IN THE COURT OF COMMON PLEAS
OF SUMMIT COUNTY, OHIO
- - - - -
CHARLES G. PERE, et al.,
Plaintiffs,
vs. Case No. 03-07-3984
THE LEDGES OF ROCKYNOL,
et al.,
Defendants.
- - - - -
DEPOSITION OF KIM EVANS, R.N.
FRIDAY, NOVEMBER 14, 2003
- - - - -
Deposition of KIM EVANS, R.N., a Defendant herein, called by the Plaintiff for examination under the statute, taken before me, Cynthia A. Sullivan, a Registered Professional Reporter and Notary Public in and for the State of Ohio, pursuant to notice and stipulations of counsel, at the offices of Tipping Co., L.P.A., Sanctuary Professional Building, Suite 207, 525 North Cleveland-Massillon Road, Akron, Ohio, on the day and date set forth above, at 1:13 p.m.
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APPEARANCES:
On behalf of the Plaintiffs:
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On behalf of the Defendant Rockynol:
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On behalf of the Defendant Dr. Amanambu:
Buckingham, Doolittle & Burroughs, LLP, by
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KIM EVANS, R.N., of lawful age, called for examination, as provided by the Ohio Rules of Civil Procedure, being by me first duly sworn, as hereinafter certified, deposed and said as follows:

EXAMINATION OF KIM EVANS, R.N.

BY MS. TRESL:

Q. Kim, my name is Jackie Tresl. May I call you Kim?

A. Uh-huh.

Q. Please feel free to call me Jackie. I represent Mrs. Pere, John, and Jean, who are the plaintiffs in this case. Have you ever had your deposition taken before?

A. No.

Q. Let me just tell you a few things, although I'm sure your attorney has reviewed it with you. First of all, if you can answer my questions yes or no rather than nodding or shaking your head so that Cynthia can put it down on the record.

A. Okay.

Q. I ask that you let me finish my question before you answer.

A. (Indicating.)

Q. Is that a yes?

A. Yes.

Q. I will try to give you the same courtesy, to let you finish before I jump in.

A. Okay.

Q. If you answer the question, may I assume that you understand what I'm asking you?

A. Yes.

Q. For the record, would you state your name and address, please?

A. It's Kim Evans. I stay at 861 Wilmot, W-I-L-M-O-T, Street. That's Akron, Ohio, 44306.

Q. Are you currently employed at Rockynol?

A. Yes.

Q. Tell me a little bit about your employment history with Rockynol, when you started and what your position is.

A. Okay. I started back in June of 1998. I've been there a total of five years, but I did leave a couple of times just to try different things. Being a new nurse, I wanted to try different locations, specialties in nursing. Left for about two months for

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dialysis, didn't like it, and came back. I tried correctional nursing for two days and came back, and I've been back ever since.
Q. So you are a registered nurse?
A. I'm a registered nurse.
Q. Tell me --
A. I'm sorry.
Q. Tell me where you graduated.
A. I graduated from the University of Akron back in '97.
Q. Do you have your Bachelor's degree?
A. Yes.
Q. Do you have any additional certifications besides that?
A. No.
Q. Are you BLS certified?
A. Yes.
Q. ACLS certified?
A. Yes.
Q. Currently?
A. My understanding of that, you mean CPR certification?
Q. BLS would be --
A. Basic lifesaving.
Q. Right, and ACLS is advanced. Maybe

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you're not ACLS, advanced cardiac life support versus basic life support.
A. Basic life support.
Q. And you are currently?
A. Yes.
Q. Do you have any special training in gerontological nursing?
A. No.
Q. Have you ever lectured on any topics in nursing?
A. No.
Q. Have you ever been published?
A. No.
Q. Have you ever been disciplined for any reason at Rockynol at all?
A. No.
Q. Have you ever been disciplined at all through the Ohio Board of Nursing?
A. No.
Q. Not that working full time at Rockynol is not enough, but do you work any other areas other than Rockynol?
A. No.
Q. Tell me what shift you were working in January of 2002.

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A. I work 11:00 to 7:00 exclusively, and I was working 11:00 to 7:00 that night.
Q. What did you review for today's deposition?
A. What did I review for today's deposition? Today nothing. I haven't reviewed anything today.
Q. What have you reviewed for the deposition for today in preparation for today?
A. For preparation, I spoke with our attorneys representing Rockynol about --
MS. BREAUX: You don't have to answer what we talked about, but you can tell her if there were any documents or anything like that that you reviewed.
A. Okay. Nurse's notes, plans of care, paperwork referring to the resident that is now deceased. Let's see, therapy notes from the hospital. I think it was Akron City Hospital. Primarily, my nurse's notes, my fellow coworkers' nurse's notes. That's about it.
Q. So it sounds like you did a fairly comprehensive review of Mr. Pere's stay at Rockynol?
A. I would say so, yes.

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Q. It sounds like you also did some review prior to his admission to Rockynol?
A. Yes.
Q. Did you review anything from the Cleveland Clinic records?
A. Not that I can recall. I can't recall reviewing anything from the Cleveland Clinic.
Q. Do you remember Mr. Pere aside from the records that you reviewed?
A. Yes. Yes.
Q. What do you remember?
A. That he was quiet, pleasant, not much of a complainer at all. Being that he was only there a short time, I only think that I met him once to assess him, but nothing out of the ordinary. He was tall, a very tall gentleman, but that's about it.
Q. Tell me in these notes which are yours -- maybe your counsel will give you a sheet. I'm thinking that it's this here (indicating), but I'm not sure. Let me let her find it for us (indicating).
A. Okay. This is my assessment it looks like on the 30th of January, 2002, and I

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have an entry the day --
Q. Show me that, for the record, if you could.
A. This right here (indicating). It's kind of smudged up. It looks like the 30th of January, 2002.
Q. And then the next time?
A. And then when he had the actual fall on the 2nd of February right here (indicating).
Q. Now, is this, what we were referring to here, the first time?
A. Yes.
Q. For the record, the top is dated it looks like --
MS. BREAUX: I think it's 1-29.
Q. 1-29-02, 1:30 p.m., nurse's notes. The last entry there at the bottom is 6:55?
A. Yes.
Q. Just read that for me, if you could, Kim.
A. Alert and oriented, pleasant, zero distress or complaints of. Resident requested a bedside commode and stated he would agree to wearing a brief. Skin is pink, warm, and dry. Slight lower extremity edema bilaterally. Chest

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incision is well approximated. Outside dressing dry and intact, zero seepage, zero signs of infection. Lungs are clear to auscultation. SPL 2 is 98 percent on room air. Bowel sounds are positive. Abdomen is soft and nondistended.
Vital signs, temperature 97.4 orally, pulse is 67, respirations are 20, blood pressure 190 over 80. Zero complaints of headache or blurry vision, et cetera, and my signature and title.
Q. Now, do you remember when you made this note?
A. Not specifically, no, no.
Q. But you can remember interacting with Mr. Pere apart from this?
A. Yes.
Q. Is there anything that you remember apart from this that you documented other than that he was tall and pleasant?
A. No.
Q. From reading this note, when you read it for yourself, is there any indication that he had any confusion or any dizziness or any changes in his mentation?
A. No.

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Q. This would be his first night shift at Rockynol, I'm thinking?
A. I would say -- he came -- yeah. Let me think here a minute, yes.
Q. Now, you alluded to another time when you interacted with him?
A. Uh-huh.
Q. Let me see where that would be in the record.
A. Okay. The next time would be his actual fall.
Q. Okay.
A. That was on February the 2nd.
Q. Okay.
A. And I made a late entry at 8:30 for the approximate time of the fall.
Q. So this would be you right here, spoke to Mr. --
A. Right here (indicating).
Q. So this would be -- I just want to get my bearings here. So this would be, for the record, dated 2-02 at the top, 6:00 p.m., and your note is at 8:30 a.m. at 2-2; is that correct?
A. Yes.

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Q. Would you read that to me, please?
A. Okay. Late entry at approximately 7:50 a.m. Resident found on floor in room collapsed on floor lying on left side with profuse bleeding from left side of head. LPN in charge notified staff immediately. Resident's roommate witnessed the fall. He stated resident was standing up at foot of bed in between wheelchair and foot of bed when resident suddenly went forward and landed on head.
Roommate, Mr. Cailer, notified 911 unbeknownst to the staff immediately. This nurse called 911 immediately after fall as well. Squad arrived at approximately 7:52. It looks like I wrote 7:55. At 8:05 attempts to call and reach Dr. Amanambu via answering service unsuccessful. Dr. Amanambu reached at his home at 8:12 a.m. and was then made aware of events. Pronouncement given.
Dr. A, meaning Dr. Amanambu, stated this would be a coroner's case due to fall. Later told by squad that this would not be a coroner's case at 8:40 a.m. This issue, coroner's case or not, is still uncertain at this time.

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And addendum at 8:15, DON. Carrie Joslin could not be reached. 8:20 a.m., Mary Williams, unit coordinator, was notified. Assistant administrator, Jada Tory, was paged at 8:15 a.m. by oncoming RN supervisor. No response at this time. That was my name, my initial, and title.

Q. Okay. Now, between these two entries that you have here, is it safe to assume that you had no other interactions with Mr. Pere?

A. Yes.

Q. How is it that you became involved here at 8:30 a.m.?

A. Okay. Well, my shift was over. The oncoming 7:00 to 3:00 RN supervisor was coming on, and I believe I was finishing up some last minute documentation, and I was basically on my way to clock out soon after that. Then I remember going down the hall, and I heard the charge nurse, Patty Coffman, yelling for help.

Susan, who was the RN supervisor that relieved me, was in the room first, and then I went in behind her. We saw Mr. Pere laying on his left side, and there was like a

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crown of blood around his head.

Just out of reaction, I went and grabbed a towel to put under his head, ran back to the nurse's station and called 911 not knowing that his roommate, Mr. Caller, had already called.

I think I was barely off the phone, and I saw the squad coming into his room and then doing their assessment. I think at that time I decided to make a late entry, you know, to document what was going on. That was basically what I have here.

Q. You had not cared for him prior to that, that shift, the night shift? You were going down the hall, and you just got involved because people needed help?

A. Yes.

Q. When you went in there, and forgive me if it's in the record, but let me just ask you, was there any level of consciousness or awareness at all?

A. When I found him?

Q. Yes.

A. He in my opinion looked pretty close to death. His color was cyanotic. His

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respirations were like very shallow. I really thought he was going to die right then and there. He looked pretty close to death then, and that's really all I can recall.

Q. But he was breathing?

A. Yes.

Q. When you think about it and you sort of put the times together, does anyone have an idea when the last time is that he was known to be okay, in bed or sitting at the edge of the bed?

A. That would be on my shift when the charge nurse, who is also an RN, assessed him, and he had no reports of anything abnormal with Mr. Pere at all.

Q. Did your charge nurse, and obviously I can ask her, but when you went in there, did she say I had just been in there or I had just seen him? Because it looks to me that there's no indication that I can see that anyone saw him from 3:00 a.m. until the late entry that you made which would be 7:50.

MS. BREAUX: Objection. You can go ahead and answer.

A. Could you repeat that for me?

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Q. Sure. When she's calling and you go in there, typically we would say something like, I just saw him or I saw him a half-an-hour ago or he seemed fine. Was there any conversation like that?

A. Not to my knowledge, no.

Q. What did the charge nurse say to you when you were in there and then you came out of the room?

MS. BREAUX: Objection. Go ahead and answer.

A. She, like I said, was calling for help, and she didn't say anything to my recollection to me directly. It was basically the three nurses in there, the charge nurse that had screamed.

Q. What was her name one more time?

A. Pat Coffman.

Q. We're going to depose her later.

A. Susan Perrin, the oncoming RN supervisor, and there was me, and she hadn't said anything to me directly. It was kind of like self-explanatory. We saw he was in duress, and we went and tried to take action the best we could, me going to call 911.

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What they did after that, I can't recall what they did specifically themselves. But I know I left the room, got a towel, and then I went to call 911, and that's all I can recall as far as my interactions.

Q. Was there some discussion with them after that? What time did you go home that day; do you know?

A. I can't say for sure, but I would say based on my late entry it probably was around 9:00.

Q. He was gone by squad then by the time you left?

A. To be honest with you, I can't say for sure because it was so chaotic. The squad was in there for a while because it was like touch and go with him. So I can't say for sure. I don't really recall if he had been sent out by then.

Q. Describe to me a little bit, when you say touch and go, what do you mean by that?

A. Well, when I called Dr. Amanambu, you know, he gave the pronouncement of death then because I don't know if I said to him he looks like he's close to expiring now or -- I'm

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not quite sure exactly.

Could you ask that again for me?

Q. Did the doctor pronounce him dead then over the telephone?

A. That is what I documented on the pronouncement of death on the telephone order sheet, yes. That's what I recall, him giving me a pronouncement at that time.

Q. Based on what you were telling him you were observing?

A. (Indicating.)

Q. Then you said things were touch and go. You were explaining to me what you meant by that.

A. Well, there was some confusion. Now, I'm not sure if the EMTs had said he's gone and I was on the phone and Dr. Amanambu was told this and then he gave the pronouncement, or they had resuscitated him and then there was a different time frame for the pronouncement of death. That's what I mean by touch and go.

I had to erase or write error over one time for the pronouncement of death and write another time for the pronouncement of death. That's what I mean by touch and go.

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What do they want to do, make this a coroner's case? Has the man expired? You know, but I wasn't there to assess him to say, yes, he had definitely expired, if that makes sense.

Q. Is that sort of how the chaos fits in?

A. Yes. I would say that.

Q. What was going on at the same time that this was going on with Mr. Cailer?

A. That I can recall, we were trying to calm Mr. Cailer down. He was very upset. He was really shaky, and we just wanted to reassure to him that he did the right thing. He acted. He called to look out for his neighbor. He called 911. We were kind of patting him on the back to say, you did a good job, Mr. Cailer, because he was kind of a nervous guy anyway. That's all I recall about that.

Q. Tell me, if you recall, and I know you documented it, but what you remember specifically he told you. Describe to me the way you envision it now.

A. Let me think. The first, well, I kind of got it through secondhand. I think Susan had heard that Mr. Cailer said his

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neighbor got up and said good morning and collapsed. That's the gist of what I got from it.

I don't recall asking him specifically other than what I had documented, that he had stood up. I only asked him what had transpired from his point of view, but he wasn't really specific with me, so that's why I documented what I did. He witnessed the fall. He said he was standing up at the foot of the bed in between the wheelchair and fell suddenly. That's what I gathered from talking to Mr. Cailer. But what he said to the RN supervisor, he said good morning and went down, and that's all I can really recall off the top of my head from that.

Q. From reading that one could draw the conclusion that perhaps there was some kind of almost tripping around the wheelchair, but in actuality it was not. He collapsed and fell, and the wheelchair just happened to be there?

MS. BREAUX: Objection. You can answer.

A. That I can't say for sure. He did not say to me that he tripped on anything. He

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said suddenly he went down forward and landed on his head.
Q. Describe to me the way that space looked where you found him. Was he like squashed between the bed and the wheelchair, or did he push the wheelchair out of the way when he fell, or how did that look?
A. When I entered the room, what I saw, let's say, for instance, this was the bed (indicating). Mr. Pere was a tall guy. Like I said, he was laying on his left side kind of curled. Not in a fetal position, but kind of curled up, long legs, so his legs were kind of like bed, legs, and head. He was in the center of the room when I saw him.
Q. Can you draw a picture of that?
A. Sure.
Q. That way we'll have a record of it.
A. Okay.
Q. If he's in bed, does that mean that he's against the window?
A. Yes.
Q. Okay. We'll mark that Exhibit 2 when she's done.
A. I'm a stick figure drawer. That's

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terrible.
Q. Where was the wheelchair in relation to that?
A. To be honest with you, I can't remember seeing a wheelchair. I was more focused on him than his surroundings, but this is what I recall when I came into the room, him in the middle of the floor (indicating).
Q. So he's laying along the side of the bed, not at the head of the bed?
A. Away from the bed in the middle of the room.
Q. So he may have taken two or three steps? Is that sort of what it looked like when you saw him, or did he just kind of stand up by the side of the bed and fall based on how you found him?
MS. BREAUX: Objection.
A. I can't say because I didn't see him fall. I don't know how he went down at all, but this is how I found him laying in the middle of the floor.
Q. So either scenario is possible based on the fact that he was tall and where you found him, he could have stood right up at the bed and

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collapsed, or he could have taken two steps and collapsed?
MS. BREAUX: Objection.
A. That I don't know.
Q. Where is the bathroom in terms of this, if you know?
A. All right. I think Mr. Cailer was this one. I'll draw his bed, too. His bed was here (indicating), and the bathroom would be here (indicating), the door, entrance. The bathroom would be on the left-hand side as you go into the room, and I think Mr. Cailer's bed was against the wall on the left-hand side, and bed two, where Mr. Pere's bed was, was against the window.

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(Thereupon, Plaintiff's Deposition Exhibit 2 was marked for purposes of identification.)

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Q. How was Mr. Cailer then in the days following that?
A. Oh, my, let me think. From what I can recall, his usual self. He was confused at times anyway, but I didn't notice anything out

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of the ordinary with him, no more than usual.
Q. Did you work the next night shift; do you recall?
A. That I believe I did not. I think that was my weekend off. I'm pretty sure that was my weekend off, but don't quote me. I'm pretty sure I was off that weekend.
Q. Tell me about the conversations that you had with some of your colleagues about this incident afterwards. I'm sure this was fairly big news, or a significant event maybe is more appropriate to say.
Did you, for instance, discuss it with Pat Coffman later after the dust sort of settled?
A. It's possible, but I don't remember any specifics. I think that was my weekend off, and I don't believe I even discussed it beyond that because I don't recall discussing it beyond what happened that day, that morning.
Q. So after you left at 9:00, you didn't discuss it? You didn't follow up and ask any questions about Mr. Pere or if anybody had any more information about what happened?
A. It's possible, but I don't remember

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any specifics at all. I wish I did, but I don't remember anything specific beyond that morning.
Q. Is it likely that you would have followed up when you came back from your weekend and asked a few questions?
A. Beyond the fact that from my recollection he had expired -- by the time I left that morning I was certain that he had expired. If I'm not mistaken, he was gone that morning, and I don't remember -- I believe that I would have. Had they said he hadn't died, I would have been concerned about him. Did he pull through? How is he? But after expiration, I don't recall asking anything beyond what happened that morning.
Q. How about discussing this with Dr. Amanambu? Is there anything other than what you have documented here that you remember that morning?
A. No more than me giving him the update on what the situation was, the fall, and that he looked close to expiration. I believe I really did say, Dr. Amanambu, he does not look like he's going to make it. Beyond that I had no further discussions with him other than

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getting the order, this is going to be a coroner's case, and leaving it at that. That's all I remember with Dr. Amanambu discussing.
Q. When you first called him, did he ask you how did this happen or what had happened that caused this?
A. I believe I called him and told him, like I said, the event that happened, and I don't remember him really -- he was hearing my side of what was going on. He really didn't question it beyond what I was telling him, if that makes any sense.
Q. Did you have any further discussion with him later the next week or month?
A. No.
Q. Do you interact with Dr. Amanambu very often?
A. No.
Q. Is that because you're on night shift, or he doesn't come very often?
MS. COEY: Objection.
A. I think it's pretty much both. I have never really seen Dr. Amanambu in the facility, and I haven't had any conversations with him about this or this particular event

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that happened.
Q. Would you know him if he walked past you?
A. No.
Q. What about the family? This may be in here, so forgive me, but I want to go over all the events. Presumably someone called Mrs. Pere.
A. I hope that it was Susan Perrin. I didn't have any conversations, to my recollection, about notifying the family at all. I believe Susan was the one that notified the daughter or family member or whoever it was that she might have spoke to.
Q. You don't know anything about that conversation, and you did not see Mrs. Pere before you left your shift?
A. No.
Q. You talked about how you could not reach Carrie Joslin. Do you recall your conversation with Mary Williams at all?
A. Not in detail. I really don't.
Q. Tell me what you remember.
MS. BREAUX: Objection. Go ahead.
A. I think, just to paraphrase, Mary,

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Mr. Pere, he had a fall, doesn't look too good, just wanted you to be aware because I couldn't reach Carrie. She was our unit coordinator, so she was like the next best person to reach beyond our director of nursing.
So I would say paraphrasing that would be what I would have told her, that he had the fall, he didn't look too good, and I don't think he's going to make it, something along that line, just so that she would have some notification and would know what was going on in advance.
Q. Do you recall what she said back to you --
MS. BREAUX: Objection. Go ahead.
Q. -- paraphrased?
A. I don't remember anything specific. To be honest, I don't remember anything other than, you know, that's a terrible, unfortunate thing that happened, and I believe I told her what else I was going to do as far as notifications with the administrator or something to that extent.
But just paraphrasing it, I don't remember her saying anything specifically to me

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about what had happened to Mr. Pere.
Q. When you find a patient who has fallen, and maybe this doesn't apply to Mr. Pere, but in general is the policy that you fill out an incident report?
A. Yes.
Q. Do you know if an incident report was filed in this case?
A. No.
MS. BREAUX: You don't know or one was not filed?
A. I don't know if it was filed. I know I didn't do an incident report. To my recollection all I did was this nurse's note. I don't remember there being an incident report completed.
Q. Is this the kind of situation where you could see an incident report would be completed?
A. Yes.
Q. Why would you say that?
A. Well, our policy at Rockynol is if there's a fall, you have to do an incident report.
Q. How come there are falls at

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Rockynol?
A. Oh, my, they're common. They're common.
Q. Why are they common?
MS. BREAUX: Objection. Go ahead.
A. We have a lot of unsteady residents, a lot of confused residents with poor safety awareness. We're dealing with the geriatric population, and I think that's the main problem there.
There's not enough people to go around to watch every single resident at a given time unfortunately, and I think that's with any facility. But I think we're just dealing with the unsteady elderly, confused, Alzheimer's, dementia-type residents that are prone to falls.
Q. Now, this floor, 122-2, do you still work that floor? Do you always stay on the same floor?
A. No. I have the whole facility, so I have the first and second floor Ledges in the whole building.
Q. Is that the case on this date, you had the whole facility?
A. Yes.

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Q. Describe to me a little bit about the staffing on night shift so that I understand. Let's say you would come in on this night shift on February 2nd. You're working night shift. Typically, what is your responsibility, and who do you have under you?
A. Okay. I'm the nursing supervisor for the entire facility, and I have a charge -- two charge nurses that work under me, and we usually have scheduled two STNAs on each floor. Do you want to know everywhere in the facility or just on The Ledges, the nursing floor staffing?
Q. I don't know because I guess I don't understand the difference between The Ledges and --
A. I'll explain it to you.
Q. Yes. I wish you would.
A. We have two floors of skilled nursing. That's the first and second floor Ledges. There's an Alzheimer's unit that has a third and fourth floor, and then there's an assisted living that has six floors. I believe at the time I had to cover the independent apartments also, and that's four floors of

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residents. So it's a pretty big facility.
Q. These two floors of skilled nursing, am I using the correct term?
A. Uh-huh.
Q. How many patients roughly are on each floor?
A. 36.
Q. So there's a total of 72 you're responsible for there and then the four floors of assisted living?
A. Yes.
Q. When you say you have two charge nurses under you, is that one charge nurse for each floor?
A. Yes.
Q. And that would be a registered nurse?
A. No, not all the time. Michael, the charge nurse that night, was a registered nurse, but he works in the capacity of a charge nurse.
Q. So Michael was the charge nurse that night?
A. Yes.
Q. We'll come back to that. Then he had two STNAs working under him?

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A. Yes.
Q. So for this floor for Mr. Pere on night shift, we would expect you to be over two floors, Michael to be charge on the floor, and have two STNAs caring for 36 patients?
A. Yes.
Q. Are you mostly full?
A. I would say yes.
Q. Being charge nurse, he's not in charge then of any other RNs or LPNs. He's basically in charge of the STNAs?
A. Yes.
Q. On night shift are rounds made, regular rounds?
A. Yes.
Q. Tell me about that.
A. The nursing assistants have three rounds to do on the shift; 12:00, 3:00, and 5:00.
Q. Typically, what do they do?
A. The typical routine is they get report from the charge nurse, and they are assigned their sections, and then they usually get their ice water pass for the residents every night, they do their first round, change the

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residents, make sure they have everything they need. They pass the water. They do their stock. They pass the briefs, their gloves, their disposable wipes.

Then in between that time they can take their breaks if they let the charge nurse know that they are taking their 15-minute break or their half-hour lunch. They let the charge nurse know. Then they prepare to do their next round at 3:00. They do the same thing basically, make sure the residents are turned, repositioned, changed.

Their last round is when they start to get what we call their get-ups. They have typically three residents to get up fully dressed, unless they have a bath scheduled that morning. Then they just have them partially dressed with a robe, face washed, teeth brushed, hair combed. Then they make their last rounds to make sure everyone is clean, turned, and positioned.

By that time it is time for them to get out at 7:00. If there is any information that needs to be passed on about the residents in their section, they let the charge nurse

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know, Foley outputs, things of that nature. That's usually their night.
Q. So if they each get three residents up, does that mean the ones that haven't been gotten up are the responsibility of the day shift people?
A. Yes.
Q. How do they determine who they are going to get up versus who day shift is going to get up?
A. Let me back up. Sometimes we have a 6:00 person that comes in, and an STNA will typically get two people, and then her shift will start again at 7:00. But generally the next shift comes on, and they do the same thing we do. They get their report from the charge nurses, they get their assignments they have, and they go ahead and get the people up and ready for breakfast. That's kind of like how their day goes.
Q. Do you know did anyone ask if someone, an STNA, had seen Mr. Pere at the 5:00 a.m. round? Was there any discussion about when is the last time he was looked at and what was he doing?

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MS. BREAUX: Objection. Go ahead.
A. Not to my knowledge because my shift of STNAs would have gone. They leave usually at 7:00 on the nose, so my people wouldn't have been able to say anything. They were gone already.
Q. You don't recall anybody coming to you on night shift and reporting anything to you about Mr. Pere?
A. No.
Q. If there was something that had been reported to you, would you have documented that?
A. If it was something out of the ordinary, yes.
Q. Or would you have asked Michael to do that since he was the charge nurse and you were the supervisor?
A. That's a good question. Yes, Michael was capable of doing the same thing, so more than likely Michael would have documented it and told me in report what was going on.
Q. Do you know if Mr. Pere was one of the residents that was a get-up for the night shift staff?
A. I can't say for sure. I don't

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believe so. I don't believe Mr. Pere was a get-up person.
Q. Was he dressed or in his jammies when you found him?
A. Oh, boy. I don't recall. He wasn't naked, but I don't remember him being fully dressed. He could have been. I can't say for sure. I don't recall him being fully dressed.
Q. He could have been in his nightwear, though, as well as his daytime clothes?
A. Yes.
Q. Do you recall seeing him on any of the night shifts when you were working in terms of walking the halls or up in the room or having any conversation with him other than this?
A. No.
Q. Was he a resident that if he had been out walking the halls, in your duties would you have run across him probably?
A. I would say no, because when we come on night shift, everyone has been put to bed, and they're in their PJs, and they are knocked out. They're sleeping typically. So I don't remember seeing Mr. Pere walking around the entire time that I had worked, you know, the

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nights that I was on and he was our resident. I don't remember seeing him walking around at all.
Q. How common are bed alarms in your practice?
A. Common.
Q. Yes?
A. Yes.
Q. Describe to me what common is for you.
A. Common is, geez, roughly speaking I would say one out of every four or five residents might have a bed alarm on. That's just a general estimate. It's common. It's pretty common.
Q. How common are restraints, Posey vests, wrist restraints?
A. Uncommon.
Q. Why is that?
A. Because we're not allowed to use them. That's not allowed in our facility.
Q. Do you ever use them?
A. No.
Q. Never?
A. No.
Q. What sorts of behaviors do patients

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exhibit that cause you to be thinking about putting a bed alarm on?
A. Whenever they are making multiple attempts out of the bed without assistance, they're not using their call light and we find them up and about, unsteady. Usually, it's if they are getting up out of the bed unassisted enough times for us to say this is a problem.
Q. If they are confused and you know they're confused, is that enough to raise a signal that you might consider a bed alarm?
MS. BREAUX: Objection.
A. No.
MS. BREAUX: Go ahead.
A. No.
Q. Confusion is not?
A. No.
Q. What about if they complained about being dizzy when they get up?
MS. BREAUX: Objection.
A. It would depend on just our monitoring. If we feel that person is a safety risk for themselves and we feel that person is unsteady and incapable of having a steady gait, being able to walk without loss of balance, if

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we feel that that's going to be a problem, then more than likely we would say we could use a bed alarm.
If they are not exhibiting anything as far as unsteady gait, major confusion, attempts out of bed, past history of falls with us or whatever, we don't generally do that until we get the feeling that it's necessary. We kind of monitor them as we go along.
Q. What about if you know that they have had a history of multiple falls before you get them? In other words, you get a new patient and you're not very familiar with them. You've had a day or two with them and you read back in the history and you see that he's fallen five, six, seven times in the last two months?
MS. BREAUX: Objection.
Q. Does that change your approach, or is it more just what you see in your facility that makes you decide?
A. We have to kind of gauge on what we see before us because things can happen, people change, things can improve or get worse. But we base pretty much everything on what we see when we get the resident and maybe whatever

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information we might have gotten from the hospital. But generally, it's based on what we see before us.
Q. Do you rely in any way on what you see but also, sort of looking at the big picture, do you rely at all on this minimum data set that is prepared by your nurses when the patient comes? Are you familiar with that, the minimum data?
A. I'm not sure what you're talking about.
Q. I may be not saying that correctly. The minimum data set?
A. That would be determined by what we call the MDS nurse. The supervisors, generally we don't deal with that, if that's a better word to use. Our MDS nurse would generally handle that information.
Q. I guess what I'm trying to ask is, based on the data that she collects and this compilation, this assessment that she makes, is there anywhere where that information makes it over to the actual caregivers that are making the determination if this patient is a risk to himself for falls or some of the things that you

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mentioned, the confusion, the getting up multiple times?
A. I would say that when we have an admission, we have our own admission packet that has a fall assessment, risk assessment checklist, and the admission nurse will check that based on what her observations are and the information she has on the resident, and she will check off whatever fits this resident.
Then there's a number or total at the end and a grid at the bottom that gives you like say from five to eight, low risk and up. The higher the number, the higher the risk. Based on that, if it's a low total, we're comfortable enough to say, well, we'll monitor this person, but this person is a low fall risk for us. So we kind of go by that as floor nurses as far as that's really what we go by.
Q. So the data that's collected by the MDS nurse, although she may have sort of a bigger picture, asking more questions from different sources, it looks like from reading this that's really not something that the nurses making the actual assessment for the risk of falls use or rely on?

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A. From what I've experienced at Rockynol, yes, that's basically what I understand.
Q. Do you yourself working straight night shift, are you ever responsible for filling out the risk assessment and side rail assessment and some of the documents we just talked about, the immediate needs care plan that we didn't talk about?
A. No.
Q. Because by the time you get them they are sleeping?
A. They have been admitted, and the nurse that admitted them would have done all the information.
MS. TRESL: I think I am done. Let me look at my notes. Brenda may have a question or two for you.
MS. COEY: Off the record. We'll just wait until you're done.
(Brief recess.)
Q. Just a quick question. I got off track in asking you what you reviewed for today's deposition. Other than these records, did you review any policy or procedure manuals

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from Rockynol?
A. No.
Q. Did you do any medical literature search, any textbook reading for today's deposition?
A. No.
Q. Did you talk to Michael about the fact that you were having your deposition taken?
A. Yes. Well, the day of our meeting with our lawyers we were all there, so we kind of knew what times we were going to be coming in, yeah. Yes, I would say so.
Q. Outside of the meeting with the lawyers, did you and Michael talk about it?
A. I would say no. No, we haven't called each other on the phone and said blah, blah, blah. We pretty much discussed everything we wanted to discuss with our lawyers that day. What was that, Monday? Yeah.
Q. Did he tell you yesterday that his deposition was taken yesterday? After his deposition yesterday, did he tell you that he had his deposition taken?
A. No.
Q. Did you talk to any of these other

nurses, anybody involved in this outside of the meeting with the lawyers that you had on Monday?
A. No. I take that back. Pat Coffman, she was oncoming, and we were just, let's get this out of the way. That was the only thing that I remember discussing with Pat. She's like, let's get it out of the way. We've got to do what we've got to do. That was the only conversation that I had outside the meeting with the nurses was Pat Coffman. That might have been Wednesday.
Q. Last Wednesday, two days ago?
A. I would say yesterday. I said what time are you going? She said, 3:00. I said, I go at 1:00, and I went home and clocked out.
MS. TRESL: I thank you very much. I'm done.

EXAMINATION OF KIM EVANS, R.N.

BY MS. COEY:

Q. My name is Brenda Coey.
A. Nice to meet you.
Q. Nice to meet you, Kim. I represent Dr. Amanambu, and I have just a few questions for you.
Once the emergency personnel arrived

at the facility, do you recall whether you had any interaction with them?
A. I don't recall at all because they were doing their thing, and there was a lot of EMTs or paramedics in there, to my recollection, so I don't remember doing anything with them at all.
Q. When they arrived, you didn't direct them to the room?
A. No.
Q. In the Akron Fire Department report, if I were to tell you that at 7:52 personnel documented that Mr. Pere had no blood pressure, a pulse of 32, and respirations of zero, would you have any reason to dispute that?
A. No.
Q. If I were to tell you that at 7:57 they documented that he had no blood pressure, no pulse, no respirations, would you have any reason to dispute that?
A. No.
Q. According to your documentation, your first attempt to contact Dr. Amanambu was at 8:05; correct?
A. Let's see here. Yes.

Q. On February 2nd, 8:05?
A. Uh-huh.
Q. So you would agree with me then that your first attempt, whenever you were contacting Dr. Amanambu, at that point in time according to these records from the emergency squad he would have had zero pulse, zero respirations, and zero blood pressure?
A. I would say yes. I thought he had expired. That was my impression.
MS. COEY: That's all.
MS. BREAUX: We'll go ahead and read.

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(Deposition concluded at 2:05 p.m.)
(Signature not waived.)

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AFFIDAVIT

I have read the foregoing transcript from page 1 through 47 and note the following corrections:

PAGE	LINE	REQUESTED CHANGE

_____
KIM EVANS, R.N.

Subscribed and sworn to before me this _____ day of _____, 2003.

_____
Notary Public
My commission expires _____.

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CERTIFICATE

State of Ohio,)
) SS:
County of Cuyahoga.)

I, Cynthia A. Sullivan, a Notary Public within and for the State of Ohio, duly commissioned and qualified, do hereby certify that the within named KIM EVANS, R.N. was by me first duly sworn to testify to the truth, the whole truth and nothing but the truth in the cause aforesaid; that the testimony as above set forth was by me reduced to stenotypy, afterwards transcribed, and that the foregoing is a true and correct transcription of the testimony.

I do further certify that this deposition was taken at the time and place specified and was completed without adjournment; that I am not a relative or attorney for either party or otherwise interested in the event of this action. I am not, nor is the court reporting firm with which I am affiliated, under a contract as defined in Civil Rule 28(D).

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office at Cleveland, Ohio, on this 24th day of November 2003.

Cynthia A. Sullivan

Cynthia A. Sullivan, Notary Public
Within and for the State of Ohio
My commission expires October 6, 2006.

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DEPOSITION OF KIM EVANS, R.N.