

State of Ohio,) SS:

County of Mahoning.)

- - -

IN THE COURT OF COMMON PLEAS

- - -

DOROTHY A. GONDA, et al.,)

Plaintiffs,)

v.)

JUAN RUIZ, M.D., et al.,)

Defendants.)

Case No. 96-CV-2055
Judge John M. Durkin

- - -

THE DEPOSITION OF ABDUL HAFIZ, M.D.

MONDAY, MAY 11, 1998

- - -

The deposition of ABDUL HAFIZ, M.D., a Defendant herein, called for examination by the Plaintiffs, under the Ohio Rules of Civil Procedure, taken before me, Cynthia A. Sullivan, Notary Public in and for the State of Ohio, pursuant to notice, at the offices of Harrington, Hoppe & Mitchell, 1200 Mahoning Bank Building, Youngstown, Ohio, commencing at 11:05 a.m., the day and date above set forth.

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1 APPEARANCES:

2

3 On behalf of the Plaintiffs:

4 DAVID MALIK, ESQ.
 5 8228 Mayfield Road, Suite IV B
 6 Chesterland, Ohio 44026
 7 (440) 729-8260

8 On behalf of Defendants Juan Ruiz, M.D., Robert E.
 9 Hunt, M.D., Diagnostic Cardiology Associates, Gregory
 10 Mazanek, M.D., J. Ronald Mikolich, M.D., Nicola
 11 Niciloff, M.D., Gary A. Young, M.D., and Paul Stefek,
 12 M.D.:

13 THOMAS J. TRAVERS, JR., ESQ.
 14 Manchester, Bennett, Powers & Ullman
 15 Atrium Level Two
 16 The Commerce Building
 17 201 East Commerce street
 18 Youngstown, Ohio 44502
 19 (330) 743-1171

20 On behalf of Defendants Alan J. Cropp, M.D., Pulmonary
 21 Medicine Consultants, Pulmonary Rehabilitation
 22 Associates and Robert DeMarco, M.D.:

23 STEPHEN P. GRIFFIN, ESQ.
 24 Buckingham, Doolittle & Burroughs
 25 P.O. Box 35519
 3721 Whipple Avenue
 Canton, Ohio 44735
 (330) 492-8717

26 On behalf of Defendants Alejandro Franco, M.D., Abdul
 27 Hafiz, M.D., and Youngstown Associates in Radiology:

28 JAMES L. BLOMSTROM, ESQ.
 29 Harrington, Hoppe & Mitchell, Ltd.
 30 1200 Mahoning Bank Building
 31 Youngstown, Ohio 44503
 32 (330) 744-1111

33 Also present:

34 Betty Clarke
 35 Victoria Toohig

Page

1 ABDUL HAFIZ, MD.

2 a Defendant herein, called for examination by the
 3 Plaintiffs, under the Rules, having been first duly
 4 sworn, as hereinafter certified, deposed and said as
 5 follows:

6 CROSS-EXAMINATION

7 BY MR. MALIK:

8 Q. Doctor, my name is David Malik and I have a few
 9 questions to ask you regarding David Gonda and a little
 10 bit about yourself. If there is something that you
 11 don't understand, just let me know, okay?

12 A. Okay.

13 Q. I'll try to rephrase it.

14 Do you have a resume may or C.V. of any kind that
 15 you have prepared?

16 A. I have, but I didn't bring it.

17 Q. Would you give it to your attorney after the
 18 deposition at some point so he can send it to me?

19 A. All right.

20 Q. Let me just go over a few facts that I know about
 21 you.

22 You were born in Pakistan, right?

23 A. No, I was born in India and then it partly became
 24 Pakistan and then it became Bengaledesh.

25 Q. Got it. There is never a simple answer to a

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3 CROSS-EXAMINATION BY

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 5 31

6 MR. TRAVERS 24
 7 32

8 PLAINTIFF'S EXHIBITS MARKED

9 1 16

11 DEFENDANTS EXHIBITS MARKED

12 A 27

15 OBJECTIONS BY

16 MR. TRAVERS 16

17 MR. MALIK 28(2)
 18 29(5)
 19 30(4)

1 simple question, is there?

2 What is your me

3 A. Dhaka Medical College in Dhaka, Bengaledesh.

4 Q. I see from the State Medical Board records that
 5 in July of '98 -- how can this be? This has to be
 6 wrong. It has you down as having a hundred hours of
 7 continuing medical education. Does that sound right to
 8 you?

9 A. Yes.

10 Q. I tell you what, this is from the State Medical
 11 Board. Is there anything on there that is incorrect?

12 MR. BLOMSTROM: It says the

13 CME.

14 A. No. CME, I don't know about this date here, but
 15 I know that between July of 1995 and 1998 I'll have
 16 probably close to 175 hours.

17 MR. BLOMSTROM: well, there
 18 is more than one page to this. Let's take
 19 a look at the rest.

20 BY MR. MALIK:

21 Q. I think one of those pages might also be from the
 22 American Medical Association.

23 A. It sounds okay.

24 Q. Can you tell me what types of courses that
 25 continuing medical education was in, not each one but

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1 generally?
 2 A. Diagnostic radiology, I had CT and MRI,
 3 mammography, nuclear medicine.
 4 Q. Is there anything in the ones you mentioned that
 5 dealt with ultrasound?
 6 A. In radiology.
 7 Q. Can you define diagnostic radiology for me?
 8 A. The definition of diagnostic radiology would be
 9 interpreting X-rays, ultrasound, nuclear medicine, CT,
 10 MRI, most of the time the films are done by the
 11 technologist who brings it to the radiologist for
 12 interpretation. Patient interaction is limited, very
 13 limited. The only time we get to see a patient most of
 14 the time is when we are doing interventional radiology
 15 or doing fluoroscopy like barium enemas, upper GI, etc.
 16 Q. So with respect to David Gonda, did you ever meet
 17 David?
 18 A. I don't remember, but I saw the name and I'm
 19 being told that I met this man for an ultrasound
 20 examination.
 21 Q. Who told you that?
 22 A. The who worked with me.
 23 Q. And who was that?
 24 A. Janet Sainato.
 25 Q. When was the last time you spoke to Janet?

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1 A. I talk to her every time I go to the office.
 2 Q. When was the last time you spoke to her about
 3 Mr. Gonda?
 4 A. I don't remember. I don't think I ever talked
 5 with her about Mr. Gonda.
 6 Q. Well, just a brief time ago you said you were
 7 told you met him in person and that Janet told you.
 8 A. That was when we were looking at the report. We
 9 inquired about it, and that's the time when Janet told
 10 another person that I did see the patient.
 11 Q. Do you know who else she told, who the other
 12 person was that she told?
 13 A. I believe it was probably Judy Miles.
 14 Q. She also works at Youngstown Radiology?
 15 A. Yes, she was the manager of the office.
 16 Q. You, yourself, did not do the technical picture
 17 taking of the X-rays of David Gonda, correct?
 18 A. No.
 19 Q. Do you know who did that?
 20 A. No.
 21 Q. Is there any way of knowing from the X-rays who
 22 did that?
 23 A. I think we may have to go back and find the
 24 worksheet and find out who was the technologist.
 25 Generally they have their initials there.

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1 Q. Have you reviewed the worksheet lately?
 2 A. No.
 3 Q. Have you reviewed the worksheet at all?
 4 A. Not lately.
 5 Q. At some point after the lawsuit was filed did you
 6 review the worksheet?
 7 A. No.
 8 Q. Did you take any initial film on of
 9 interpreting the films, the chest films of David Gonda?
 10 A. What do you mean by independent?
 11 Q. In other words, do you remember where you were
 12 when you did it, do you remember doing it?
 13 A. No.
 14 Q. Is your memory limited to the report?
 15 A. It is limited to the
 16 Q. What views of David Gonda's chest were taken?
 17 A. PA and lateral views.
 18 Q. Who asked for those views?
 19 A. Dr. Ruiz.
 20 Q. Do you know Dr. Ruiz?
 21 A. Yes.
 22 Q. Do you work with him frequently?
 23 A. Yes.
 24 Q. Did he ask for any other diagnostic testing to be
 25 done?

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1 A. I don't remember whether he specifically asked
 2 for any other examination. I don't remember.
 3 Q. But there came a time when you did an ultrasound?
 4 A. Yes.
 5 Q. Would you have done an ultrasound just on your
 6 own without the request of a doctor?
 7 A. No.
 8 Q. Can you tell me a little bit about that request
 9 for the ultrasound from Dr. Ruiz?
 10 A. As I said, I don't remember anything about doing
 11 an ultrasound.
 12 Q. When diagnostic radiology is requested is it
 13 requested in writing?
 14 A. Yes.
 15 Q. Was David Gonda's diagnostic radiology requested
 16 in writing?
 17 A. Yes.
 18 Q. Do you have that with you?
 19 A. I don't have it with me. I don't have it with
 20 me.
 21 Q. Can you obtain it?
 22 A. I think we could.
 23 Q. You could obtain the request from Dr. Ruiz for
 24 which tests he wanted done?
 25 A. Yes.

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1 Q. Where is that located?
 2 A. Dr. Ruiz's office is in the same South Bridge
 3 complex.
 4 Q. Would the request for tests be in the possession
 5 of Dr. Ruiz?
 6 A. No.
 7 Q. It would be in your office?
 8 A. Yes.
 9 Q. Have you brought any of the file with you today
 10 regarding David Gonda?
 11 A. No.
 12 MR. BLOMSTROM: We have the
 13 X-rays, however, the original X-rays.
 14 BY MR. MALIK:
 15 Q. Have you looked at the X-rays recently?
 16 A. Yes.
 17 Q. When did you look at them?
 18 A. Just now.
 19 Q. Today?
 20 A. Yes.
 21 Q. Is your interpretation today the same as what it
 22 was --
 23 A. Yes.
 24 Q. -- back on June 27th?
 25 A. Correct.

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1 Q. I'm really interested in getting the written
 2 request from Dr. Ruiz as to what he wanted you to do.
 3 How long would it take to get that?
 4 MR. BLOMSTROM: It would depend
 5 on whether it's still there.
 6 A. You have to remember that we generally get a
 7 small slip that comes with the patient. Sometimes we
 8 keep it in the envelope itself; sometimes, you know,
 9 after some years they are purged, so whether I can get
 10 it at this time I can't promise.
 11 Q. Is there a separate file kept for each patient?
 12 A. We have separate envelopes for each patient, yes.
 13 Q. Would the slip be in that envelope right there
 14 (indicating)?
 15 A. It should be.
 16 Q. It should be in this envelope right here
 17 (indicating)?
 18 A. That's not the original envelope.
 19 MR. BLOMSTROM: That came from
 20 your office.
 21 A. No, there should be another envelope in which
 22 David Gonda's name should be on it, his doctor's name,
 23 examination date, what examination was done; those are
 24 listed in separate columns. That's kept up to three
 25 years.

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1 Q. Would you be able to call your office now and see
 2 if it's there?
 3 MR. BLOMSTROM: You can call
 4 your office.
 5 A. I could.
 6 Q. Thank you.
 7 MR. BLOMSTROM: Take a break.
 8 (Thereupon, there was a brief
 9 recess.)
 10 BY MR. MALIK:
 11 Q. You checked your records?
 12 A. I checked my records.
 13 Q. And what did you discover, what we already had,
 14 right?
 15 A. Right.
 16 Q. Would there typically have been another document
 17 or is this something that could have been also done by
 18 telephone?
 19 A. Sometimes by telephone and sometimes by a
 20 doctor's own prescription pad, or they will send this
 21 type of request in which we have on one side the place
 22 of examination and on the other side we have a map
 23 where to go.
 24 Q. Whose writing is on this one?
 25 A. I have no idea whose writing.

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1 Q. All right. This is not your writing?
 2 A. No.
 3 Q. Is it possible that you could have done the
 4 ultrasound because of your own curiosity about that
 5 without a request from Dr. Ruiz?
 6 A. No.
 7 Q. What kind of ultrasound was done?
 8 A. It was done for checking for pericardial
 9 effusion.
 10 Q. Does that type of ultrasound have a name to it?
 11 A. No.
 12 Q. What kind of machine was used?
 13 A. In 1995 I think we had Dasonics equipment.
 14 Q. Checking for pericardial effusion on ultrasound
 15 is a limited ultrasound, correct?
 16 A. Yes.
 17 Q. What is it limited to?
 18 A. Just to find out if there was any superficial
 19 fluid under the muscle.
 20 Q. What other types of ultrasound are there or were
 21 there in 1995?
 22 A. Available to us?
 23 Q. Available to you, actually available to you first
 24 with the Dasonics machine.
 25 A. It would be pelvic ultrasound, gallbladder

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Page 16

1 ultrasound, orthopedic ultrasound and breast
2 ultrasound.

3 Q. Could you have checked the ventricles in the
4 heart by ultrasound?

5 A. Not with the machine we had at that time.

6 Q. Could you have checked the atrium of the heart?

7 A. No.

8 Q. Did you have a machine in the office where you
9 could have checked the interior of the heart?

10 A. No.

11 Q. Do you have one today?

12 A. No.

13 Q. Did you have one prior to 1995?

14 A. No.

15 Q. What is the difference between the machine you
16 had and the machine that would be able to perform those
17 functions?

18 A. The machine that does the cardiac measurements,
19 that was a different type of a machine. We call it a
20 2-D echo machine.

21 Q. The 2-D echo Doppler?

22 A. Correct.

23 Q. It's a more expensive machine, isn't it?

24 A. I believe so.

25 Q. But they exist here in Youngstown, correct?

Page 15

1 A. Yes.

2 Q. Does Youngstown or Hitchcock, did they have that
3 machine in '95?

4 A. No.

5 Q. Did the hospital have that machine in 1995,
6 St. Elizabeth?

7 A. I couldn't tell you.

8 Q. In terms of making a diagnosis of any condition
9 in the heart, can you give me an idea of what the
10 machine you had was capable of doing other than looking
11 for pericardial effusion?

12 A. I don't think we could do anything with our
13 machine except for looking for fluid under the chest
14 wall. We could not do any imaging of the interior of
15 the heart.

16 Q. Prior to June 7th of '95 had you had the occasion
17 to talk to Dr. Ruiz about imaging the interiors of the
18 hearts of other patients?

19 A. No.

20 Q. Do you know whether or not Dr. Ruiz was aware of
21 the limitations of your machine?

22 A. I couldn't answer that. I don't know.

23 Q. In any event, you believe all that was asked for
24 was to look and see if there was pericardial effusion,
25 right?

1 A. Correct.

2 Q. I have had the opportunity when you were out of
3 the room to look at the records that you have in front
4 of you that we are going to mark as Exhibit 1, and in
5 there I saw no charge for an ultrasound; am I correct
6 or incorrect?

7 (Thereupon, Plaintiff's Exhibit 1 to
8 the deposition of ABDUL HAFIZ, M.D. was
9 marked for identification.)

10 A. If you saw it, then it is correct.

11 Q. There was no charge for an ultrasound?

12 A. No.

13 Q. Do you know why that is?

14 A. Sometimes I do examinations just to make sure
15 that I'm not missing anything. That's just for my
16 satisfaction. At those times we don't put any charge.

17 Q. So then it really is possible, isn't it, that you
18 could have done the ultrasound on your own initiative
19 even though Dr. Ruiz might not have ordered it?

20 MR. TRAVERS: objection.

21 I'm going to object that question, but you
22 may answer, Doctor.

23 A. I would say no to that.

24 Q. Then can you reconcile your last answer where you
25 just said sometimes you don't charge because you do it

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1 for your own curiosity, that's not the words you used,
2 but for your own interest?

3 A. For my own interest. Sometimes we call the
4 doctors and we discuss the case, and when we discuss
5 the case those are all on the telephone, nothing
6 written. At those times they say that I can go ahead
7 and do this examination just to make sure that what is
8 the concern, that I'm not missing that. Sometimes we
9 do that, and in those cases most of the time we don't
10 put any charge to that patient.

11 Q. So you're saying it's possible that you could
12 have called Dr. Ruiz to discuss doing an ultrasound?

13 A. It is possible.

14 Q. But is there any way to reconstruct what actually
15 happened?

16 A. No. I don't remember every detail. All I know
17 is that we go by this sheet here. He wanted a wet
18 reading, it's marked here, which --

19 Q. What does wet reading mean?

20 A. That means you give me a preliminary report right
21 away, look at the films, look at the preliminary report
22 before you send a final report, and that we call a wet
23 reading. This wet reading probably was called at the
24 same time when we looked at the chest X-ray.

25 Maybe at that time, I'm just speculating, maybe

Page 18

1 at that time we discussed the case. I don't remember.
 2 but he may have said, do you see any pericardial
 3 effusion, can you tell me? At that time maybe we
 4 decided to go and do this ultrasound examination.
 5 Q. As we sit here today do you remember any
 6 conversations that you had with Dr. Ruiz regarding
 7 David?
 8 A. No.
 9 Q. Do you remember any conversations that you had
 10 since June 27th?
 11 A. Regarding David?
 12 Q. Right.
 13 A. No.
 14 Q. I deposed Dr. Ruiz and I asked him if he ordered
 15 an ultrasound, and he said he did. I asked him if
 16 there was a tape, and he said he assumed there was a
 17 tape of the ultrasound. He used the words very
 18 surprised, he would be very surprised if there wasn't a
 19 tape.
 20 Is there a tape of the ultrasound?
 21 A. No, we don't tape our ultrasound examinations.
 22 Q. That was your policy in 1995?
 23 A. That was our policy in 1995; that is our policy
 24 now.
 25 Q. Exactly what did you look for when you looked to

Page 19

1 see if there was pleural effusion on the chest X-ray?
 2 A. Pericardial effusion.
 3 Q. Excuse me. Is there a difference between pleural
 4 effusion and pericardial effusion?
 5 A. Yes.
 6 Q. Can you tell me the difference?
 7 A. Pleural effusion is a collection of fluid in the
 8 pleural cavity which is between the lung and the chest
 9 wall, and pericardial effusion is a collection of fluid
 10 in between the heart and the pericardium which is kind
 11 of a covering around the heart. Pericardial effusion
 12 is fluid within that sac.
 13 Q. And you were specifically looking for pericardial
 14 effusion?
 15 A. Correct.
 16 Q. So when you looked for pericardial effusion what
 17 did you look at on the X-ray?
 18 A. You mean the ultrasound?
 19 Q. No, I'm talking about the chest X ray now.
 20 A. we
 21 is enlarged.
 22 Q. Yes?
 23 A. Specific consideration is given to the shape of
 24 the heart that we see on the chest X-ray. In the chest
 25 X-ray the right border is more straight and the left

Page 20

1 border is more curved quite a bit. In pericardial
 2 effusion the heart becomes like a pear shape. That is
 3 what you look for in pericardial effusion.
 4 Q. On the ultrasound what do you look for?
 5 A. We look for presence of fluid in between the
 6 chest wall and the heart.
 7 Q. Do you know the symptoms that David Gonda
 8 presented with when he saw you?
 9 A. No.
 10 Q. He didn't actually ever see you, did he?
 11 A. Correct.
 12 Q. You did not prescribe any medicine or treat him
 13 other than doing those tests, correct?
 14 A. Correct.
 15 Q. Is it a fair statement to say you were unable
 16 because the tests weren't performed to determine what
 17 was going on with the interior of his heart?
 18 A. I don't understand your question.
 19 Q. Because you had a limited ultrasound you couldn't
 20 look into the ventricles, you couldn't look into the
 21 atrium, you couldn't look into the chambers of the
 22 heart, correct?
 23 A. Correct.
 24 Q. When he presented to you did he present with any
 25 diagnosis? This is not a trick question and I'll tell

Page 21

1 you why, this paper from Youngstown Associates in
 2 Radiology that your lawyer had attached, over where the
 3 chest X-ray is marked, had a question mark on it. I
 4 want to know what that said.
 5 A. Atypical pneumonia.
 6 Q. What does that mean?
 7 A. Atypical pneumonia is inflammation of the lungs
 8 with no typical symptoms, for example, what you call
 9 walking pneumonia, viral pneumonia. They don't show up
 10 on X-rays, but the patient is sick. They call it
 11 atypical pneumonia.
 12 Q. Does the question mark mean you're looking to see
 13 if they had atypical pneumonia or that's a
 14 differential, can you explain that?
 15 A. The question mark is put in and indicates
 16 possibly atypical pneumonia, put a question mark,
 17 atypical pneumonia.
 18 Q. When you reviewed the films did you find any
 19 pneumonia?
 20 A. No.
 21 Q. Did you specifically look for pneumonia?
 22 A. Yes.
 23 Q. If you were to find atypical pneumonia where
 24 would you find it most likely?
 25 A. Did you say atypical pneumonia? Sometimes we

Page 22

24

1 don't see atypical pneumonia on the chest X-ray. It is
 2 a clinical diagnosis.
 3 Q. That's my point. You can have atypical pneumonia
 4 and not have it show on an X-ray, correct?
 5 A. Right.
 6 Q. In fact, you can have an infection and have it
 7 not show up on an X-ray, correct?
 8 A. Correct.
 9 Q. How many times prior to seeing David would you
 10 say that you have done ultrasounds for Dr. Ruiz?
 11 A. Many times.
 12 Q. Ten, twenty, thirty, a hundred?
 13 A. Probably hundreds, but not pericardial effusion.
 14 Q. Let me go back for a minute.
 15 Did you say hundreds?
 16 A. Yes.
 17 Q. But in those hundreds of times did you ever send
 18 him a videotape of the heart?
 19 A. I said we don't do video and we don't do heart.
 20 What I referred to was other types of tests that I
 21 already told you, like gallbladder or pelvic or aorta.
 22 Those are the things we do, we did at that time, and we
 23 do now.
 24 Q. But without producing a video?
 25 A. Correct.

1 lawyer at some point ask t . . . i d t
 2 him so I : can l r if David ond brought this
 3 to the office.
 4 MR. BLOMSTROM We will
 5 check.
 6 - - -
 7 BY MR. TRAVERS:
 8 Q. Doctor, my name is Tom Travers. I'm the attorney
 9 in the case for Dr. Ruiz. If I may, sir, I have a few
 10 questions which I would like to pose to you as well,
 11 First of all, in regard to the actual study of
 12 the chest that was performed you did both a lateral and
 13 PA view?
 14 A. Correct.
 15 Q. Would that be the broadest spectrum of a chest
 16 film study that you would normally do on a patient?
 17 A. Correct.
 18 Q. So that although it's possible for a requesting
 19 physician to order a narrower or more limited imaging
 20 study of the chest, the request that came from Dr. Ruiz
 21 is for as full a study as you could perform?
 22 A. Correct.
 23 Q. You were asked to look at the films and provide a
 24 wet reading, correct?
 25 A. Correct.

Page 23

Page 25

1 Q. How many tests for pericardial effusion had you
 2 done for Dr. Ruiz?
 3 A. None.
 4 Q. Was this the first?
 5 A. That was probably the first one.
 6 Q. Do you believe this writing on this document that
 7 your lawyer has provided where the chest X-ray is
 8 marked and wet reading is marked to be anybody from
 9 your office?
 10 A. No.
 11 MR. MALIK: I don't think
 12 I have anything else, Doctor. Thank you.
 13 A. Can I just give you one thing about this thing?
 14 We send out blank sheets like this to the
 15 different doctors, and the doctor fills out these
 16 (indicating) little things here, or the doctor's
 17 office, they fill out this, and they come with this so
 18 that the doctor does not have to write out his own
 19 prescription.
 20 Q. So then it's possible that this was something
 21 that David Gonda brought to your office?
 22
 23 Q. Who would know whether he brought this or not?
 24 A. The
 25 Q. Would you do me a favor, if s okay with your

1 Q. Did you subsequently after the films dried again
 2 look at them before preparing your written report?
 3 A. Yes.
 4 Q. Were the findings on the wet interpretation the
 5 same as the findings on your dry interpretation?
 6 A. Correct.
 7 Q. After you did that review, then you would dictate
 8 a written report of your findings, correct?
 9 A. Say it again?
 10 Q. After you would review the films after these had
 11 dried you would either dictate or somehow prepare a
 12 written report of your findings?
 13 A. Yes, but can I interject a little bit here?
 14 Q. Yes.
 15 A. Although it says wet reading, quote, unquote, the
 16 wet reading is actually the very first initial
 17 interpretation, quick look. You look at it, call the
 18 doctor. The so-called dry reading that you are
 19 mentioning is done after the films and everything is
 20 put together. all the paperwork together is given to
 21 me, and I pick up the microphone and dictate the
 22 are
 23 one a wet we go
 24 in the 1950s and it's an old term for when they used to
 25 bring dripping films for the doctor to look at, and

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Page 28

1 they would look at it and say that's a wet film, not
2 all the details are here. We don't have anymore wet
3 film.

4 Q. Your initial impression after your brief overview
5 and your subsequent more careful study of the films
6 both revealed the same conclusions, correct?

7 A. Correct.

8 Q. After those two interpretations were performed by
9 you, you then took steps for the preparation of the
10 written report that you have in front of you today,
11 correct?

12 A. Correct.

13 Q. Does that report indicate the reasons that these
14 studies were requested by Dr. Ruiz?

15 A. Yes.

16 Q. There are two different items that he asked you
17 to address, were there not?

18 A. Yes.

19 Q. He asked you to rule out pneumonia?

20 A. Correct.

21 Q. And you did that, the patient did not have
22 pneumonia, at least based on the imaging studies, true?

23 A. Correct.

24 Q. He asked you also to rule out pericardial
25 effusion; is that accurate?

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1 A. That's what is written here.

2 Q. Is that the reason that you then did the
3 ultrasound study in addition to just the plain chest
4 films?

5 A. I believe so.

6 Q. Now, so there is no mistake about this,
7 Dr. Hafiz, when you reviewed those imaging studies your
8 conclusions were that the size of the patient's heart,
9 the space between the pericardium, the heart itself and
10 his lungs were all perfectly normal, correct?

11 A. Correct.

12 Q. In fact, the size of the heart can be viewed by
13 you on the chest films; is that not true?

14 A. Correct.

15 Q. So when you did the chest film you looked at the
16 size of the heart and it was not enlarged?

17 A. Right.

18 Q. Doctor, I'm not going to have this marked because
19 I have been handed a copy of it and I'd like to get
20 this copy back, but I'm going to hand you a report of
21 the chest film that was done on David Gonda in the
22 early morning hours of August 15th, 1995.

23 MR MALIK: I'd like that

24 marked.

25 (Thereupon, Defendant's Exhibit A to

1 the deposition of ABDUL HAFIZ M.D. was
2 marked for t t
3 MR MALIK I t t any
4 questions regarding any treatment not
5 rendered by Dr. Hafiz or X-rays taken by
6 Dr. Hafiz. The objection goes to any
7 questions regarding his impressions of
8 someone else's studies.

9 BY MR. TRAVERS:

10 Q. Now, you did not do this interpretation of this
11 film in August, correct?

12 A. In August, no.

13 Q. You have probably never even seen that chest
14 film; would that be accurate?

15 A. True.

16 Q. So I'm not going to ask you, doctor, to comment
17 on those findings. I'm going to ask that you assume
18 that what Dr. Barr saw on the August chest film was a
19 correct interpretation for the purposes of my
20 questions.

21 MR MALIK: objection.

22 Continuing objection.

23 MR. BLOMSTROM AS of

24 August 15th?

25 MR. TRAVERS: Correct.

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1 MR MALIK: Note a
2 continuing objection.

3 BY MR. TRAVERS:

4 Q. First of all, he notes bilateral hilar masses;
5 does he not?

6 MR. MALIK: Objection.

7 A. Yes.

8 Q. Was there any evidence of bilateral hilar masses
9 in the films you performed in June of 1995?

10 MR MALIK: Objection.

11 A. No.

12 Q. He notes infiltrates of both lungs in August of
13 1995; does he not?

14 MR. MALIK: Objection.

15 A. Mentions, yes.

16 Q. Is there any evidence in the films that you
17 performed in June of 1995 that there were any
18 infiltrates of this patient's lungs?

19 MR. MALIK: Objection.

20 A. No.

21 Q. Would you agree, Dr. Hafiz, that given that this
22 August chest film was interpreted correctly by Dr.
23 Barr, that there was a dramatic change in the condition
24 of this patient's lungs between June 27th and August
25 15th of 1995.

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1 MR MALIK: very, very,
2 very big objection.
3 A. From the report I think there is a difference, a
4 large difference.
5 Q. If there had been infiltrates or hilar masses in
6 this patient's lungs as of June 27th, 1995 would those
7 have been observable by you in that chest film that we
8 have here today?
9 MR MALIK: Objection.
10 A. Yes.
11 Q. Those are the kinds of things that you look for
12 when you are doing your interpretation of the chest
13 film, correct?
14 A. Correct.
15 Q. And there was no evidence --
16 MR MALIK: objection
17 BY MR. TRAVERS.
18 Q. -- of any of the findings seen by Dr. ~~Bar~~ in
19 August as of June 27th, 1995 in this patient?
20 MR MALIK: Objection.
21 A. Correct.
22 MR. TRAVERS: Thank you,
23 Doctor. Those are my only questions.
24 MR. GRIFFIN: NO questions.
25 - - -

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1 BYMRMALIK:
2 Q. I have a few more.
3 When you think of Dr. Ruiz what kind of specialty
4 do you think of, what was his specialty?
5 A. I think he is an internist, but his practice is
6 more geared towards family practice.
7 Q. Do you think of him as a cardiologist?
8 A. I really did not look into it.
9 Q. In terms of getting an actual in-depth picture of
10 what is going on inside the heart what is more
11 accurate, a Doppler echo or an X-ray?
12 A. A Doppler echo.
13 Q. How much more work is it to use the Doppler echo
14 machine than the machine you had in your office at that
15 time?
16 A. Say it again?
17 Q. Let me rephrase it.
18 Is it more difficult to perform the Doppler echo
19 than an echo that someone performed in your office?
20 A. Yes.
21 Q. Does it take special training?
22 A. Yes.
23 Q. Do you know whether or not Dr. Ruiz was aware of
24 the limitations of your machine?
25 A.

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1 Q. Had you done ultrasounds of the heart before for
2 him?
3 A. No.
4 Q. So this was the very first heart ultrasound?
5 A. For Dr. Ruiz.
6 MR. MALIK: Thank you
7 very much. It's a pleasure meeting you.
8 - - -
9 BY MR. TRAVERS:
10 Q. Doctor, just so there is no mistake on this
11 issue, when a requesting physician asks you to do a
12 study to identify whether there is a possibility of
13 pericardial effusion, the equipment that you had in
14 your office was specifically designed to be able to
15 make that radiological diagnosis, correct?
16 A. Yes.
17 MR. TRAVERS: Thank you.
18 MR MALIK: That's it.
19 MR. BLOMSTROM: No waiver.
20 - - -
21 (DEPOSITION CONCLUDED.)
22 - - -
23
24
25
ABDUL HAFIZ, MD. DATE

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1 CERTIFICATE
2 State of Ohio, } ss:
2 county of Cuyahoga }
3
4 I, Cynthia A. Sullivan, Notary Public within and
5 for the State of Ohio, duly commissioned and qualified,
6 do hereby certify that the within-named witness, ABDUL
7 HAFIZ, M.D., was by me first duly sworn to tell the
8 truth, the whole truth and nothing but the truth in the
9 cause aforesaid; that the testimony then given by him
10 was reduced to stenotypy in the presence of said
11 witness, and afterwards transcribed by me through the
12 process of computer-aided transcription, and that the
13 foregoing is a true and correct transcript of the
14 testimony so given by him as aforesaid.
15 I do further certify that this deposition was
16 taken at the time and place in the foregoing caption
17 specified.
18 I do further certify that I am not a relative,
19 employee or attorney of either party, or otherwise
20 interested in the event of this action.
21 IN WITNESS WHEREOF, I have hereunto set my hand
22 and affixed my seal of office at Cleveland, Ohio, on
23 this 22nd day of May 1998.
24 Cynthia A. Sullivan, Notary Public
25 in and for the State of Ohio.

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