 have fever or chills, this time I described the pain as
22 low grade constant pain with acute exacerbation that
23 would flare up on him. Also he had watery eyes which
24 were worse on the right than on the left.

25 Q. Go ahead.

1 A. As I recall I was trying to pull together these
2 symptoms to see what they could be. I recall going to
3 the bull pen and seeking help from the attendings that
4 day.

5 Q. There is no note that reflects that you consulted
6 with an attending that day, correct, we established?

7 A. Not specifically.

8 Q. who do you believe you talked to or do you know?

9 A. I have a recollection of talking to Dr. Stephen
10 Radwany.

11 Q. Did he come in and see the patient?

12 A. I don't know.

13 Q. So you went to him because you had not seen that
14 particular constellation of symptoms before, correct?

15 A. Right.

16 Q. Do you recall based upon the note that you
17 prepared whether or not Dr. Radwany gave you any advice
18 as to the possible causes of that constellation of
19 symptoms?

20 A. what do you mean by advice?

21 Q. You had not seen it so you went to the bull pen to
22 discuss it?

23 A. I went to the bull pen, there may have been other
24 residents there, I presented the case briefly, this is a
25 gentleman with headaches in this area, watering eyes,

1 headache, I'm not sure who, if it was Dr. Radwany, but
2 after a brief discussion it was described as possible I
3 believe cluster headaches.

4 Q. Prior to that particular date, August 27, 1996,
5 had you examined a patient and made a diagnosis of
6 cluster headaches?

7 A. No. That is why I have a clearer recollection of
8 some things that happened on that date.

9 Q. If you had examined someone, made the diagnosis,
10 did you know at that time the symptoms you would expect
11 to find in a person who had cluster headaches?

12 A. I don't recall.

13 Q. would you on your own have known what medications
14 to prescribe to alleviate a cluster headache?

15 A. I recall looking it up in a book that day. Don't
16 ask me, I have no idea what book.

17 Q. Harrison's Internal Medicine possibly?

18 A. I have no idea. The book shelves in the bull pen
19 have a couple hundred books. I don't recall which one I
20 would have looked at.

21 Q. So it was suggested to you that -- and I'm
22 paraphrasing, I always do that -- it was suggested to
23 you that the possible diagnosis for the set of the
24 symptoms you described was cluster headaches, then you
25 went and looked in a book for medication to prescribe

1 for that?

2 MR. VOUDOURIS: s■ that what you
3 recall happening on that date?

4 A. It's about like that, yes.

5 Q. what did you prescribe in an attempt to alleviate
6 his cluster headaches?

7 A. Imitrex.

8 Q. Did it cross your mind or occur to you --

9 MR. VOUDOURIS: You know I'm going
10 to object to that one.

11 Q. Did it cross your mind or occur if you can recall
12 at that point there might have been a different
13 subspecialty of medicine that you might have referred
14 Mr. Andrews to for confirmation of the potential
15 diagnosis of cluster headaches?

16 MR. VOUDOURIS: objection. Can you
17 recall today what went across your mind back then?

18 A. I don't recall what ■ recalled back then.

19 Q. You don't know if you contemplated sending him to
20 a neurologist for evaluation of headaches?

21 A. I honestly don't recall.

22 Q. So, were you conversant enough with cluster
23 headaches to know whether or not cluster headaches would
24 cause the jaw pain and the pain behind the ear that is
25 described in the examination?

1 MR. VOUDOURIS: At what point in
2 time?

3 Q. At that point in time?

4 MR. VOUDOURIS: Before that date, or
5 after that date?

6 Q. On August 27, 1996 were you familiar enough with
7 cluster headaches to have drawn a conclusion whether or
8 not cluster headaches would have caused the jaw pain and
9 pain behind the ear that you described in your physical
10 exam?

11 A. After the discussion in the bull pen it was my
12 belief those symptoms, with the watery eyes and pain in
13 that general area, could be from cluster headaches. I
14 also included something like trigeminal neuralgia.

15 Q. In 1996 when you were putting trigeminal neuralgia
16 in your notes, which of the three nerves coming off the
17 trigeminus or all three of them did you think was
18 causing the symptoms?

19 A. I don't recall that.

20 Q. Did you think he had a problem with inflammation
21 or disease in the optic nerve?

22 MR. VOUDOURIS: Do you recall what
23 you were thinking?

24 A. I don't remember what I was thinking back then.

25 MR. VOUDOURIS: Just tell her.

1 Q. Based on a physical examination, the complaints
2 that the patient had, what did you think was affecting
3 the trigeminal nerve?

4 A. I guess --

5 MR. VOUDOURIS: we don't want you to
6 guess.

7 THE WITNESS: I'm confused by the
8 question.

9 MR. VOUDOURIS: Tell her.

10 A. Trigeminal neuralgia doesn't have to have a cause,
11 it just happens.

12 Q. Now I know how to ask the question since you
13 offered that information to me.

14 At the time you wrote this, when you
15 were making a possible diagnosis of trigeminal
16 neuralgia, what did you think you were diagnosing; do
17 you understand the way I'm asking the question?

18 MR. VOUDOURIS: I'm going to object.
19 Go ahead what you thought back then again.

20 A. I don't know what I thought back then, I know that
21 this gentleman came back with recurrent temporal pain
22 and eyes watering. On this visit was trying to expand
23 the differential to include the possibility of what
24 might be going on here.

25 Q. At the conclusion of this particular physical

1 examination what was your diagnosis for the patient?

2 A. Differentials are temporal arthritis, trigeminal
3 neuralgia, cluster headaches.

4 Q. So you still had a variety with no one singular
5 diagnosis, am I restating that fairly, you had not come
6 to a definitive diagnosis at this time?

7 A. Yes. Because ■ did not have a definitive
8 diagnosis, ■ ordered an MRI.

9 MR. VOUDOURIS: Don't anticipate,
10 wait until she asks you a question.

11 THE WITNESS: sorry.

12 Q. was it recommended to you by someone in the bull
13 pen that you should order an MRI in furtherance of this
14 diagnosis of possible cluster headaches; if you recall
15 it?

16 A. I don't recall how it came up.

17 Q. In fact you did order one, right?

18 A. Yes.

19 Q. You had asked Mr. Andrews to call the office if he
20 had any exacerbations; is that right, do you recall that
21 in your note?

22 A. Yes.

23 Q. You have him scheduled for a return office visit
24 at that time?

25 A. Yes.

1 Q. so you send him also for an MRI, that happened on
2 September 5th; is that right?

3 A. what?

4 Q. You sent him for the MRI?

5 A. Yes.

6 Q. I have an MRI report dated 9-5-96, I assume you
7 have one?

8 A. Yes.

9 Q. I take it you reviewed the MRI report?

10 A. Not initially.

11 Q. would it have come to your attention?

12 A. Eventually, yes, I saw it.

13 Q. Didn't mean to ask it that way.

14 At the time you were a resident in
15 internal medicine, could you write orders for MRIs or
16 did they have to be signed by an attending; do you
17 recall?

18 A. I don't remember.

19 Q. They return the report, your initials, Alice
20 Denton, Summa resident at the bottom?

21 A. um-hum.

22 Q. You got to see the report?

23 A. um-hum.

24 Q. Before we get there, it looks like -- see in the
25 body of your note I didn't see where you wanted him to

1 come back, apparently you must have had him scheduled
2 for September 3rd? Is that on the previous page?

3 A. In the handwritten note, on the bottom left,
4 follow-up one month. Right by your hole punch.

5 Q. So that was follow-up one month from August 26th,
6 right?

7 A. Correct.

8 Q. Is the note -- it says 9-3-96 did not keep
9 appointment, no card sent; do you know what that means?

10 A. It means the patient had an appointment on 9-3,
11 when a patient didn't keep an appointment we could send
12 them a card to say you missed your appointment or not.

13 Q. what determined whether you would send the patient
14 a card to come back?

15 A. Depends on each individual patient. This patient
16 had a test scheduled, I was waiting for the test.

17 Q. You weren't overly concerned about him coming
18 because you were waiting the test results?

19 A. At that time, I believe.

20 Q. 9-6 clearly is not your handwriting, we're still
21 in the same place because we didn't cover that note, MRI
22 referred from Dr. Denton, see RX sheet, WI patient?

23 A. work in.

24 Q. Excuse me?

25 MR. VOUDOURIS: work in.

1 Q. work in. I didn't know what that means. work in
2 patient 9-9; is that right?

3 A. um-hum.

4 Q. Telephone order Dr. Denton. Unable to reach
5 something or other left on?

6 MR. VOUDOURIS: unable to reach
7 patient,

8 A. Message only left on rec.

9 Q. Probably recorder?

10 A. I don't know.

11 Q. To follow-up at IMC Monday to confirm appointment,
12 et cetera, to check infection.

13 If this was your telephone order to
14 schedule him in, do you think your staff that day told
15 you what was on the MR? If you don't know, it's okay.

16 A. I'm not positive. I believe they called me with
17 the impression on the MRI.

18 Q. So then this is where this gets just a little
19 confusing for me because it's sort of out of order.
20 Maybe can you help me out with this. This test happens
21 on 9-5. If we turn to the next page, the page after,
22 did not keep appointment, going further --

23 A. Ours is backwards.

24 Q. Figures. There is actually a progress note for
25 8-29-96 even though it's out of order, see it?

1 A. I saw the patient on 9-29-96, sometimes the
2 dictation does not come back so the dictation may be out
3 of order.

4 Q. Here is what I'm asking. Tell me what I'm not
5 reading correctly. We had just gone through your
6 dictated progress note, I assumed was based on the
7 office visit of 8-27-96?

8 A. Correct. I saw the patient again.

9 Q. Two days later?

10 A. Correct.

11 Q. Before the MRI got done?

12 A. The 28th is the day I ordered the MRI, two days
13 later.

14 Q. Do you mean the 29th or do you mean the 28th?

15 A. I mean the 29th.

16 Q. You saw him on the 26th, he had a workup, you had
17 some differential diagnoses, et cetera?

18 MR. VOUDOURIS: wait, 27th.

19 Q. 27th so we don't get confused again. The top says
20 26th, the office visit is the 27th, then he was back two
21 days later, right?

22 A. Um-hum.

23 Q. You've already testified it was the visit of the
24 27th where you went to the bull pen to confer about his
25 condition, right?

1 A. Correct.

2 Q. Then he comes back the 29th, I gather this wasn't
3 a scheduled visit for two days later, or was it?

4 MR. VOUDOURIS: Do you know?

5 A. I don't know.

6 Q. At that time he came back two days later after
7 having been seen by you with what you are calling two
8 extreme exacerbations regarding the headaches; is that
9 right?

10 A. I believe so.

11 Q. It says he asked to be seen today to discuss other
12 possibilities.

13 what other possibilities did you want to
14 discuss with him on the 29th?

15 MR. VOUDOURIS: Do you remember?

16 A. well, I mentioned a mass effect.

17 Q. what did you mean by mass effect?

18 A. Possible cancer, possible abscess, swelling, I
19 don't know.

20 Q. Did you discuss those possibilities with him it's
21 a possible cancer, possible abscess, possible swelling?

22 A. I don't recall if I specifically told him that.

23 Q. But that is what you were thinking when you said
24 mass effect?

25 A. I believe so.

1 Q. Based on your training and experience at the time
2 as an internal medicine doctor, what set of symptoms did
3 he have that would have made you have as one of your
4 possibilities cancer?

5 MR. VOUDOURIS: objection. If you
6 can answer that, differentiate then from today.

7 A. I wouldn't be able to differentiate details from
8 today. There was a general knowledge ■ would have
9 knowledge about as a resident about cancer. Like it can
10 cause pain, weight loss, adenopathy. specifically then
11 I could not swear to it.

12 Q. specifically then you couldn't swear to what?

13 A. what I was thinking or what ■ knew.

14 Q. Can I gather that with four years of medical
15 school, at that point you were already two years into
16 your internal medical residency, you at least had enough
17 knowledge you were able to write and/or suggest that the
18 possible etiology could be mass effect, i.e. possible
19 cancer, possible abscess?

20 A. say that again.

21 Q. Sure. Did you think this was possible cancer?

22 A. Yes, I thought it was possibly cancer.

23 Q. Fine. This is the point at which you say the
24 patient has a CT of the head without contrast, at this
25 time we will get an MRI, you actually order the MRI

1 based on the 8-29 return visit; would you agree with
2 that?

3 A. Yes.

4 Q. At the point you put him on the Calan; is that
5 right?

6 A. Correct.

7 Q. what is that for?

8 A. It's a calcium channel blocker, can be used to
9 control some vascular headaches, which cluster is one
10 of.

11 Q. Once again were you thinking this might --

12 A. still be a cluster headache.

13 Q. A vascular orientation that was causing pain?

14 A. Correct.

15 Q. Then we're back up to where the examination by MRI
16 had been performed?

17 A. Okay.

18 Q. Do you know based on the chart at what point you
19 read the MRI results?

20 MR. VOUDOURIS: Do you know when?

21 Q. Is that --

22 A. That's my signature, I don't know specifically
23 when I read it.

24 Q. So your squiggly means you, Dr. Alice Denton, read
25 a report, you are acknowledging it by putting your

1 squiggly?

2 A. Yes, that is my squiggly.

3 Q. You don't know what date you read the MRI report?

4 A. correct.

5 Q. You saw him, we're doing this backwards again, the
6 8-29 note is here, see if ■ can make some sense out of
7 this, after the 9-6 MRI reading I'm going to guess that
8 9-6 that's when it says it was faxed to you, was
9 recorded in the chart, you've got a telephone order for
10 the patient to come in, right, on 9-9? on the next page
11 it says subjective complaint of headaches, test results,
12 MBS refused; is that what that says?

13 A. Microstick blood sugar, he didn't want to have it
14 tested.

15 Q. Fine.

16 MR. VOUDOURIS: wait for the
17 question.

18 Q. These notes are out of order. The next line on
19 that page is please schedule patient to be seen in ENT.
20 That is signed by Dr. Stringham?

21 A. correct.

22 Q. Your signature appears on the side; is that right,
23 or am ■ misreading your squiggly?

24 A. That is not my squiggly, I don't know what that
25 is.

1 Q. That looks like this one. I'm not a good
2 hieroglyphics reader.

3 A. That's not my squiggly.

4 Q. Did you request Dr. Stringham to see this patient?

5 A. I requested that the patient be seen by somebody
6 who was available. It ended up being Dr. Stringham.

7 Q. what I'm trying to differentiate is when you said
8 someone was available, not somebody on the A team or
9 B team but an attending, did you want an attending to
10 see him?

11 A. Not necessarily. we never schedule patients for
12 attendings.

13 Q. So you didn't specifically request that an
14 attending see him, you were not available to see him on
15 the 9th?

16 A. Correct.

17 Q. Requested that someone else cover?

18 A. Correct.

19 Q. Did Dr. Stringham discuss with you the findings of
20 his physical examination of Mr. Andrews from
21 September 9, 1996?

22 A. I don't specifically recall him telling me of his
23 physical findings. Dr. Stringham --

24 MR. VOUDOURIS: she asked you a very
25 simple question.

1 Q. when an attending would perform a physical exam,
2 we're back to the beginning of the depo, on one of your
3 patients, would they leave the chart for you so you
4 could see what they recorded in the chart, know there
5 was an interim visit?

6 MR. VOUDOURIS: Can you recall the
7 situation?

8 Q. Can you recall was that your procedure there?

9 A. I don't recall something specific like that
10 happening.

11 Q. We're going to get to your next visit in a second.

12 At the point at which you saw the MRI
13 report, I'd like you look at this one so you don't have
14 to dig for it, was it your impression based upon the
15 information contained in the MRI report anything further
16 should be done diagnostically for the patient?

17 MR. VOUDOURIS: objection. Can you
18 recall back then what you thought when you got this
19 report?

20 A. I don't recall specifically what I thought when I
21 got the written report. When I got the phone call, I
22 wanted the patient seen again, worked him in.

23 Q. what about the phone call, if I could borrow that
24 document back, we can share it.

25 what about the phone call relating the

1 results of the MRI, what made you want to have him back
2 in to be worked up?

3 MR. VOUDOURIS: objection. To have
4 him come in to be worked up, was that the reason why?

5 MISS KOLIS: I thought that was
6 what she said when she received the phone call regarding
7 the MRI results.

8 A. They called me with the impression, the bottom
9 part, he had mucosal thickening in the right maxillary
10 sinus, the fluid in the mastoid region, which could
11 represent an inflammatory process, can be seen with
12 otitis media. I prescribed I believe the patient some
13 antibiotics, thinking he had a recurrent infection,
14 wanted him seen again.

15 Q. Why did you want him seen again?

16 A. To see if there was anything else going on.

17 MR. VOUDOURIS: Again, we don't want
18 you guessing. Do you recall why you wanted to see him
19 again back then?

20 A. He had the abnormal MR ■ reading so I wanted him
21 seen again.

22 Q. You saw him again after Dr. Stringham saw him?

23 A. correct.

24 Q. About September 17th or so.

25 On September 17th, based upon the MRI

1 investigation of the brain, did you still believe that
2 Mr. Andrews had cluster headaches?

3 A. I don't recall. I thought he had an infection.

4 Q. You thought he had mastoiditis; is that right?

5 A. Yes.

6 Q. when you saw him again on the 17th of September,
7 1996, were you able to review the referral letter sent
8 by Dr. Stringham to Dr. Milo?

9 A. I don't believe so.

10 Q. Did you know he had been referred to ENT?

11 A. Yes.

12 Q. You didn't know whether or not you saw the letter?

13 A. I don't believe.

14 Q. Based upon your visit with him of September 17,
15 1996, did you have any additional diagnosis past the
16 previous ones? If so, did you have a treatment plan?

17 MR. VOUDOURIS: objection. She
18 talked about some different diagnosis from before, I
19 want to make sure we're clear about we're talking about
20 an appointment in April.

21 Q. At the conclusion of your examination of the
22 patient, what was your diagnosis for the patient?

23 A. I believed the pain was mastoiditis on
24 September 17th.

25 Q. You didn't ask for the consult with Dr. Milo,

1 correct?

2 A. No, but I agreed with it.

3 Q. what did you believe the purpose of the consult
4 was?

5 MR. VOUDOURIS: I'm going to object.
6 You are asking what Dr. Stringham believed the purpose
7 of the consult was?

8 Q. what you believe the purpose of the consult was?

9 A. I believed that the consult or I agreed with the
10 consult because he had an abnormal MRI, he had the
11 headaches repeatedly. I wanted a second opinion.

12 Q. As to whether or not he really had subacute
13 mastoiditis?

14 A. Correct.

15 Q. You eventually got a copy of the consult report
16 from Dr. Milo?

17 A. Yes.

18 Q. I take it that was sent back to your office,
19 placed in the chart?

20 A. At some point, yes.

21 Q. Were you aware based upon the response from
22 Dr. Milo as to whether or not Mr. Andrews was supposed
23 to return to Dr. Milo?

24 A. He is to return to my office in one month, yes,
25 it's my understanding he was to return to Dr. Milo.

1 Q. The reason I asked if you were aware is as I go
2 through the notes there isn't an indication in writing
3 in the chart you read the consult report but I gather
4 you did read it when it came in?

5 A. Yes, I signed it right here.

6 Q. You have a different copy than I have. Do you
7 mind if I take 35 seconds, look at your copy versus the
8 one I have?

9 MR. VOUDOURIS: Not at all.

10 A. There are two copies.

11 Q. Two copies of the top page, one of the second.

12 MR. VOUDOURIS: Let's take a break
13 to make a phone call.

14 -----

15 (Recess had.)

16 -----

17 BY MISS KOLIS:

18 Q. The apparent difference is I had not previously
19 seen the copy that was in your chart, that's the only
20 difference. You signed that one, but you didn't date
21 it, correct?

22 A. Correct,

23 Q. We established based upon your review you were
24 aware that Dr. Milo wanted to see the patient in
25 follow-up?

1 A. Yes.

2 Q. what information was clarified for you in
3 Dr. Milo's consultation report?

4 would you like me to ask a different
5 question? Sure.

6 You indicated that you agreed with the
7 consultation, because you wanted to know whether or not
8 the cause of Mr. Andrews symptoms were in fact a
9 subacute mastoiditis or cluster headaches; am I fairly
10 stating that?

11 A. Yes.

12 Q. You don't have to agree with me.

13 MR. VOUDOURIS: If you don't, or
14 want something repeated, or want to say what you felt,
15 or don't know what you felt, tell her.

16 A. Ask it again.

17 Q. If I understand what you said in terms of your
18 agreement with the necessity for consultation with
19 Dr. Milo is you wanted to be certain ■ guess is the way,
20 you wanted to be certain as to the cause of the symptoms
21 that you were seeing in this patient; would that be a
22 fair way to state it?

23 MR. VOUDOURIS: objection. Can
24 you --

25 A. ■ can't clearly say certainly what I wanted three,

1 four years ago.

2 Q. Based on the records what do you believe you
3 wanted?

4 A. I wanted a second opinion.

5 Q. You wanted a second opinion as to whether or not
6 this was a subacute mastoiditis; is that right?

7 A. I wanted a second opinion about the patient's
8 symptoms.

9 Q. Have you reviewed the letter sent by Dr. Stringham
10 to Dr. Milo?

11 A. At the time, I don't believe.

12 Q. If you would look -- obviously you are looking at
13 that. In that referral I'm just asking you do see
14 Dr. Stringham make an inquiry of Dr. Milo to determine
15 the cause of the headaches?

16 MR. VOUDOURIS: Do you want to
17 repeat the question, Donna?

18 Q. Sure. You said you wanted a second opinion, that
19 is what you would have wanted, you didn't write this
20 letter to Dr. Milo, correct?

21 A. Correct.

22 Q. Also is it fair for me to assume, based upon the
23 chart, that you did not call Dr. Milo to express to him
24 the concerns or possible diagnoses you had in this
25 matter?

1 MR. VOUDOURIS: Did you call
2 Dr. Milo?

3 A. I did not call Dr. Milo.

4 MR. VOUDOURIS: That's **it**. That is
5 all she is asking.

6 Q. In this letter would you agree with me
7 Dr. Stringham indicated I would appreciate you seeing
8 him, him being Jack, and addressing of course in
9 consultation for Dr. Denton regarding this subacute
10 mastoiditis?

11 A. That's what the letter says.

12 Q. when you received the return consultation report,
13 did you change your diagnosis for this patient based
14 upon the consultation report?

15 A. Yes.

16 Q. what was your now diagnosis, based upon the
17 consult report?

18 A. Can you ask that again?

19 Q. Sure. I asked you **if** you had a different
20 diagnosis other than subacute mastoiditis after you
21 received the consult report, I thought you indicated
22 that you did have a different diagnosis; I want to know
23 for the record what **it** was?

24 A. That he had a serous otitis media, a bite problem

25 Q. would serous otitis media cause pain in the jaw?

1 MR. VOUDOURIS: objection. Again **if**
2 you are able to differentiate back then on that day, **if**
3 you can, you can.

4 A. I believe **it** could, yes.

5 Q. would **it** cause pain behind the right ear?

6 A. Yes.

7 Q. would **it** cause facial pain?

8 A. what do you mean by facial pain?

9 Q. complaints of pain in the face?

10 MR. VOUDOURIS: within the face?

11 Q. A little below the temporal region, not in the
12 nose, facial pain in the nose to ear, in the area of the
13 cheek, let's put **it** that way?

14 A. I'm not sure at that time I would have
15 distinguished **if it** could have or not caused pain in
16 that region.

17 Q. when you say that you don't know at that time
18 whether you would have distinguished **it** being a possible
19 cause for those kinds of pain, is **it** that you just
20 learned more later on?

21 A. I did learn more later on. And, I don't clearly
22 remember what I knew then compared to now.

23 Q. After Mr. Andrews saw Dr. Milo on the 26th,
24 September 26th I guess **it** was, correct, 1996 was the
25 date of that consult visit?

1 A. I believe so.

2 Q. Do you agree with me there isn't a note in the
3 chart signed by you or anyone else for that matter
4 indicating in writing what the diagnosis is based upon
5 the ENT's referral; or am I just missing something?

6 A. I say that again.

7 Q. You got the referral report, correct?

8 A. At some point in time.

9 Q. If you knew a patient was scheduled for a referral
10 under these circumstances, would you have somehow
11 flagged the file for review to make sure you see the
12 report on a rather prompt basis?

13 A. I don't remember.

14 Q. Do you have some method at the Internal Medicine
15 clinic for following up, making sure you did receive
16 consult reports when you were seeking second opinions?

17 A. I don't remember.

18 Q. My question was: After this consult and the
19 forwarding of this report to your office, do you see a
20 note at any time from September through when you left
21 that group that indicates that you recorded the findings
22 of Dr. Milo's consultation?

23 A. I read the consultation at some point in time.

24 Q. You indicated to me that you had a diagnosis of
25 otitis media after reading the consult; did I hear that

1 correctly?

2 A. Yes.

3 Q. Do you agree with me that your diagnosis of otitis
4 media there **is** no note that says **I** have read Dr. Milo's
5 consultation report, the diagnosis now is otitis media,
6 not subacute mastoiditis?

7 A. Yes, there is no note like that.

8 Q. On 10-10-1996 **is** the RN writing?

9 A. correct.

10 Q. Let's see, phone call from the patient's wife,
11 patient with constant headache times four months, right?

12 MR. BEST: Donna, that one is
13 not in here, maybe ■ missed **it**, **I'll** keep looking.

14 THE WITNESS: Right there.

15 MR. BEST: sorry, thanks.

16 MXSS KOLIS: They should all be
17 there.

18 Q. Extremely irritable, using meds prescribed by ENT
19 with or without?

20 A. without.

21 Q. Relief. Taken 500 Tylenols in three weeks,
22 requested call back from Dr. Denton?

23 A. says from doctor for appointment.

24 Q. From doctor for appointment. **I** can't make out the
25 **first**.

1 A. says objective.

2 Q. History of cluster headaches and mastoiditis.

3 P is plan, Dr. Denton informed; is that right?

4 A. Dr. Denton informed probably.

5 Q. will contact patient this p.m., patient instructed
6 to call ENT regarding -- I don't know that, regarding --
7 do you know what that says, to call ENT?

8 A. Looks like regarding reg.

9 Q. These diagnoses?

10 A. These symptoms.

11 Q. States he understands, will do so. so the patient
12 obviously is calling you as his physician on the 10th to
13 let the office know about the headaches, correct?

14 A. Correct.

15 MR. VOUDOURIS: This is the
16 patient's wife.

17 Q. I'm sorry, I do stand corrected.

18 were you given this information?

19 A. Yes.

20 Q. Did you consider that to be consistent with the
21 diagnosis that you were currently entertaining?

22 A. I did not have Dr. Milo's consultation when this
23 phone call came in.

24 Q. How do you know that, Doctor?

25 A. I recall them saying this. I don't believe I had

1 the information about what the ENT had done. I said go
2 back to the ENT.

3 Q. so at that point you wanted the patient to contact
4 the ENT regarding which symptoms, the headaches?

5 A. The headaches, the things described in this note.

6 Q. Did you speak with the patient or did you have the
7 office do it?

8 A. The office did it.

9 Q. You did not directly speak with Jack or Deborah
10 Andrews on that day?

11 A. I don't believe so.

12 Q. You ever meet Deborah Andrews?

13 A. I don't believe so.

14 Q. The next note that I see is October 15th, this
15 again looks like, I'm guessing or you can tell me, a
16 nurse's note?

17 A. Yes.

18 Q. Subjective, patient states he's on 14 different
19 meds for his headache. He has seen ENT doctor, sinuses
20 are draining well, was told his problem is not from
21 sinuses; you see that, right?

22 MR. VOUDOURIS: Reading someone
23 else's handwriting.

24 Q. Do you agree with me that is fairly legible, this
25 is what it says?

1 MR. VOUDOURIS: objection but go
2 ahead.

3 Q. Do you have difficulty reading that?

4 A. A little bit.

5 Q. which part can't you read?

6 A. It looks like what you said.

7 Q. Takes five to six ES Tylenol two to three hours
8 until headache lessens. The headache has been constant
9 times four months, right temporal throbbing -- ■ can't
10 really -- patient is -- we're not sure what the first
11 two, first words is, is affecting his whole life?

12 MR. BEST: It is.

13 Q. wife is thinking to leave him, he's had thoughts
14 of suicide, says at the present time does not want to
15 hurt himself. wants Dr. Denton to call him today. Then
16 the plan is refer to Dr. Denton.

17 Doctor, did you talk to Mr. Andrews on
18 that day?

19 A. ■ don't believe so, no.

20 Q. when did you become aware -- go ahead.

21 A. Go ahead.

22 Q. when did you become aware Mr. Andrews placed this
23 call to you?

24 A. At 11:30 that day.

25 Q. So, at 11:30 this was the note that you read, this

1 note probably?

2 A. No. They may have called me or paged me. I don't
3 know that I read the note.

4 MR. VOUDOURIS: That day?

5 THE WITNESS: Yeah.

6 Q. If you issued a telephone order, would your staff
7 have a habit of putting TO, telephone order, Dr. Denton?

8 A. Yes.

9 Q. This one doesn't say telephone order, does it?

10 A. No.

11 Q. Can you from that infer you did read the note,
12 then took action based upon the note?

13 MR. VOUDOURIS: objection. Do you
14 know what happened that day?

15 Q. Do you know what happened that day?

16 A. I don't remember what, specifically what happened
17 that day.

18 Q. So the patient's calling in with -- do you
19 interpret his call to mean or did you, that he was
20 having increasing difficulty managing his headaches?

21 MR. VOUDOURIS: objection.

22 MISS KOLIS: she is the
23 physician, she is reading a note, she doesn't talk to
24 the patient.

2s Q. I want to know what you thought was occurring with

1 your patient?

2 A. I thought the patient still had headaches.

3 Q. Were you at all concerned about the note in the
4 chart from your nurse that he was thinking about suicide
5 but not at the present time?

6 A. Say that again.

7 Q. I asked you if you were concerned about his report
8 to your nurse he thought about suicide but not at the
9 present time?

10 A. Yes.

11 Q. Why didn't you call the patient?

12 A. I don't remember.

13 Q. Do you think on the 15th you knew what the consult
14 report said?

15 A. I believe I did.

16 Q. would a diagnosis of otitis media account for a
17 throbbing headache that existed for four months?

18 MR. VOUDOURIS: Objection. Did you
19 know? can you differentiate from back then to today?

20 THE WITNESS: NO.

21 Q. Doctor, is the basis of many of your answers to
22 medical questions that from some time in 1996 to the
23 present you gained a lot more medical knowledge, you
24 can't tell me what you knew as a physician at that time?

25 A. I cannot clearly ascertain what knowledge I had

1 then compared to what I have now. I knew things back
2 then, I know more now, it's very difficult to ascertain
3 which I knew then, which I know now. I can say things
4 now I may not have been able to say back then.

5 Q. Did you think that Mr. Andrews liked you if you
6 had an impression of him as a patient?

7 A. I'm not sure I ever made an impression like that.

8 Q. The fact that he wanted you to call him, if a
9 patient asked for you to call him, you couldn't do it
10 that day, would you try to do it at some later time?

11 A. Sometimes, yeah, if I had time.

12 Q. If I'm gathering there is not a written assessment
13 or plan for action, your 10-15-96 take off note I recall
14 of 11:30, this is your recommendation of what to do in
15 response to the phone call?

16 A. Correct.

17 Q. Meds all off; is that right, take him off
18 everything?

19 MR. VOUDOURIS: she is asking is
20 that correct.

21 Q. Is that what that means?

22 A. I'm not sure.

23 Q. what does the --

24 A. I don't know what was meant. It might have been
25 he was already off everything.

1 Q. So you wanted him at that point to take claritin,
2 right?

3 A. Um-hum, Nasacort.

4 Q. No atbc?

5 A. Antibiotics.

6 Q. Sorry, no antibiotic coverage, is that what that
7 means?

8 A. urn-hum.

9 Q. Meaning you weren't going to prescribe any
10 antibiotic coverage or making note of the fact he wasn't
11 on antibiotics?

12 MR. VOUDOURIS: Do you recall?

13 A. I don't recall which.

14 Q. ■ asked this question, you may have answered it so
15 your attorney can scream at me, say asked and answered:
16 On the 15 of October, 1996 had you already read the
17 consult report?

18 MR. VOUDOURIS: Objection. Go
19 ahead, if can you answer that.

20 A. I believe I had.

21 Q. 10-15-96 says -- this is not your writing, right?
22 Do you know whose writing that is, the one after yours,
23 we've got a phone call?

24 A. One of the nurses.

25 Q. Same day, correct?

1 A. Talking about right here?

2 Q. Yes.

3 A. That's a nurse.

4 Q. Patient picked up samples of?

5 A. Relafen.

6 Q. what is Relafen for?

7 A. For the headache pain.

8 Q. Dr. Chester signed. Were you on the A or B team?

9 Doesn't really matter, he was one of the team members?

10 A. correct.

11 Q. After that your chart is silent until January of
12 1997; do you agree with that?

13 A. Yes.

14 Q. I didn't see any other notes that were generated
15 during that time?

16 A. Yes.

17 Q. when Mr. Andrews came back in January of 1997 did
18 it occur to you or were you aware he had not been back
19 to see Dr. Milo?

20 A. I'm sorry, say that one more time.

21 Q. He came back to see you in January of 1997?

22 A. Correct.

23 Q. we established that you knew from the consultation
24 report that Dr. Milo wanted to see the patient back at
2s the end of a month from the time of his first visit.

1 when he came back in January of 1997
2 were you aware that he had not gone to see Dr. Milo?

3 A. No.

4 Q. Did you ask him about it?

5 A. On 1-2-97?

6 Q. On 1-21-97 when you saw him?

7 A. I don't recall if I asked.

8 Q. It's not recorded in your note that you remind the
9 patient that he was to follow-up with the ENT?

10 A. It was recorded on October 10th.

11 Q. Take me back to October 10th, this is the note ■
12 missed.

13 A. The phone call from the wife.

14 Q. At that point -- let me be clear about this.

15 You already testified that you believed
16 that you certainly did not see the consultation report
17 as of October 10, 1996; am I right?

18 A. I don't believe ■ had.

19 Q. So at that time you wouldn't know that Dr. Milo
20 was requesting a follow-up visit of the patient,
21 correct?

22 A. Correct.

23 Q. Going back to my question: In January of 1997, by
24 that point you of course had seen the consultation
25 report, knew Dr. Milo wanted to see the patient back?

1 A. Correct.

2 Q. There is no mention of it in your note that you
3 told him or reminded him he should go to see the ENT;
4 would that be accurate?

5 A. Yes.

6 Q. Doctor, you became aware -- when did you become
7 aware that Jack had been hospitalized at Saint Thomas?

8 A. On January 21, 1997.

9 Q. on January 2nd, see if you can help me out with
10 this one, I know we're doing a lot of flipping here,
11 January 2nd there is a phone call apparently from
12 Mrs. Andrews, says patient -- see if I can read this.
13 she called in apparently reporting his blood sugars,
14 correct, see that?

15 A. Blood sugar.

16 Q. wife checking vital signs four times a day, is
17 this a nurse's writing or doctor's writing; if you know?

18 A. I believe it's a nurse. I believe it's wife
19 checks four times per day.

20 Q. Patient first opening with Dr. Denton 1-21.
21 Husband refused to see anyone but Dr. Denton; you see
22 that note?

23 A. urn-hum.

24 Q. So did they make an entry of this note that day or
25 how did he end up on your schedule book?

1 A. They showed **it** to another physician.

2 Q. Can you help me out, tell me how you know that?

3 A. The bottom **is** Dr. wells.

4 Q. Can you tell me what Dr. wells -- is this his note
5 where **it** started with the slash mark; do you see where
6 I'm saying?

7 A. Yes, **I** can't read **it**.

8 Q. **I** can't either. **Is** Dr. Wells or was Dr. Wells a
9 resident at that time?

10 A. Yes.

11 Q. So, pretty obvious from the note the patient said
12 he didn't want to see anyone but you, they scheduled him
13 for the 21st, right?

14 A. Right.

15 Q. On the 21st you became aware Jack had been
16 hospitalized at saint Thomas?

17 A. Correct.

18 Q. Can **I** ask you, Doctor, at the time whether or not
19 you requested copies of the admission and discharge
20 summaries, any of the progress notes generated during
21 that hospitalization?

22 A. **I** requested the discharge summary.

23 Q. **Which** discharge summary did you receive? **I** have to
24 ask since **I** don't know, **I** didn't see one in the original
25 records **I** had.

1 A. This one.

2 Q. Can I see *it* so we're referring to the same
3 document?

4 MISS KOLIS: Do you have a copy
5 of that with you, David?

6 MR. BEST: which one?

7 MISS KOLIS: In case you're
8 interested, the discharge from Summa.

9 Q. That's the only document you requested from that
10 hospitalization?

11 A. Yes.

12 Q. Did you call the admitting physician to discuss
13 with him the nature and extent of the examination or
14 information given during that hospitalization?

15 A. No.

16 Q. You just simply read the discharge summary?

17 A. Correct.

18 Q. I'm reading this discharge summary. when did you
19 think you got the discharge summary that you requested,
20 if there is a way for you to know?

21 A. There is no way for me to know.

22 Q. They didn't fax *it* over to you?

23 A. There is no way for me to know.

24 Q. There are *no* marks on the top indicating *it* was a
25 fax. No stamped date indicating when they received *it*;

1 that's a fair enough statement?

2 A. Yes.

3 Q. You make no mention in any of your notes from
4 January through the last visit with Jack as to
5 information that was contained in the discharge summary,
6 do you?

7 A. say that one more time.

8 Q. Sure. I don't see any notes to indicate you
9 reviewed the discharge summary from Saint Thomas
10 Hospital, made any notes about it in the chart; would
11 you agree or disagree with that statement?

12 MR. VOUDOURIS: Go back and look.

13 A. I cannot find any.

14 Q. Nothing in writing in the chart that helps you
15 know when you got this information, correct?

16 A. Correct.

17 Q. There is nothing in the chart that reflects any of
18 the information which was given to you in anyway
19 affected the diagnoses you made or the plan of care that
20 you wrote after January for this person?

21 A. say that again.

22 Q. Sure. None of your notes indicate that you had a
23 change in diagnosis or did any further investigation of
24 Mr. Andrews based upon information contained in the
25 discharge summary?

1 A. Correct.

2 Q. when you saw Mr. Andrews in January of 1997 did he
3 still have otitis media?

4 A. I don't believe so.

5 Q. You don't in your assessment and plan for this
6 patient have any physical findings related to otitis
7 media; am I stating that correctly?

8 MR. VOUDOURIS: On 1-21-97?

9 Q. On 1-21-97.

10 A. No.

11 Q. So you didn't see anything relating to the
12 previous symptoms, right, of otitis media?

13 A. No.

14 Q. Had his cluster headaches resolved?

15 A. He doesn't mention headaches.

16 Q. Then the next few notes, not to minimize them,
17 have to do with you filling out Medicaid application
18 information?

19 A. Correct.

20 Q. On 4-15-97 Mr. Andrews comes in to see you for
21 follow-up, problems refer to a list; that's the list
22 from 1-21-97?

23 A. No.

24 Q. what list is it?

25 A. A list he came in with.

1 Q. Is it the list that his wife prepared, if you know
2 that his wife prepared it?

3 A. Yes.

4 Q. you've got a copy of that list, don't you? I'm
5 reading upside down, the one that starts Jack has
6 experienced the following symptoms in the last two
7 months.

8 A. Yes.

9 Q. You're being asked to assess those, right?

10 A. Yes.

11 Q. Before we get to your dictated note in February,
12 in April, April 15th you now have otitis media, right
13 maxillary sinusitis; is that right?

14 A. Maxillary sinusitis.

15 Q. Did you give him some prescriptions for those
16 conditions?

17 A. Yes.

18 Q. That was?

19 A. Supac, Claritin D, nasal steroid Flonase.

20 Q. ■ this or is this not a similar set of symptoms
21 to those he had in August of 1996?

22 MR. VOUDOURIS: which symptoms?

23 Q. The ones that led you to conclude he had right
24 otitis media and maxillary sinusitis?

25 MR. VOUDOURIS: Can she read back

1 the question?

2 Q. Sure. In the Fall of 1996 you examined and
3 evaluated the patient, you made the diagnosis of otitis
4 media, correct? Now he's back with maxillary
5 tenderness, correct, he had that previously?

6 A. He did have a maxillary tenderness.

7 Q. He had what else that led you to that diagnosis?

8 A. Fluid behind the tympanic membrane, right
9 maxillary tenderness.

10 Q. so is this in your opinion a recurrence of a set
11 of symptoms he had in September at that time?

12 A. what do you mean by recurrence?

13 Q. Did he have a recurrence of the same infection, is
14 that why he had otitis media?

15 A. He had another infection.

16 Q. He had another infection.

17 Your diagnosis of maxillary sinusitis
18 means what to me, I'm not a doctor remember?

19 A. An infection in the maxillary sinus.

20 Q. You base that on the tenderness he had in that
21 region?

22 A. Um-hum.

23 Q. so you wrote some prescriptions for him to cover
24 this issue, correct?

25 A. urn-hum.

1 Q. His wife made a list, I take it Jack came in with
2 this list?

3 A. um-hum.

4 Q. Her complaints were weight loss, correct, we will
5 start with that one?

6 A. Correct.

7 Q. Did you evaluate him for the weight loss or not?

8 A. Yes.

9 Q. Did you determine he in fact did not have a weight
10 loss?

11 A. Correct.

12 Q. Vomiting?

13 A. Correct.

14 Q. what did you determine to be the cause of his
15 vomiting?

16 A. I did not specifically write.

17 Q. Blurred vision all the time.

18 A. This was a chronic problem.

19 Q. when did his blurred vision first start?

20 MR. VOUDOURIS: Don't guess.

21 A. I don't know but I know it was there in September.

22 Q. At that point in time did you have an opinion as
23 to the cause of his blurred vision?

24 A. I believed it was from his diabetes.

25 Q. You thought he had a diabetic neuropathy of some

1 sort? I'm just asking.

2 A. swinging blood sugar can cause blurred vision.

3 Q. He was continuing in his complaints about severe
4 headaches; am I right?

5 A. He complained of the headaches again.

6 Q. He is continuing to complain of right-sided
7 headache, did I misread that?

8 MR. VOUDOURIS: she is just asking
9 you.

10 A. No. That is what I wrote, yes.

11 Q. He had continuing complaints of right-sided
12 headache; do you agree with that?

13 A. Yes.

14 Q. when you reviewed the consult report from
15 Dr. Milo, Dr. Milo didn't state whether or not Jack
16 Andrews had cluster headaches, did he?

17 A. NO.

18 Q. Did you eliminate cluster headaches from the
19 diagnosis because it wasn't contained in Dr. Milo's
20 consult report?

21 A. I don't recall.

22 Q. what did you think was causing the right-sided
23 headaches in April of 1997?

24 A. A recurrent headache from the infection again.

25 Q. Did you feel that Mr. Andrews needed to be seen by

1 an ENT at that time?

2 A. No.

3 Q. By that point you were comfortable taking care of
4 this group of symptoms, didn't feel you needed input
5 from a specialist?

6 A. Yes.

7 Q. Did you consult with any of the attendings in your
8 group at that time?

9 A. I can't say. I didn't note it.

10 Q. You left the practice when, Doctor?

11 A. Mid June.

12 Q. You didn't have a complete physical examination
13 with Mr. Andrews again after April of 1997?

14 A. Correct.

15 Q. when did you find out that Mr. Andrews had a
16 facial cancer?

17 A. when I got your letter with the lawsuit, 120 day
18 letter or something like that.

19 Q. You left the hospital, Akron city, sometime in the
20 middle of June, did not keep in contact with the people
21 in that group? I'm asking.

22 A. Not specifically with these people.

23 Q. Dr. Carnoni?

24 A. I occasionally go to grand rounds at city
25 Hospital, see patients, socialize with them. I do not

1 specifically discuss patients.

2 Q. when you left and Dr. Carnoni, if I'm pronouncing
3 it correctly, took over Mr. Andrews' care in the middle
4 of June, do you know what year Dr. Canoni was in his
5 residency, was he on your team?

6 A. He was probably on my team, I don't know what year
7 he was.

8 MISS KOLIS: Doctor, I don't have
9 any further questions for you.

10 MR. BEST: Give us a minute.
11 Let me talk to you for a minute too, Peter, see where we
12 are.

13 -----

14 (Recess had.)

15 -----

16 MISS KOLIS: Doctor, I'm going to
17 order a copy of your deposition.

18 MR. VOUDOURIS: I'll order.

19 MISS KOLIS: Your attorney wants
20 you to read it, which is fine with me. Normally the
21 Civil Rules state you have seven days, I'll waive the
22 seven day reading requirement, please give me your
23 assurance you will do it within 30.

24 THE WITNESS: I'm going out of
25 town.

1 MR. VOUDOURIS: She is going to type
2 it up, we want you to read it.

3 THE WITNESS: I'm going out of
4 town, sorry.

5 MR. VOUDOURIS: when you get back
6 give it your immediate attention.

7 THE WITNESS: Immediate attention.

8 -----

9 (Deposition concluded; signature not waived.)

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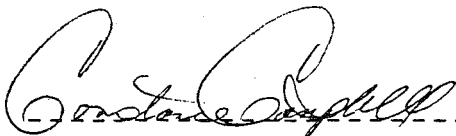
1 The State of Ohio,

2 county of Cuyahoga. : CERTIFICATE:

3 ■, Constance Campbell, Notary Public within and for
4 the State of Ohio, do hereby certify that the within
5 named witness, ALICE DENTON, M.D. was by me first duly
6 sworn to testify the truth in the cause aforesaid; that
7 the testimony then given was reduced by me to stenotypy
8 in the presence of said witness, subsequently
9 transcribed onto a computer under my direction, and that
10 the foregoing is a true and correct transcript of the
11 testimony so given as aforesaid,

12 I do further certify that this deposition was taken
13 at the time and place as specified in the foregoing
14 caption, and that ■ am not a relative, counsel or
15 attorney of either party, or otherwise interested in the
16 outcome of this action.

17 IN WITNESS WHEREOF, ■ have hereunto set my hand and
18 affixed my seal of office at Cleveland, Ohio,
19 this 3rd day of May, 1999.

20 
21 -----

22 Constance Campbell, Stenographic Reporter,
23 Notary Public/State of Ohio.

24 Commission expiration: January 14, 2003.

25

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