

1 The State of Ohio, )  
2 ) SS:  
3 COUNTY OF CUYAHOGA. )  
4

Doc.  
176

5 IN THE COURT OF COMMON PLEAS

6 SHIRLEY MENG, et al., )

7 Plaintiffs, )

8 -vs- ) Case No.

9 FIRST URGENT CARE ) 180,974

10 CENTER, et al.,

11 Defendants,

12 - - - -000 - - - -

13 Deposition of DR. DAVID GOTTESMAN, a  
14 witness herein, called by the plaintiffs  
15 as if on cross-examination under the  
16 statute, and taken before Ronald Stahl, a  
17 Notary Public within and for the State of  
18 Ohio, pursuant to the agreement of counsel  
19 and pursuant to the further stipulations  
20 of counsel herein contained, on Thursday,  
21 the 29th day of August, 1991, at 5:00  
22 o'clock p.m., at the Hillcrest Medical.  
23 Center, 6801 Mayfield Road, City of  
24 Mayfield Heights, County of Cuyahoga and  
25 the State of Ohio.

1 APPEARANCES :

2

3 On behalf of the Plaintiffs:

4 Schulman & Schulman, by:

5 John Meros, Esq.

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7 On behalf of the Defendants:

8 Jacobson, Maynard, Tuschman &

9 Kalur, by:

10 Craig Grimes, Esq.

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16 COMPUTER-AIDED TRANSCRIPTION

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20

21 HERMAN, STAHL & TACKLA

22 420 Lincoln Building

23 1367 East 6th Street

24 Cleveland, Ohio 44114

25 (216) 241-3918-9

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

DR. DAVID GOTTESMAN, of  
lawful age, a witness herein, called  
by the plaintiffs as if on **cross-**  
examination under the statute, having  
been first duly sworn, as hereinafter  
certified, deposes and says as  
follows:

CROSS-EXAMINATION OF DR, DAVID GOTTESMAN  
BY MR. MEROS:

Q State your full name **for** the record,  
please.

A David Lawrence Gottesman.

Q Dr. Gottesman, where do you live at  
the current time?

A Beachwood.

Q Your street address, please?

A 23411 Timberlane Drive.

Q I have a copy of your curriculum  
vitae, doctor, and it is dated March -- I  
am sorry, it is dated August 30th of 1990.  
I hand you a copy of that.

Could you tell me if that

1 is a true and accurate copy of your CV?

2 A Yes, it is.

3 Q Are there any additions that have to  
4 be made on that?

5 A No.

6 (At this time Plaintiffs'  
7 Exhibit 1, Gottesman, was marked by  
8 Mr. Meros.)

9 Q Dr. Gottesman, have you given a  
10 deposition before?

11 A Yes.

12 Q Are you familiar with what the rules  
13 are normally on a deposition in terms of  
14 answering questions audibly on the record?

15 Do you understand that?

16 A Yes.

17 MR. MERO'S: And you  
18 understand that if you don't know the  
19 answer to a question, simply say so.  
20 I don't want you to guess at any  
21 answers. I'm sure that counsel for  
22 the defense doesn't want you to guess  
23 at an answer. If you are not  
24 understanding my question, say so. I  
25 will either restate the question or

1           rephrase it or withdraw the question  
2           and start again.

3                       So, what I am asking is  
4           that you speak up and tell us if you  
5           don't understand a question or do not  
6           hear the question.

7                       THE WITNESS:     Okay.

8                       MR. MEROS:       And if you  
9           answer a question, I will assume that  
10          you heard the question and that you  
11          understood it.

12                      Is that fair?

13                      THE WITNESS:     Fine.

14   Q       Can I have a summary of your  
15   employment history since you obtained a  
16   medical degree?

17   A       I did my internship at NYU, Bellevue  
18   Medical Center, 1975 to 1976. From '76 to  
19   '78 I did the medical residency at  
20   Bellevue-NYU. I came to Cleveland in '78  
21   through 1980 where I did a  
22   gastroenterology fellowship. In 1980 I  
23   began my practice on the east side of  
24   Cleveland.

25   Q       This is reflected on your curriculum

1 witae, is that correct?

2 A Yes.

3 Q In terms of your practice that you  
4 began in 1980, tell us about that.

5 When did you begin  
6 practicing?

7 A In July of 1980.

8 Q And what location was your first  
9 office at?

10 A 26900 Cedar Road.

11 Q Have you been affiliated with any  
12 other physicians in that practice?

13 A Since I started practice, three  
14 physicians have joined me.

15 Q And you are currently practicing now  
16 in a corporation, is that correct?

17 A That is correct.

18 Q And that is called --

19 A Consultants in Gastroenterology.

20 Q Is there any particular meaning that  
21 is intended when you say Consultants in  
22 Gastroenterology? What do you mean when  
23 you say Consultants in Gastroenterology?

24 A A good part of our work is referral  
25 work from other physicians, specifically

1 for gastroenterology. Our practice is  
2 limited to gastroenterology,

3 Q And you consult for other doctors or  
4 with other doctors in seeing a patient?

5 A That is correct,

6 Q Any other employment in the medical  
7 field outside of what you told me about  
8 already?

9 A In 1980 I was salaried at Mt. Sinai  
10 Hospital where I worked in a nutrition  
11 facility. I believe I did that for 18  
12 months until my practice got going.

13 Q Can I have the date that you obtained  
14 your medical license in Ohio, please? Do  
15 you recall that, or the year that you  
16 obtained that?

17 A I don't recall whether I had a  
18 medical license during my fellowship or  
19 whether I obtained it just prior to going  
20 into practice, It is either '78 or '80.

21 Q You are board certified, is that  
22 correct?

23 A That is correct.

24 Q Which boards have certified you?

25 A Internal medicine and

1 gastroenterology.  
2 Q Did you have to repeat any board  
3 examination?  
4 A No. I passed both of them in the 99  
5 percentile the first time.  
6 Q We are talking about the oral exam  
7 and the written exam?  
8 A The oral exam on either.  
9 Q How your medical license was been  
10 revoked, suspended or subjected to  
11 reprimand?  
12 A No.  
13 Q Did you ever have a fellowship or did  
14 you ever train with a doctor named Dr.  
15 Harvey Dworken?  
16 A I did.  
17 Q Tell us about that.  
18 A When I came to Cleveland in '78, at  
19 that time Dr. Dworken was the chairman of  
20 the department of gastroenterology, and in  
21 the two years that I was a fellow, I had  
22 dealings with Dr. Dworken.  
23 Q Did he instruct you as a fellow?  
24 A He did.  
25 Q Did you see patients under his



1 guidance?

2 A Yes.

3 Q And direction?

4 A Yes, I did.

5 Q And did he offer instruction to you

6 in treating patients with

7 gastroenterological problems?

8 A Yes,

9 Q And this was for approximately two

10 years?

11 A I was a fellow for two years, I

12 wasn't working for Dr. Dworken for two

13 years.

14 Q But during that two year time you saw

15 patients as a fellow under Dr. Dworken?

16 A On occasion, yes.

17 Q Have you ever authored any medical

18 literature, such as articles, books or

19 journals?

20 A No.

21 Q Have you ever written anything in the

22 field of gastroenterology?

23 A No.

24 Q Have you ever been sued for anything

25 in your adult life?

1 A Yes.

2 MR. GRIMES: Objection,

3 Q Can I ask about that?

4 A I have been sued twice for medical

5 malpractice

6 Q **Have** there been any other suits

7 against you outside the medical field?

8 MR. GRIMES: Objection.

9 A No.

10 Q So, is it fair to say that you have

11 been a defendant in civil, suits on two

12 different occasions?

13 A That is correct.

14 Q And both of those suits involved your

15 professional services, is that correct?

16 A That is correct.

17 Q Tell us about the first case.

18 When was that filed against

19 you?

20 MR. GRIMES: Objection.

21 A I don't recall exactly when it was

22 filed.

23 Q That is good enough.

24 A I don't recall.

25 Q Were the **suits** filed in Cuyahoga

1 County?

2 A Yes .

3 Q And were you sued in your name

4 personally?

5 A Yes .

6 Q And in those cases were you deposed?

7 A Yes .

8 Q You gave depositions in those cases?

9 A Yes .

10 Q Did you testify at trial. in those

11 cases?

12 A Yes .

13 Q Did they both go to trial?

14 A Yes .

15 Q Were you represented by Jacobson-

16 Maynard in those cases?

17 A Yes, I was .

18 Q Have you ever had a claim filed

19 against you for medical negligence, that

20 did not result in a lawsuit?

21 MR. GRIMES: Objection.

22 A I don't understand.

23 Q Such as any claim filed with any peer

24 review committee or with the Ohio Medical

25 Board or anything of that sort?

1  
2                   MR. GRIMES:     Objection.  
3                   A     No.  
4                   Q     Have you ever been employed or  
5                   retained by the law firm of Jacobson,  
6                   Maynard, Tuschman & Kalur?  
7                   MR. GRIMES:     I don't  
8                   understand what you mean by employed.  
9                   Q     Have you ever been put on their  
10                  payroll for professional services?  
11                  A     In other words, other than charging  
12                  them?  
13                  Q     As a physician?  
14                  A     No, as a physician, no.  
15                  Q     I'm not asking if they have  
16                  represented you. I already realize that.  
17                  A     What I wasn't clear about was if I  
18                  charged them for the services I provided  
19                  for them, but that is a fee for service,  
20                  but I am not on their payroll.  
21                  Q     Have you ever been retained by them  
22                  as an expert witness outside of this  
23                  particular case?  
24                  A     By expert witness, I have rendered  
25                  opinions. I have never gone to trial.  
                  Q     Okay, limiting it to the category of

1     having given them advice or rendered  
2     opinions to the firm, have you, in fact,  
3     done that for Jacobson-Maynard in cases  
4     other than this current one?

5     A       Yes.

6     Q       When did you first agree to render  
7     advice or counsel to them in the medical  
8     field?

9                   MR. GRIMES:       Objection.

10    Q       When did you first do that?

11    A       Probably two-three years ago.

12    Q       And what members of that firm have  
13    you worked with in giving them advice or  
14    any medical opinions?

15                   MR. GRIMES:       Objection.

16    A       I honestly don't recall the names  
17    of -- There was somebody from Toledo.

18    Q       Okay.

19    A       I don't recall the name.

20    Q       Have you ever worked on a case with  
21    Craig Grimes prior to this one?

22    A       NO.

23    Q       Have you written reports for any  
24    members of that law firm?

25    A       Yes, I have.

1 Q Can you recall approximately how many  
2 times you have authored a report for that  
3 firm?

4 A Perhaps two or three.

5 Q Can you recall what the two or three  
6 cases may have been about?

7 A I remember one being an esophageal  
8 perforation, and I don't recall the other  
9 one.

10 Q All right, we can agree that each and  
11 every time, though, it was in the field of  
12 gastroenterology?

13 A Correct.

14 Q What other law firms in Ohio have  
15 retained your services as an expert  
16 witness outside of Jacobson, Maynard,  
17 Tuschman & Kalur?

18 MR. GRIMES: Objection.

19 A I reviewed one case for Reminger &  
20 Reminger.

21 Q Any other law firms?

22 A I once reviewed a case for Mr.  
23 Halpern, a plaintiff's attorney.

24 a Mr. Halpern?

25 A Yeah. I don't recall his first name.

1 I think, Marvin, perhaps. I don't recall.

2 Q When was that, do you remember?

3 A A few years ago.

4 Q Did that case go any further than  
5 your initial review?

6 A No.

7 Q Can you think of any other law firms,  
8 either inside or outside of Ohio, that had  
9 retained your services as an expert  
10 witness?

11 A No.

12 Q Have you then told me all of the  
13 firms that have retained you as an expert  
14 witness?

15 A Yes.

16 Q We have mentioned Jacobson-Maynard,  
17 Reminger & Reminger, and then Mr. Marvin  
18 Helpern.

19 Is that the extent of it,  
20 then?

21 A That is correct.

22 Q Have you testified in any  
23 jurisdictions outside of Ohio?

24 A No.

25 Q About how many times have you given a

1 deposition either on videotape or just in  
2 front of a court reporter?

3 A Outside of my own cases?

4 Q Yes.

5 A I think this is the second or third.

6 Q How many times have you testified at  
7 trial?

8 A I haven't.

9 Q In cases as an expert witness you  
10 have not?

11 A I have not.

12 Q Have you ever offered testimony on  
13 behalf of any plaintiff in a medical  
14 negligence case?

15 A No, other than -- Testimony, no. As  
16 I said, I did review one case.

17 Q Did you write a report for the  
18 attorney, Mr. Marvin Helpert?

19 A I don't recall,

20 Q But in the cases in which you  
21 testified it has been, each and every  
22 time, for the defense, is that correct?

23 A That is correct.

24 Q Do you advertise your services as an  
25 expert witness in any publications?



1       A       No.

2               How much of your time is spent

3       practicing medicine, doctor, would you say

4       on the average in one given year? How

5       much of your time is devoted to the

6       practice of medicine?

7               You mean per week?

8               No. Just a total percentage of your

9       time broken down in any time frame that

10       you wish. Say any given month or any

11       given year what percentage of your

12       testimony is spent in the practice of

13       medicine, your professional time?

14       i       Oh, professional time?

15       (       Professional time.

16       i       99.99 percent.

17       (       And the remaining time is spent --

18       i       I guess, doing this once a year.

19       (       So, a very small amount of your time,

20       probably less than one percent, is spent

21       consulting and rendering advice to

22       attorneys?

23       i       That is correct.

24       (       I have a summary of your fee

25       schedule. In other words, can you explain

1 to me how you charge for reviewing a case  
2 or for giving deposition testimony or for  
3 testifying at trial?

4 A I asked my friends what they charged  
5 and my fee structure is based on the  
6 experience of others.

7 Q And how do you charge for reviewing a  
8 case and documents that might be in a case  
9 file?

10 A It is \$160 an hour.

11 Q When do you formally bill for your  
12 testimony, at the end of the case or when  
13 your work is completed?

14 A It has been pretty helter-skelter I  
15 am ashamed to say, I don't make a  
16 business out of this, so I think that when  
17 I was notified about the deposition, I  
18 remembered to send Mr. Grimes a bill-

19 Q For work that you completed up until  
20 that time?

21 A That is correct.

22 Q And how do you charge for your  
23 deposition testimony, in other words, what  
24 are you 'charging me?

25 A I think you will pay as soon as we

1 finish this.

2 Q And do you have an hourly fee or a  
3 flat fee?

4 A An hourly fee.

5 Q And is that \$160 an hour?

6 A It is \$250 an hour.

7 Q Have you ever been involved in any  
8 other cases as an expert witness, that  
9 involved the same or similar issues that  
10 are in this case?

11 A No.

12 Q Do you have a file that you keep for  
13 this case? **Have you** compiled any  
14 information that you keep in a file?

15 A I have -- We just opened up another  
16 office, and some of my files were hard to  
17 locate. I misplaced my letter to Mr.  
18 Grimes.

19 Q The report?

20 A The report, so I have a fax copy of  
21 that, He faxed me a copy yesterday.

22 Q That is fine,

23 A Other than that, this is what I have,

24 Q May I take a look at what you say is  
25 your file?

1 A Sure.

2 (At this time a discussion

3 was had off the record,)

4 Q Now, Dr. Gottesman, can you give me

5 an estimate of the number of hours you

6 spent preparing for: this deposition today?

7 A Two and a half-three hours.

8 Q What was **your** time spent doing?

9 A I am **sorry**.

10 Q What was your time spent doing? What

11 were you doing in that time?

12 A I reviewed depositions that I had not

13 seen before, and I reviewed my letter to

14 **Mr.** Grimes,

15 Q Did you review any materials that

16 were new to you?

17 A Yes, the depositions of Drs. Dworken

18 and Frank and the deposition of Mrs. Meng.

19 Q Did **you** review the Meng deposition in

20 **any** detail? Did **you** either skim it or --

21 A At that time I read all of it,

22 Q **You** read all of it?

23 A Yes.

24 Q Would **you** say that you are familiar

25 with the contents of Shirley Meng's

1 deposition at this time?

2 A I would say so.

3 Q Prior to your review or your

4 preparation for this deposition, how many

5 hours did you spend reading over the

6 materials that are listed on the first

7 page of your report?

8 A Three hours, I would guess, I don't

9 recall offhand, maybe two and a half,

P0 maybe three hours,

11 Q Can you take a look at **your** report?

12 A Yes,

13 Q Just to run through the items that

14 are on the first page, Your report is

15 dated March 19th of '91, I see, and you

16 list 11 items that you reviewed?

17 A Right.

18 Q As for the first item, can you

19 estimate the amount of time that you spent

20 reading that?

21 A I can't, because all of that was done

22 sometime in March, and I don't recall.

23 Q Are there any other items here, 1

24 through '11, that you do recall reviewing

25 and the amount of time it would have

1 taken?

2 A No.

3 Q When you say here, for example, Item  
4 No, 10, that you reviewed the deposition  
5 testimony of Dr. Rafal Badri, do you  
6 recall reading the entire deposition?

7 A Not at this point, I don't. As a  
8 matter of fact, I can't find that, That  
9 was not available to me last night when I  
10 looked through the files.

11 Q And when you recently billed Mr.  
12 Grimes for your work up to a certain point  
13 in this case, how many hours did you bill  
14 him, do you recall?

15 A I think it was two and a half or  
16 three hours. I don't recall,

17 Q When did you bill him, just a few  
18 days ago?

19 A A couple weeks ago,

20 Q Is it your estimate that up until you  
21 prepared for this deposition, that your  
22 time spent on this case was between two  
23 and a half to three hours? Is that a fair  
24 statement?

25 A Prior to the preparation?

1 Q Of the deposition?

2 A Correct.

3 Q And you spent another two and a half  
4 to three hours preparing for this  
5 deposition, is that correct?

6 A Yes.

7 Q So, all told we are probably talking  
8 about a total time of between five to six  
9 hours?

10 A That is correct.

11 Q Of your time up until this  
12 deposition?

13 A That is correct,

14 Q When were you first contacted  
15 concerning this case involving Shirley  
16 Meng?

17 A I imagine, sometime in early 1991. I  
18 don't recall exactly,

19 Q And who first contacted you?

20 A Mr. Grimes,

21 Q And did he contact you by telephone  
22 or by letter?

23 A I don't recall.

24 Q At the time that he contacted you  
25 were you still in an attorney/client

1 relationship with his law firm?

2 A No.

3 Q Were both of your cases over at that  
4 point?

5 A Oh, yes.

6 Q Were there any appeals of either of  
7 the verdicts in your two cases?

8 A No.

9 Q When he contacted you what were you  
10 told about the case, do you recall?

11 A It has been a while, I don't recall  
12 the details.

13 Q You don't recall?

14 A No.

15 Q Can you recall what your assignment  
16 was to be?

17 A To review the records that he was  
18 going to --

19 Q Send you?

20 A Provide me.

21 Q And you were asked to take a look at  
22 the records and render any opinions that  
23 you might have in this case?

24 A That is correct,

25 Q Were you asked to do anything else



1 other than that?

2 A No.

3 Q When was your next contact with Mr.  
4 Grimes or anyone else in this case after  
5 that initial contact?

6 A I imagine, after he received my  
7 letter.

8 Q What have you submitted to Mr. Grimes  
9 other than your report that is dated March  
10 19th, 1991?

11 A Nothing else.

12 Q Did you do any draft of the report  
13 prior to that one?

14 A No.

15 Q Was your report changed in any way at  
16 the request of Mr. Grimes?

17 A NO.

18 Q And you have submitted your bill  
19 already for your time in this case up to  
20 this, the beginning of this deposition?

21 A That is correct, not including the  
22 preparation for this deposition.

23 Q Now, doctor, with your report in your  
24 hand, and I am following along on my copy,  
25 can you tell me each and every opinion

1     that you have reached as a result of your  
2     work on this case, and I would direct your  
3     attention to page 2. I am asking you  
4     specifically for the opinions you have  
5     stated in your report.

6                     Can you recite them or  
7     simply point them out for me, opinions  
8     that you have of your own, that you  
9     submitted in your report?

10    A     I don't understand the question.

11                     MR. GRIMES:     Objection.

12                     MR. MEROS:     Let me see  
13     if I can restate that.

14    Q     Page 1 of your report contains no  
15     opinions, is that correct?

16    A     That is correct.

17    Q     So, any opinions that you have are  
18     found on page 2?

19    A     That is correct.

20    Q     Can you tell me each and every  
21     opinion that is somewhere in your report?

22    A     Do you want me to read what I have  
23     written in my report?

24    Q     No; Let's see if I can be more  
25     specific. I see no opinions in the first

1 paragraph on page 2, is that correct, it  
2 is just a recitation of the record?

3 A I am sorry, can you repeat that?

4 Q I see --

5 A I am looking basically -- Everything  
6 is factual until the middle of page 2  
7 where it says "impression." Beginning  
8 with impression I give **you** what I think.

9 Q Are your opinions contained in the  
10 three paragraphs starting with the word  
11 impression on down?

12 A Actually there are four paragraphs.

13 Q Yes, I am sorry, there are four.

14 Are your opinions contained  
15 in those four paragraphs?

16 A Yes.

17 Q Are there any opinions that you have  
18 in this case at this point, that are not  
19 stated in your report?

20 MR. GRIMES: Objection.

21 A I don't understand the question.

22 Q Since the time of your report you  
23 have seen other depositions, other  
24 material.. You informed me that you did  
25 read Shirley Meng's deposition recently.

1                   Are there any opinions that  
2   you have now, that are not in your report?

3   A       Are you asking whether my opinions  
4   have changed since I have received  
5   subsequent information?

6   Q       Well, either changed or whether **you**  
7   have added any to those that you have  
8   stated in the report?

9   A       No. I recognize some disparity in  
10   history vis-a-vis what Mrs. Meng says in  
11   her deposition versus what I have read,  
12   what was provided to me when I prepared  
13   this.

14   Q       So, is it fair to say that you have  
15   not formed any new opinions since the  
16   writing of your report?

17   A       That is correct8

18   Q       Have you changed any opinions that  
19   are in your report in any way at this  
20   point?

21   A       No .

22   Q       Let's start with that sixth paragraph  
23   down on page 2 beginning with  
24   "Impression."

25   A       Okay.

1 Q You seem to summarize in that  
2 paragraph your finding that Mrs. Meng did  
3 not have and does not have a Penicillin  
4 allergy, because she exhibited no stigmata  
5 of an allergic reaction to Penicillin?  
6 A Correct.  
7 Q Do you feel, that she would be  
8 Penicillin sensitive in any way based on  
9 the records you have read?  
10 A Sensitive?  
11 Q Penicillin sensitive?  
12 A What do you mean by sensitive?  
13 Q Did Penicillin cause her vaginal itch  
14 that she developed in this case?  
15 A I believe that the Penicillin caused  
16 her to develop a vaginal fungal infection,  
17 which caused the reaction. I don't recall  
18 the allergy was to Penicillin.  
19 Q How would someone like her develop a  
20 fungal infection from taking Penicillin?  
21 A Or any antibiotic,  
22 Q Or any antibiotic, For the record,  
23 how does that work?  
24 A There is a change in the bacteria  
25 flora of the body, in this particular case

1 the vagina, which allows for  
2 superinfection fungus.

3 Q And what change occurs? How is the  
4 flora affected?

5 A Well, those organisms that are  
6 sensitive to Penicillin will be killed.

7 Q You would not say in any way that she  
8 was Penicillin sensitive as a result of --

9 A Penicillin allergic or sensitive  
10 doesn't -- Sensitivity when you talk about  
11 antibiotics is where the antibiotics kill  
12 the bacteria. That is what sensitive  
13 means when we refer to **antibiotics**.

14 Q So, we must use the words sensitive  
15 and allergic interchangeably? When we say  
16 Penicillin sensitive, we are really saying  
17 Penicillin allergic?

18 A I think that is what you are trying  
19 to say, was she Penicillin allergic or did  
20 she have a reaction to Penicillin? I  
21 think that is what you are getting at.

22 Q Let me rephrase it. Can she be  
23 Penicillin sensitive but not be allergic  
24 to Penicillin, in other words, could  
25 Penicillin bother her or not affect her

1 without her being allergic to it?

2 MR. GRIMES: Objection,

3 A There are patients who may have  
4 discomfort, nausea, due to antibiotics,  
5 abdominal pain due to antibiotics, That  
6 is a reaction, but not an allergy, I  
7 think that is what you are getting at, but  
8 I am not quite **sure**,

9 Q Is there a difference between a  
10 reaction to Penicillin and an allergic  
11 reaction to Penicillin?

12 A Yes.

13 Q What difference is that?

14 A An allergic reaction is manifested by  
15 either hives, fever, rash, and it can be  
16 overwhelming infection where one can  
17 develop respiratory arrest. It can go  
18 that far. That is an allergic reaction.

19 Q What is simply a reaction to  
20 penicillin?

21 A I wouldn't -- I would say that it is  
22 rare for anybody to develop nausea or  
23 abdominal pain due to Penicillin, I mean  
24 usually that happens with like  
25 Erythromycin, and that is why I tell

1 people not to use it, because a lot of  
2 people develop abdominal pain with  
3 Erythromycin.

4 Q Could the reaction be characterized  
5 as fainting or dizziness after taking  
6 Penicillin?

7 A I am not aware of that,

8 Q For example, in Shirley Meng's  
9 deposition and in her medical history she  
10 relates that at a young age, as a child.  
11 when given Penicillin she reacted by  
12 passing out and fainting,

13 Would you describe that in  
14 terms of modern medicine as a reaction to  
15 penicillin?

16 MR. GRIMES: Objection  
17 to the medical history. Go ahead.

18 A I am not sure that I recognize that  
19 as a reaction to Penicillin.

20 Q Is there anything that you can  
21 describe as being a reaction to  
22 Penicillin, that would be different from  
23 an allergic reaction?

24 A Not offhand.

25 Q Is there anything in the medical



1 literature that would describe a person  
2 having a reaction to Penicillin other than  
3 an allergic reaction?

4 A It may, but I am not aware of that,

5 Q Would you point me to any text that  
6 you feel is adequate or good on the  
7 subject?

8 a I think a Physician's Desk Reference  
9 can tell you what any medicine can do.

10 Q Now, at the end of that paragraph  
11 that starts with the word "Impression,"  
12 you said "**pseudomembranous** colitis cannot  
13 be considered an allergic reaction to  
14 Penicillin or one of **its** derivatives."

15 Do you stand by that  
16 statement at the present time?

17 A Yes

18 Q In the next paragraph you state  
19 factually, and I will quote this,  
20 "According to the records, there is no  
21 evidence that the patient complained of  
22 severe diarrhea either over the telephone  
23 to First Urgent Care on December 20th,  
24 **1988** or 'when she presented to Southwest  
25 UrgiCare on December 24th, 1988."

1                               Now, doctor, having  
2       recounted for the record what you had in  
3       your report, what is the basis for your  
4       making that statement?  
5       A       Reading the records that I reviewed.  
6       Q       Would you not consider a history of  
7       diarrhea for six days to be severe  
8       diarrhea?  
9       A       Diarrhea means different things to  
10      different people. Being a purist, I would  
11      want to know how many bowel movements a  
12      day, were they watery, and that was not  
13      made clear to me.  
14      Q       Would the persistence of diarrhea in  
15      a person who has had no diarrheal  
16      problems, and in a situation where the  
17      diarrhea persisted for six days, would  
18      that strike you as being severe in this  
19      patient?  
20      A       Severity is defined by me as the  
21      number of bowel movements per day, not the  
22      duration, When you talk about how long it  
23      lasts, you are talking about chronicity  
24      but not severity.  
25      Q       So, the length of diarrhea has no

1 bearing on you deciding whether the  
2 diarrhea is severe?

3 A That is correct,

4 Q So, if a patient had diarrhea for 14  
5 days in a row, it would not be severe, in  
6 your opinion, unless it was a certain  
7 amount each day?

8 a That is correct,

9 Q Could one day of diarrhea be severe,  
10 in your opinion, if the frequency was  
11 repetitive on that day, in other words --  
12 Let me see if I can rephrase that,

13 Would diarrhea be severe,  
14 in your opinion, if it occurred in one  
15 day, but it occurred enough times to be  
16 severe, in your opinion?

17 A Are you --

18 MR. GRIMES: Objection,

19 A Are you asking how I define severe?

20 Q Yes.

21 A I would say that it is more -- The  
22 frequency is more important than the  
23 duration.

24 Q How frequent would it have to be, in  
25 your estimation, to be considered severe?

1 A In excess of seven to eight bowel  
2 movements a day.

3 Q So, in your opinion a person with  
4 five or six bowel movements in one day  
5 would be normal diarrhea?

6 A You **call** it normal. Diarrhea by  
7 definition is not normal,

8 Q Well, I will take that as your  
9 answer.

10 Diarrhea is not considered  
11 normal, isn't that correct?

12 A That is correct.

13 Q Any diarrhea is abnormal?

14 A If it meets the definition of  
15 diarrhea, that is correct,

16 a Diarrhea of frequency of, say, five  
17 to six times in one day you would consider  
18 not to be severe, is that correct?

19 A That is correct,

20 Q How about if it was five to six times  
21 for two days in a row, would you considers  
22 that to be severe?

23 A We are getting back to duration, and  
24 I think we have gone over that, Five to  
25 six times a day for two days doesn't make

1 .t severe, It doesn't change the category  
2 :or me,

3 ) Would it be five to six times --  
4 strike that.

5 If the patient had diarrhea  
6 five to six times per day for three  
7 consecutive days, would you consider that  
8 to be severe?

9 MR. GRIMES: Objection,

10 A No.

11 Q So I understand you, then, Shirley  
12 Meng's statement to Southwest UrgiCare on  
13 December 24th of 1988, that she had  
14 diarrhea for six days, is not in your  
15 estimation a complaint of severe diarrhea,  
16 is that correct?

17 A Again, can I review the Southwest  
18 records?

19 Q Absolutely, It may take a while to  
20 find it. I can show you a copy.

21 A This one here,

22 Q It should be dated 12/24/88 at the  
23 top, and where it says patient complaints,  
24 it says diarrheas times six days.

25 A Right, but again it doesn't say -- It

1 didn't mention how many bowel movements a  
2 day in this record..

3 Q Coupled with the information that the  
4 patient was given Amoxicillin six days  
5 prior, would that in your estimation be an  
6 indication of severe diarrhea?

7 MR, GRIMES: Objection.

8 A Why?

9 In other words, knowing that the  
10 patient had been given a broad spectrum  
11 antibiotic, and then the patient developed  
12 six days of diarrhea, would that lead you,  
13 as a gastroenterologist, to believe that  
14 the diarrhea may be severe?

15 A No.

16 Q Is that additional factor informative  
17 to you in any way coupled with --

18 A Informative as to the etiological  
19 factor as to why the patient has diarrhea,  
20 but certainly not in terms of severity.

21 Q Is there anything in Shirley Meng's  
22 deposition, that would have led you to  
23 believe that her diarrhea may have been  
24 severe?. I will point you to it.

25 A Could you, please?

1           In the time frame between December  
2   15th and December 20th of 1988,  
3   specifically I would point you to pages  
4   18, 19 and 20 of Shirley Meng's  
5   deposition, and if you need extra time,  
6   feel free to read those over to yourself,  
7   pages 18, 19 and 20 of Shirley Meng's  
8   deposition.

9                           Have you read that, doctor?

10   A       Yes.

11   Q       Does Shirley Meng not say in her  
12   testimony that she complained to First  
13   Urgent Care, on or about December 20th,  
14   that she had eight to nine bowel movements  
15   in a day?

16   A       That is what she claimed in her  
17   deposition, that is correct,

18   Q       Now, you have already stated that  
19   something in excess of six or seven, or  
20   did you say seven or eight, bowel  
21   movements in one day would be considered  
22   severe diarrhea in your estimation, is  
23   that correct?

24   A       That is correct.

25   Q       You then go on to say, in that same

1 paragraph, "There is no mention of  
2 bleeding in either one of these records."

3 Now, by that you are  
4 talking about the First Urgent Care  
5 records, and the Southwest UrgiCare  
6 records, is that correct?

7 A That is correct,

8 Q Have you seen any evidence, in **any** of  
9 the medical records in this case, that  
10 Shirley Meng had **some** rectal bleeding or  
11 rectal blood?

12 A Only in her deposition.

13 Q Did you not see the note in Dr.  
14 Pola's record concerning rectal blood?

15 A I may have, It has been a long time.

16 MR. GRIMES: In general,  
17 rectal blood? You are not putting a  
18 time on **it** so we are clear.

19 Q Let's say exactly what the record  
20 says. I am referring specifically to Dr.  
21 Pola's report of January 3rd, 1989, at  
22 which time he sent the summary to Dr.  
23 Bahadori, which is dated January 3rd of  
24 1989,

25 Are you able to find that,



1 doctor?

2 A Yes.

3 a Is there not a note, that there was  
4 blood on the tissue initially during the  
5 time that she had diarrhea?

6 A I am missing it again6

7 Q Let me point you to the first  
8 paragraph on the first page6

9 Approximately three to four lines from the  
10 bottom of that paragraph "I will quote. It  
11 says "Never had colitis in the past, She  
12 had a small amount of bright red blood on  
13 the tissue initially, which she attributes  
14 to hemorrhoids, but no hematochezia."

15 Then he goes on to say she has mucus,  
16 watery stools, cramps and diarrhea.

17 would you agree with me,  
18 that this is a physician noting that the  
19 patient complained of blood at the time of  
20 diarrhea?

21 MR. GRIMES: Objection.

22 A That is not clear to me,

23 Q But the record says what it says and  
24 neither I nor you could change that, is  
25 that correct?

1     A       That is correct.

2                               MR. GRIMES:       Objection.

3     A       I still don't understand it.

4     Q       Had you read that prior to today?

5     Had you seen that?

6     A       I saw it **back** in March when I

7     reviewed.

8     Q       Of course, it was indicated by Dr.

9     Pola on January 3rd of '89 when he

10    dictated **his** summary.

11                               Bo you have any reason to

12    believe it was not dictated on or about

13    January 3rd, **1989**?

14    A       I have no reason to.

15    Q       Have you verified in the records,

16    that that is the date that he examined

17    Shirley Meng in the hospital? Have you

18    verified that by the hospital records?

19    A       No.

20    Q       Do you dispute that he examined her

21    on or about that date?

22    A       No.

23    Q       Now, what don't you understand about

24    Dr. **Pola's** last statement, that she had a

25    small amount of bright red blood on the

1 tissue initially, which she attributes to  
2 hemorrhoids but no hematochezia?

3 A I don't know what initially means. I  
4 don't know what his time reference for  
5 initially means and, quite frankly, a  
6 person who is going to the bathroom -- Any  
7 person who is having diarrhea and wipes  
8 themselves and has some blood on the  
9 toilet paper, it is not that significant.  
10 There is often local irritation, so it  
11 didn't strike me as something of concern.  
12 The fact that she has no hematochezia was  
13 an important fact, and there was no blood  
14 mixed in with the stool, and I assume,  
15 also, no blood in the toilet bowl, which  
16 would have been significant.

17 Q You go on, then, in that same  
18 paragraph and you say "If indeed the  
19 diarrhea was mild when she called on  
20 December 20th, 1988, I do not believe it  
21 inappropriate to continuing the antibiotic  
22 in the setting of a documented  
23 streptococcal infection," and I understand  
24 you to mean that it is not a deviation  
25 from accepted medical practice to continue

1 a patient on antibiotics even when they  
2 have mild diarrhea?

3 A That is correct.

4 Q And that is accepted in the medical  
5 community, is that correct?

6 A I believe so.

7 Q And that is borne out in the medical  
8 literature, that it is not inappropriate  
9 for a physician to continue a patient on  
10 antibiotics even in the presence of mild  
11 diarrhea?

12 A That is correct.

13 Q And that is because the infection is  
14 there and will be fought by the  
15 antibiotic, and mild diarrhea is just a  
16 side effect?

17 A When you were talking before about  
18 reactions, perhaps that is what you --  
19 That might be a good point to bring up at  
20 this point. Diarrhea can be seen in  
21 patients taking antibiotics. Not all  
22 diarrhea is pseudomembranous colitis and,  
23 therefore, one has to obtain the history  
24 as to what is going on, and make a  
25 determination whether the suspicion is

1 that there is pseudomembranous colitis  
2 going on or not.

3 Q In the next paragraph you say "In  
4 view of the fact that the patient was  
5 diarrhea free from December 25th, 1988  
6 until January 1st, 1989 while on the  
7 Erythromycin, raises the question as to  
8 whether the Amoxicillin was the antibiotic  
9 responsible for her subsequent  
10 pseudomembranous colitis," I will stop  
11 there,

12 What is the basis for your  
13 assertion that the patient was diarrhea  
14 free from December 25th, 1988 until  
15 January 1st, 1989?

16 A When she presented to Southwest  
17 UrgiCare, I believe it was January 1st or  
18 2nd, I recall that she said she had had  
19 diarrhea and she had gotten better, then  
20 she had some kielbasa, and then she got  
21 very sick, and based on that history I  
22 formulated that opinion, that she was no  
23 longer complaining of diarrhea.

24 Q But that does not mean that she was  
25 diarrhea free, is that correct, doctor?

1 A Perhaps.

2 Q As a matter of fact, have you

3 reviewed her deposition testimony on that

4 very topic?

5 A Yes

6 Q And do you see now that she was never

7 diarrhea free during that time?

8 MR. GRIMES. Objection.

9 Q According to her testimony.

10 A According to her testimony.

11 Q And have you seen Dr. Bahadori's

12 record concerning the extent of her

13 diarrhea and the duration of it?

14 A I don't recall at this time.

15 Q Let me point you to Dr. Bahadori's

16 record, which is reflected in the

17 Southwest General Hospital records chart.

18 Do you have that in front

19 of you?

20 A Yes.

21 Q Does it not say --

22 MR. GRIMES: Just so the

23 the record is clear, the note dated

24 1/3/89?

25

1                   MR. MEROS:           Yes.

2                   MR. GRIMES:          At the

3                   bottom of the page it says Feldene?

4                   MR. MEROS:           Yes, and

5                   we also have the typed up record of

6                   Dr. Bahadori, which is part of the

7                   Southwest General Hospital records,

8                   I believe that Dr. Gottesman is

9                   looking at the handwritten chart,

10                  MR. GRIMES:          Yes, he **is**.

11   Q            I believe that both of those are

12               consistent in saying that the patient had

13               persistent diarrhea for two weeks

14               duration.

15                               Do you see that, Dr.

16               Gottesman?

17   A            No, I am looking for it.

18   Q            The top of the page,

19   A            Diarrhea times two weeks, I am

20               looking for what he means by that. It is

21               clearer later on.

22                               MR. MEROS:           In the

23                   typed out chart,

24                               MR. GRIMES:          I don't

25                   have the typed out chart in front of

1 him.

2 MR. MEROS: It is in  
3 the Southwest records.

4 MR. GRIMES: You could  
5 speed it up if you want to show him  
6 yours.

7 MR. MEROS: Sure. This  
8 is contained in the Southwest chart.

9 MR. GRIMES: The  
10 admission or discharge?

11 MR. MEROS: It is  
12 admission of 1/4/89.

13 THE WITNESS: Here it is.

14 MR. GRIMES: I have got  
15 it.

16 MR. MEROS: Have you got  
17 it?

18 MR. GRIMES: Yes.

19 Q In the first full paragraph after it  
20 says chief complaints, persistent diarrhea  
21 for two weeks, Dr. Bahadori seems to  
22 explain starting with the sentence that  
23 begins "After a few days of."

24 A Right.

25 Q He says "after a few days of



1 Amoxicillin she started having diarrhea,  
2 which was persistent." Let me stop there.

3 Do you know what Dr.  
4 Bahadori meant by persistent?

5 A No.

6 Q Do you have a medical definition for  
7 what is called here persistent diarrhea?

8 MR. GRIMES: Objection.

9 A No.

10 8 Did you read Dr. Dworken's testimony  
11 on this topic of what persistent diarrhea  
12 is?

13 MR. GRIMES: As to what  
14 Dr. Dworken feels it is?

15 MR. MEROS: Yes, as to  
16 what Dr. Dworken says it is.

17 A I don't recall.

18 Q Would you agree with his assessment  
19 of what it is?

20 A I don't recall, If I don't recall I  
21 can't tell you what it is.

22 Q It goes on here and Dr. Bahadori says  
23 she was treated again and was tried on  
24 Imodium, 'which did not stop the diarrhea  
25 altogether.

1       A       Does that mean it was partially  
2       stopped?   How many times is she moving her  
3       bowels?   This is why I have to tell you it  
4       is difficult to understand.

5       Q       The extent of her diarrhea?

6       A       Exactly.

7       Q       We are trying to determine if she was  
8       diarrhea free, which would mean, would it  
9       not, that she had no diarrhea?

10                       Now, I will read **on**.   Then  
11       he says "She was seen by another physician  
12       at the UrgiCare Center, and this time she  
13       was started on Erythromycin, which she  
14       took for three days, but again the  
15       diarrhea persisted," and he finishes his  
16       paragraph by saying "On **1/3/89** the patient  
17       was seen in my office, and based on the  
18       history a diagnosis of pseudomembranous  
19       colitis was made and she was admitted for  
20       evaluation and treatment."

21                       Now, do we not have some  
22       indication here that she was not diarrhea  
23       free during that time?

24                       MR. GRIMES:       Objection  
25       based on that versus based on the

1 history she gives, and based on that  
2 go ahead and answer.

3 A My impression was based on the  
4 history obtained from the Southwest  
5 history.

6 Q But prior to compiling your report  
7 you had not had the benefit of Shirley  
8 Meng's deposition testimony, is that  
9 correct?

10 A That is correct.

11 Q And her testimony is quite clear, is  
12 it not, that she was never free of  
13 diarrhea?

14 A That is correct.

15 Q And --

16 MR. GRIMES: Assuming it  
17 is true. Objection.

18 Q She stated that it improved after  
19 December 24th of 1988, but she was not  
20 diarrhea free.

21 Isn't that a fair  
22 assessment of what her testimony was?

23 A I don't recall her saying that she  
24 was not diarrhea free. I don't recall.  
25 Those were my words. I don't recall

1 anybody else using them. I recall  
2 saying -- Reading that she was improved.  
3 I don't recall exactly what that meant\*  
4 Q Let me direct your attention to  
5 Shirley Meng's deposition, pages 29 to 31  
6 or 32.  
7 A 29.  
8 Q Starting on page 29 and reading  
9 through approximately 3%.and 32 to refresh  
10 your recollection on this topic.  
11 MR. GRIMES: Refresh it  
12 as to what?  
13 MR. MEROS: To refresh  
14 his recollection as to her testimony,  
15 which he has already read.  
16 Q Now, according to the patient, her  
17 diarrhea never left her even after  
18 December 24th, isn't that correct?  
19 A That is --  
20 MR. GRIMES: Objection.  
21 According to the deposition.  
22 A That is her testimony.  
23 Q Is the question clear? According to  
24 the patient --  
25 A Yes.

1 Q -- her diarrhea never left her?

2 A Yes.

3 MR. GRIMES: At her  
4 deposition at least one answer was  
5 obtained. Objection to the plain  
6 statement.

7 Q And after December 24th she explained  
8 in her testimony that her diarrhea had  
9 improved to about three to four times per  
10 day.

11 Isn't that what she states  
12 in her deposition?

13 A Yes,

14 Q And you did not have the benefit of  
15 her testimony at the time that you wrote  
16 your report, is that correct?

17 A That is correct,

18 Q Yet Shirley Meng's deposition was  
19 taken some months prior to your report.

20 Have you been aware of  
21 that?

22 A Not until I read her deposition.

23 Q Wouldn't you have felt that the  
24 plaintiff's explanation of her condition  
25 would have been beneficial to you in

1 taking a look at this particular matter?

2 A I was unaware that the deposition  
3 had already been taken,

4 Q Now, Dr. Gottesman, continuing on  
5 with your report you then say -- Well, no.  
6 Let me back up a second.

7 Can you not say, with any  
8 reasonable degree of medical certainty,  
9 that the Amoxicillin was responsible for  
10 her pseudomembranous colitis?

11 MR. GRIMES: Objection,

12 A No.

13 Q Even based upon the additional  
14 information that you now have?

15 MR. GRIMES: Objection.

16 A Well, the fact that she had worse  
17 diarrhea that got better and then got  
18 worse could be an indication that  
19 something happened, Diarrhea rarely  
20 ceases from one day to the next, There is  
21 gradual improvement until whatever has  
22 happened reverses itself, so if there is  
23 improvement and then a worsening, that to  
24 me is an indication that there may have  
25 been a change, so I cannot say that it was

1 Amoxicillin for certain.

2 Q Can you say to any probability that  
3 it was Amoxicillin and not the  
4 Erythromycin that caused her  
5 pseudomembranous colitis?

6 A I can't say.

7 Q Have we ruled out any other possible  
8 causes of her pseudomembranous colitis?

9 A Those were the only two antibiotics  
10 she was on.

11 Q Have you ever been made aware that on  
12 or about December 20th of 1988 she  
13 discontinued the taking of Amoxicillin?  
14 Have you been made aware of that?

15 A Yes.

16 Q And have you been made aware of the  
17 fact that her diarrhea continued even  
18 despite her stopping of the Amoxicillin?

19 A According to her testimony, she had  
20 improved. There was a period of time  
21 where she had improved,

22 Q When was that?

23 A Sometime after starting the  
24 Erythromycin, I believe.

25 Q I am talking about the time frame

1 between December 20th when she sought the  
2 Amoxicillin and the time she started the  
3 Erythromycin,

4 During that period of time  
5 what is your understanding of the facts as  
6 to her condition of diarrhea?

7 MR. GRIMES: Objection.

8 A That the diarrhea continued,

9 Q And isn't it a fact that it continued  
10 even longer than 48 hours after stopping  
11 the Amoxicillin?

12 A Yes.

13 a It continued for even 96 hours after  
14 stopping the Amoxicillin, isn't that  
15 correct?

16 A Yes,

17 Q Wouldn't that be a stronger  
18 indication that the Amoxicillin had  
19 started the pseudomembranous colitis as of  
20 December 23rd, 1988?

21 MR. GRIMES: Objection,

22 A She got better without treatment and  
23 then got worse again.

24 Q Right, but isn't it a fact that she  
25 got better with treatment starting



1 December 24th?

2 A She was not'treated for  
3 pseudomembranous colitis on December 24th.

4 Q Let's try to recall.

5 What treatment did she  
6 receive on December 24th, do **you** recall?

7 A I believe it was Erythromycin,  
8 Lomotil, Gatorade.

9 Q Wouldn't those remedies help or  
P0 lessen her diarrhea?

11 A Lomotil could, yes.

12 Q And wouldn't Gatorade enable her to  
13 replace fluids in her system?

14 A But that wouldn't help the diarrhea.

15 Q By the way, would the recommendation  
16 of a physician, for her to replace fluids,  
17 indicate to you that she had had some  
18 severe form of diarrhea?

19 MR. GRIMES: Objection.

20 A Possibly.

21 Q Or else why the need to replace  
22 fluids?

23 MR. GRIMES: Objection.

24 A I assume it was the assessment of the  
25 physician who saw her, that she was in

1 need of fluids.

2 Q And would you agree that that would  
3 possibly indicate that there had been  
4 severe diarrhea?

5 MR. GRIMES: Objection.

6 A It could be, I can't say severe  
7 diarrhea, His assessment could be that,  
8 maybe, she was dehydrated. I have to look  
9 at the assessment to see whether  
10 orthostatic vital signs were obtained.

11 MR. GRIMES: Which date  
12 are you referring to?

13 Q Can you look on the chart?

14 MR. GRIMES: Which date  
15 are you referring to?

16 MR. MEROS: December  
17 24, '88.

18 A No blood work was obtained. I don't  
19 know what Mrs. Meng's base line blood  
20 pressure was, but her pulse was not rapid.  
21 They didn't do orthostatic signs or they  
22 didn't record orthostatic signs, so I  
23 cannot tell you what the status of her  
24 intravascular volume was.

25 Q What conclusion would you draw from a

1 physician feeling it necessary to replace  
2 fluids in this patient on December 24th of  
3 '88?

4 MR. GRIMES: Objection.

5 A I think that it is possible that this  
6 physician felt the patient was dehydrated,  
7 or he may have been treating her  
8 empirically because of the history of  
9 diarrhea, and felt she needed fluids.

10 Q Would dehydration indicate to you  
11 severe diarrhea?

12 A No, because one can be dehydrated if  
13 they are not eating for fear of the  
14 diarrhea,

15 a Would Gatorade four times a day as a  
16 recommendation indicate to you severe  
17 diarrhea?

18 A No, not necessarily.

19 Q How about cramping with the diarrhea,  
20 would that indicate to you severe  
21 diarrhea?

22 A NO.

23 Q What does Gatorade q-i-d mean on that  
24 chart?

25 A Four times a day.

1 Q We can agree, can we not, from the  
2 records, that the patient had increasing  
3 diarrhea from December 18th through the  
4 time that she appeared at Southwest  
5 UrgiCare for the first time on December  
6 24th, can we not?

7 NR. GRIMES: Objection.

8 A I don't know how I can agree that it  
9 had been increasing.

10 Q We can agree that between December  
11 20th and December 24th, that the diarrhea  
12 was still present?

13 A That, yes.

14 Q Even after the patient stopped taking  
15 Amoxicillin, is that correct?

16 MR. GRIMES: Asked and  
17 answered.

18 MR. MEROS: I will  
19 admit that I have asked that before.  
20 I just want to see if you recall,

21 A Yes, I would say that it appears  
22 that she is still having diarrhea on  
23 December 24th despite stopping it on  
24 December 20th.

25 Q Would a physician be alerted to

1 pseudomembranous colitis with the  
2 persistence of diarrhea four days after  
3 the stopping of Amoxicillin?

4 A This physician felt she had acute  
5 gastritis.

6 Q What would that indicate to you?.

7 A That he didn't know what he was  
8 talking about,

9 Q Do you have any criticisms of the  
10 physicians at Southwest UrgiCare in this  
11 case?

12 A Yes.

13 Q And what are those?

14 A The patient had been on antibiotics,  
15 as you have mentioned, and still had  
16 diarrhea four days after stopping the  
17 antibiotics, I would have thought that  
18 they would have obtained some stool  
19 cultures,

20 Q Are there any other criticisms of  
21 Southwest UrgiCare on or about December  
22 24th?

23 A Well, I am not sure why they would  
24 have started Erythromycin if the patient  
25 had taken the antibiotics, It is not

1 clear from this record that she had  
2 stopped the antibiotics on the 20th. I  
3 don't know if he obtained that history.  
4 Perhaps he did and felt it was an  
5 inadequately treated strep infection, but  
6 he -- He or she, I don't know what the  
7 physician was, said that the ears looked  
8 okay and the throat looked okay, the  
9 patient was having diarrhea, and proceeded  
10 to put the patient on another antibiotic,  
11 It is not clear what he or she was  
12 treating.

13 Q And you say in your report, and I  
14 quote, "If the patient had severe diarrhea  
15 at the time, I would have expected the  
16 physician at Southwest UrgiCare to have  
17 ordered the stool culture for Clostridium  
18 difficile that Dr. Badri has been  
19 criticized for not obtaining over the  
20 telephone."

21 A Correct.

22 Q I read that as your expressing a  
23 criticism of Southwest UrgiCare.

24 A Yes.

25 Q Would you agree that a stool culture

1     should have been obtained at ~~that~~ time?

2     A     Four days after discontinuing the

3     antibiotic?

4     Q     Yes .

5     A     Yes.

6     Q     And would you agree that a

7     proctoscopy should have also been 'done in

8     connection with that at that time?

9     A     No .

10    Q     Why do you not feel a proctoscopy

11    would have been warranted?

12    A     Because I feel -- Personally I

13    believe that if the patient -- If you can

14    obtain the information with a stool test

15    and avoid discomfort to the patient, of a

16    proctoscopy, you are better off, A

17    proctoscopy may only reveal the rectum,

18    not very much of the colon, and you may

19    get some false information just by trying

20    to make the diagnosis based on what you

21    find in the rectum.

22    Q     And, of course, you also have to

23    accept the possibility of a false negative

24    on the stool culture?

25    A     That is correct.

1 Q And is there anything better than a  
2 clinical examination in this type of  
3 patient? Is there any better procedure  
4 that could be done other than a clinical  
5 examination?

6 A What do you mean by clinical  
7 examination?

8 Q A sigmoidoscopy?

9 A No. I think under -- What Dr. Pola  
10 did was perfectly reasonable. Whether in  
11 the emergency room I would have done a  
12 proctoscopy, I am not clear, I am going  
13 based on the records here, and people who  
14 are doing the evaluating, they may not  
15 feel comfortable doing a proctoscopy.

16 Q But you seem to indicate, though,  
17 that if the diarrhea was severe at that  
18 time, that the physician at Southwest  
19 UrgiCare should have ordered a stool  
20 culture?

21 A Absolutely.

22 Q And if the patient's diarrhea was  
23 severe on December 20th, you would also  
24 agree that the physician in that instance  
25 should have ordered a stool culture, is



1       that correct?

2

3                       MR. GRIMES:       Objection,

4       A       While the patient was still on the  
5       antibiotic?

6       Q       Well, at any time when the diarrhea  
7       was severe.

8                       MR. GRIMES:       Objection.

9       A       I hesitate only because I want to  
10      make sure I don't misstate this. If,  
11      indeed, it was severe, then I think it  
12      would be appropriate to get stool  
13      cultures.

14      Q       Certainly you as a physician would  
15      want to see the patient, is that correct?

16                      MR. GRIMES:       Objection.

17      A       I like to speak to the patients.

18      Q       Well, you couldn't obtain a stool  
19      culture unless the patient came in, is  
20      that correct?

21      A       It depends on what the patient told  
22      me.

23      Q       Well, assuming the complaint of  
24      severe diarrhea, you would what?

25      A       Again, I would need to know what the

1 patient meant by severe, and I would need  
2 to have some objective for the frequency  
3 of bowel movement at that time.

4 Q I'm only trying to establish that for  
5 you to order a stool culture or want one,  
6 you would have to see the patient, is that  
7 correct?

8 A No. I could speak to the patient.

9 As a matter of fact, in my own practice  
10 before I will even see a patient with  
11 certain diarrheal illnesses, I will say  
12 get a stool culture and then come and see  
13 me.

14 Q I understand. You would have them  
15 seen for the stool culture, but you  
16 wouldn't have necessarily seen the patient  
17 yet?

18 A I would have spoken to them. It  
19 depends.

20 Q You would have contact with the  
21 patient and order the stool culture?

22 A Depending on what the patient told  
23 me. A lot of patients don't like to  
24 collect stools.

25 Q At the bottom of your report you say

1 "It is for the above reasons that I  
2 believe that acceptable standards of  
3 medical care were met."

4 Now, doctor, isn't that  
5 statement inconsistent with some of the  
6 things that you say in your report, such  
7 as the physicians at Southwest UrgiCare in  
8 your estimation certainly did not meet  
9 acceptable standards of care? Isn't that  
10 correct?

11 MR. GRIMES: Objection,  
12 That isn't what the report says.

13 MR. MEROS: Well, the  
14 report says "It is for the above  
15 reasons that I believe that  
16 acceptable standards of medical care  
17 were met."

18 MR. GRIMES: I am  
19 referring to your statement about  
20 Southwest UrgiCare, and what he **says**  
21 is if the patient had severe diarrhea  
22 I would have expected them to order  
23 the stool culture, That is not  
24 inconsistent with the statement "It  
25 is for the above reasons that I

1           believe that acceptable standards of  
2           medical care were met." That is the  
3           reason for the objection. I believe  
4           you misstated the report.

5   Q       You have some criticisms of Southwest  
6   UrgiCare, that you already put on the  
7   record.

8   A       If, indeed, the history is as you say  
9   it, I would have expected them -- I would  
10   expect any well trained physician to  
11   consider the possibility of  
12   pseudomembranous colitis.

13                   The fact that that  
14   physician did not would indicate one of  
15   two things to me, that that is not a well  
16   trained physician or that he did not feel  
17   that the diarrhea was significant and  
18   passed it off as a gastroenteritis. I  
19   don't know the doctors, so I can't comment  
20   on either.

21   Q       Has anybody told you that the  
22   physician -- Strike that,

23                   Now, Dr. Gottesman, you  
24   have already explained what facts and  
25   information you had on which you formed

1 your opinions, is that correct?

2 A That is correct.

3 Q And at the time of that report you

4 did not have the deposition of Shirley

5 Meng?

6 A That is correct,

7 Q We have established that?

8 A That is correct.

9 Q Would you agree that the information

10 that **you** based your report on was critical

11 to your findings?

12 A Can **you** say that again, please?

13 Q The information upon which you based

14 your written report here was critical to

15 your findings?

16 A That is correct.

17 Q What medical books, journals or

18 articles do you feel support the opinions

19 that you have stated in this case?

20 MR. GRIMES: Objection.

21 A I don't know of any particular

22 textbook.

23 Q What do you feel are the good books

24 in the field of gastroenterology? Can you

25 recite a few that you feel are

a       authoritative or good books in  
2       gastroenterology?

3

4                       MR. GRIMES:       Objection  
5       to good.

6       A       I don't know what a good book -- What  
7       you mean by a good book,

8       Q       One that you would find  
9       authoritative.

10      A       There are various textbooks on  
11      gastroenterology, and those are all  
12      written by various authors on various  
13      topics. I don't know that any one of them  
14      is authoritative.

15      Q       What book on gastroenterology did you  
16      read or use in medical school?

17      A       Sleisinger & Fortrand and Bockus were  
18      the two textbooks that I used in addition  
19      to internal medicine textbooks.

20      Q       Sleisinger & Fortrand, would you  
21      agree that that is probably the standard  
22      accepted textbook in medical school for  
23      gastroenterology?

24      A       No.

25      Q       That isn't?

1 A No.

2 Q Is that used at Case Western Reserve  
3 Medical School?

4 A In the medical School?

5 Q Yes,

6 A I don't know,

7 Q You are an assistant professor there,  
8 are you not?

9 A I am an assistant professor there,  
10 but I don't teach the core curriculum,

11 Q What do you teach at Case?

12 A I teach the medical. students as they  
13 come through on awards. I am a clinical  
14 professor.

15 Q So, you don't teach at the university  
16 in the classroom?

17 A That is correct,

18 Q You help instruct as they come  
19 through the teaching hospital?

20 A That is correct.

21 Q Are you on the staff at University  
22 Hospital at this time?

23 A NO.

24 Q Where do you teach them at?

25 A I teach them at both Mt. Sinai

1 Medical Center and the Cleveland VA.

2 Q You are on the staff, then, at what  
3 area hospitals?

4 A Mt. Sinai, Meridia Suburban, Euclid,  
5 Huron, Hillcrest and Lake West.

6 Q And you currently have staff  
7 privileges at all. of those hospitals?

8 A That is correct.

9 Q At what institutions are you  
10 clinically instructing medical students?

11 A Both at Mt. Sinai and the Cleveland  
12 VA.

13 Q So, you don't even have the occasion  
14 to refer to a textbook, because **your**  
15 instruction is clinical with patients, is  
16 that correct?

17 A Nobody teaches out of a textbook even  
18 in medical school.

19 Q They follow a syllabus.

20 A That is correct.

21 Q Do you refer to any textbooks at all  
22 as you clinically instruct medical  
23 students?

24 A There may be textbooks that they  
25 could be led to, or articles in various



1 journals, that would be appropriate to the  
2 topic that we are discussing at the time,

3 Q Is Sleisinger & Fortrand  
4 authoritative on pseudomembranous colitis,  
5 in your opinion?

6 A I don't know what you mean by  
7 authoritative,

8 Q You don't know what authoritative  
9 means?

10 A I do, but I don't know what context  
11 you are using it in,

12 MR. MEROS: If you  
13 don't, then I withdraw the question.

14 Q Have you read the sections of Dr.  
15 Dworken's medical textbook on  
16 pseudomembranous colitis?

17 A I don't recall,

18 Q Have you ever used Dr. Dworken's  
19 textbook, which is called  
20 Gastroenterology, in your studies or your  
21 teachings?

22 A I'm not sure that that was in print  
23 when I was a medical student,

24 Q I am talking about during the time  
25 that you had a fellowship, were you using

1       it at that time?

2       A       I don't know, Again, I don't recall

3       when it was written.

4       Q       Now, are you familiar with Bartlett

5       and Barlett's work on gastroenterology?

6       A       Yes,

7       Q       What is his first name, do you know,

8       Dr. Bartlett?

9       A       No. It is getting late,

10      Q       Are you familiar with a Dr. John

11      Barrett in the field of gastroenterology?

12      A       I don't know if that is the Barrett

13      from Barrett's esophagus or --

14      Q       How about Dr. Chang, who is Dr.

15      Chang, do you know?

16      A       Dr. Chang?

17      Q       Yes.

18      A       I don't,

19      Q       One more time. Are there any medical

20      textbooks or articles on gastroenterology,

21      that you find authoritative?

22                                   MR. GRIMES:       Objection.

23                   He has already told you.

24      A       I already answered that.

25      Q       And your answer is that you can't

1 think of any, is that correct?

2 A No, I don't know what you mean by  
3 authoritative. There are many good  
4 textbooks on gastroenterology.

5 Q I asked you --

6 a Are you asking if there is a bible on  
7 gastroenterology? I don't consider any  
8 one text a bible.

9 Q I asked you originally what the good  
10 books were on gastroenterology. Now you  
11 say there are good books.

12 A And I answered the question.

13 Q What are the good books?

14 A Sleisinger & Fortrand and Bockus.

15 Q I am sorry if I misunderstood that,  
16 Now I understand you to say that  
17 Sleisinger & Fortrand is a good book on  
18 gastroenterology and internal medicine.

19 A Yes.

20 Q What can happen with pseudomembranous  
21 colitis if it is not treated?

22 A At the extreme?

23 Q Yes.

24 A It can be fatal,

25 Q Has anybody told you that Shirley

1 Meng had received Erythromycin earlier in  
2 1988 for an earache, and that she had no  
3 problems or symptoms as a result of taking  
4 it?

5 A That would not be germane.

6 Q Why not?

7 A Because persons developing  
8 pseudomembranous colitis don't -- Any  
9 particular antibiotic doesn't make them  
10 more disposed to developing it at a later  
11 time, nor does the fact that one did not  
12 develop pseudomembranous colitis on a  
13 given occasion make them safe from  
14 developing it from taking that same  
15 antibiotic at a later time,

16 Q Would it not make it more probable  
17 that the pseudomembranous colitis was  
18 caused by the Amoxicillin and not the  
19 Erythromycin in this case?

20 MR. GRIMES: Objection.

21 A Nom

22 Q Diarrhea is a common side affect of  
23 antibiotics?

24 A Yes.

25 Q If it is severe, if the diarrhea is

1 severe, you would agree that a physician  
2 should discontinue its use in a patient?

3 A Yes.

4 Q Is antibiotic associated diarrhea  
5 different from pseudomembranous colitis?

6 A Antibiotic associated diarrhea can  
7 include pseudomembranous colitis. It also  
8 includes other types of diarrhea that are  
9 not pseudomembranous colitis.

10 Q What is the cause of pseudomembranous  
11 colitis, doctor?

12 A It is due to an overgrowth of  
13 *Clostridium difficile*.

14 Q Can pseudomembranous colitis be  
15 caused by *Staphylococcus aureus*?

16 A It used to be thought that it was  
17 caused by *Staphylococcus aureus* initially,  
18 but it became more apparent that this is  
19 due to antibiotics.

20 Q So, it is generally accepted in the  
21 medical field, that pseudomembranous  
22 colitis is caused by *Clostridium*  
23 *difficile*?

24 A Yes.

25 Q Are there any cases in the medical

1 literature, that you are aware of, that  
2 show that pseudomembranous colitis can be  
3 caused by organisms different than  
4 Clostridium difficile?

5 A The inherent thinking is that it is  
6 caused by Clostridium difficile.

7 Q What is your explanation for the fact  
8 that Dr. Bahadori and Dr. Pola were both  
9 medically certain here that the patient  
10 had severe pseudomembraneous colitis, yet  
11 the tests were negative?

12 A It is not uncommon to get false  
13 negative toxin results.

14 Q Are you confident that Dr. Pola  
15 directly diagnosed this as being  
16 pseudomembraneous colitis based upon his  
17 sigmoidoscopy and the biopsy?

18 A I have no doubt that the patient  
19 suffered from pseudomembraneous colitis.

20 Q And that most probably the negatives  
21 were false negatives in this case?

22 A That is correct.

23 Q Is a physician negligent because he  
24 does not tell a patient to discontinue an  
25 antibiotic following a complaint of mild

1       diarrhea?

2       A       No.

3       Q       Is a physician negligent if he does  
4       not tell a patient to discontinue an  
5       antibiotic following a complaint of severe  
6       diarrhea?

7                       MR. GRIMES:       Objection.

8       A       I would think that a physician would  
9       tell a patient to stop the antibiotic if  
10      there were severe diarrhea.

11      Q       Is a physician negligent for not  
12      monitoring a patient who has severe  
13      diarrhea after taking an antibiotic?

14                      MR. GRIMES:       Objection.

15      A       I believe a physician should be  
16      cautious in his treatment of any patient  
17      with severe diarrhea.

18      Q       And if he is not cautious, would you  
19      say that he is negligent?

20                      MR. GRIMES:       Objection.

21      A       It depends on the circumstances.

22      Q       I will have you assume that Shirley  
23      Meng, on December 20th of 1988, called the  
24      First Urgent Care Ceneter with complaints  
25      of severe diarrhea, in other words, bowel

1 movements in one day in excess of seven or  
2 eight, more like eight or nine. If the  
3 physician ignored the complaints and did  
4 not monitor the patient for the next four  
5 days, would you consider that to be  
6 negligence?

7 MR. GRIMES: Objection.

8 A I don't believe a physician who was  
9 told the patient had severe diarrhea would  
10 not have monitored the patient,

11 Q Is that your way of saying that, yes,  
12 a physician would be negligent if he  
13 didn't do so?

14 MR. GRIMES: Objection.

15 A I can't fathom that that occurred.

16 Q For a gastroenterologist, you are  
17 obviously testifying as to the standards  
18 of a gastroenterologist, is that correct?

19 MR. GRIMES: Objection.

20 A I am talking about the standards of  
21 any physician.

22 Q How about a physician not trained in  
23 gastroenterology?

24 A Diarrhea is understood by all  
25 physicians.



1 Q How about a general surgeon?

2 A They are accutely aware of diarrhea6

3 Q So, even a general surgeon should be

4 aware of severe diarrhea and what it can

5 cause?

6 A Yes.

7 Q Especially in the presence of an

8 antibiotic?

9 A Yes.

10 (At this time a discussion

11 was had off the record.)

12 Q Doctor, what if you found white blood

13 cells in the stool, what would that

14 indicate to you in the presence of an

15 antibiotic?

16 A White blood cells in the stool is

17 indicative of an invasive type of

18 diarrhea, that there has been a break in

19 the link of the mucosa of the colon6 It

20 is consistent with pseudomembranous

21 colitis as it would be consistent with any

22 other type of infectious colitis.

23 Q Would you agree with me that the

24 patient's symptoms of diarrhea started

25 long before she took Erythromycin in this

1 case?

2 A I am sorry, would you repeat that?

3 Q Would you agree with me that the

4 symptoms of diarrhea in this patient

5 started long before she took Erythromycin?

6 MR. GRIMES: Objection.

7 A She had diarrhea before she started

8 the Erythromycin.

9 Q For quite a while prior to taking the

10 Erythromycin, is that correct?

11 A I think, six days. In other words,

12 she presented to Southwest General on the

13 24th, and I think she started on the 18th.

14 Q Yes.

15 A So, it is six days she had diarrhea

16 prior to beginning the Erythromycin.

17 Q We now know that the patient did have

18 severe pseudomembranous colitis, isn't

19 that correct, doctor?

20 A We know the patient had

21 pseudomembranous colitis,

22 Q By Dr. Pola's indications, it was

23 severe, isn't that what he has in his

24 record?

25 A I don't recall his using the word

1       severe. It may very well be. I don't  
2       recall.

3       **a**       Let me have you assume that it is in  
4       Dr. Pola's record, I can show it to you  
5       if you wish. We know that now to be a  
6       fact, isn't that correct?

7       A       If you say he said severe.

8                       MR. GRIMES:       Objection.

9       Q       And isn't it a reasonable assumption  
10       that the pseudomembranous colitis would  
11       have been present in this patient on or  
12       about December 20th, now that we know what  
13       she suffered from?

14                      MR. GRIMES:       Objection.

15       A       Not necessarily.

16       Q       You would not agree with that, then?

17       A       Not necessarily, no.

18       Q       What is the basis of your assertion  
19       that on December 20th, 1988 there was **no**  
20       complaint to Dr. Badri of severe diarrhea?

21                      MR. GRIMES:       Objection,  
22                      asked and answered probably over an  
23                      hour and a half ago,

24       Q       According to the records, I have a  
25       note --

1 A The notes written by Dr. Badri, and  
2 there was no mention of severe diarrhea,  
3 Q If the medical chart of Shirley Meng  
4 was devoid of any notes made by Dr. Badri,  
5 would you be more inclined to believe the  
6 deposition testimony of Shirley Meng?  
7 MR. GRIMES: Objection.  
8 You know, the explanation --  
9 A I don't understand the question.  
10 Q In other words, if the medical chart  
11 of Shirley Meng had no notation by Dr.  
12 Badri --  
13 A But I saw a notation,  
14 (At this time Plaintiffs"  
15 Exhibits 2 and 3, Gottesman, were  
16 marked by Mr. Meros.)  
17 Q Showing you what has been marked as  
18 Gottesman Exhibit 2 and Gottesman Exhibit  
19 3, I would like to show those to you now.  
20 Have you seen either of  
21 those two exhibits prior to this time?  
22 A I saw Exhibit 3.  
23 Q Have you not seen Exhibit 2 prior to  
24 today?  
25 A No .

1 Q Has anyone told you about the  
2 contents of Exhibit 2?

3 A No ,

4 Q Have you read Dr. Galan's deposition?

5 A No.

6 Q Did you skim over it?'

7 A No, I didn't.

8 Q Her report is contained in your  
9 materials.

10 You read that over?

11 A I did not read hers,

12 Q Are you aware of who Dr. Gayle Galan  
13 is in this case?

14 A I know that she was an expert  
15 witness, I believe, for the defense.

16 Q Have you been told that she was  
17 furnished with Shirley Meng's medical  
18 chart from First Urgent Care?

19 A Other than knowing who she is, I have  
20 no idea about anything about Dr. Galan.

21 Q Exhibit 2 is the chart that was  
22 furnished to Dr. Galan in this case upon  
23 which she based her opinions, and Exhibit  
24 2 contains no notation by Dr. Badri.

25 Assuming that Exhibit 2 is

1 the medical chart for Shirley Meng in this  
2 case, you would not have an indication as  
3 to what Dr. Badri says the conversation  
4 was about on December 20th, isn't that  
5 correct?

6 MR. GRIMES: Objection.

7 I will object to the assumption  
8 especially in light of the  
9 explanation that you are well aware  
10 of, Go ahead and answer if you can,  
11 doctor.

12 A I don't see Dr. Badri's name on this  
13 paper.

14 Q If Dr. Badri did not make a notation  
15 of his conversation with Shirley Meng on  
16 December 20th, 1988, where would the  
17 source of your information be as to what  
18 occurred in that conversation?

19 MR. GRIMES: Objection.

20 A I wouldn't know.

21 Q Well, did you read Dr. Badri's  
22 deposition?

23 A Yes.

24 Q Isn't it true that Dr. Badri in his  
25 deposition stated he had no independent

1 recollection of this patient or this event  
2 other than what he can now read in the  
3 chart?

4  
5 MR. GRIMES: Objection,  
6 A I didn't review Dr. Badri's  
7 deposition.

8 MR. GRIMES: The document  
9 speaks for itself.

10 A Prior to today,

11 Q Isn't it a fact that the basis of  
12 your saying that the diarrhea was not  
13 severe is Dr. Badri's notes contained on  
14 Exhibit 3?

15 A Well, in Exhibit 3 he says the  
16 patient is having diarrhea,

17 Q Okay.

18 A He doesn't -- There is no adjective.

19 Q But you would agree with me that the  
20 testimony of Shirley Meng, if believed,  
21 meets your definition of what you would  
22 say severe diarrhea. is?

23 A On that given day?

24 a Yes.

25 A Yes,

1 Q You would say yes?

2 A If she stated that she had nine bowel  
3 movements, yes.

4 Q You would agree that that would be a  
5 case of severe diarrhea at that time?

6 A At that moment in time.

7 (At this time Plaintiffs'  
8 Exhibit 4, Gottesman, was marked by  
9 the reporter.)

10 Q Let me also add for the record  
11 Exhibit 4, doctor, which is a copy of your  
12 report. I would like to make that an  
13 exhibit.

14 Showing you that, could you  
15 identify that as a true and accurate copy?

16 A Yes.

17 MR. MEROS: Doctor,  
18 that is all I have at this time. I  
19 want to thank you for being  
20 cooperative. If you understand what  
21 a request for waiver of signature is,  
22 I will simply make the request on the  
23 record.

24 Would you waive signature  
25 in this **case**? It doesn't matter to



1           me. I just want you to put on the  
2           record whatever your desire is.  
3                       (At this time a discussion  
4           was had off the record,)  
5                       THE WITNESS: I will  
6           waive.  
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CERTIFICATE

The State of Ohio,       )  
  ) SS:  
COUNTY OF CUYAHOGA.    )

I, Ronald Stahl, a Notary Public  
within and for the State of Ohio, duly  
commissioned and qualified, do hereby  
certify that the within-named witness,  
DR. DAVID GOTT'ESMAN, 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 then  
given by the above-referenced witness was  
by me reduced to stenotype in the presence  
of said witness; afterwards transcribed,  
and that the foregoing is a true and  
correct transcription of the testimony so  
given by the above-referenced witness.

I do further certify that this  
deposition was taken at the time and place  
in the foregoing caption specified and was  
completed without adjournment.

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I do further certify that I am not a  
relative, counsel or attorney for either  
party, or otherwise interested in the  
event of this action.

IN WITNESS WHEREOF, I have hereunto  
set my hand and affixed my seal of office  
at Cleveland, Ohio, this 10th day of  
Sept. A.D., 1991.

Ronald Stahl  
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Ronald Stahl, Notary Public  
Within and for the State of Ohio  
My commission expires 7/26/96

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