Doc. 180

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

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IN THE COURT OF COMMON PLEAS

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GERALD WILBUR HALL, et al,
Plaintiffs,
vs.
RICHMOND HEIGHTS GENERAL HOSPITAL, et al,
Defendants.

Case No. 84902

Judge Richard M. JcMonagle

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DEPOSITION OF DR. NOOR HASSAN

FRIDAY, JUNE 7, 1985

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The deposition of Dr. Noor Hassan, a defendant herein, called by the plaintiffs pursuant to the Ohio Rules of Civil Procedure, taken before me, Robert A. Cangemi. a Notary Public within and for the State of Ohio, pursuant to agreement, at the offices of Weisman, Goldberg, Weisman & Kaufman Co., L.P.A., 540 Leader Building, Cleveland, Ohio, beginning at 3:00 P.M., on the day and date above set forth.

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APPEARANCES:

On behalf of the Plaintiffs:

Weisman, Goldberg, Weisman & Kaufman Co., L.P.A.
Paul Kaufman, Esq.
Mitchell Weisman, Esq.
540 Leader Building
Cleveland, Ohio 44114

On behalf of Defendant Noor Hassan:

Reminger & Reminger
Gary Goldwasser, Esq.
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Cleveland, Ohio 44114

On behalf of Defendant Richmond Heights General Hospita

Quandt, Giffels, Buck & Rodgers Co., L.P.A.
Robert Buck, Esq.
800 Leader Building
Cleveland, Ohio 44114

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DR. NOOR HASSAN

a defendant herein called by the plaintiffs under the Ohio Rules of Civil Procedure, having been first duly sworn, as hereinafter certified, was examined and deposed as follows:

CROSS-EXAMINATION

BY MR. KAUMFAN:

Q. State your name for the record, please?

A. Noor Ul Hassan.

Q. You are a medical doctor?

A. That is correct.

Q. And you are presently one of the named defendants in a case that's pending in the Cuyahoga County Court of Common Pleas on behalf of Gerald W. Hall?

A. That is correct.

MR. KAUFMAN: The record should reflect that the deposition of one of the defendants, Dr. Noor Ul Hassan, is being taken for purposes of cross-examination. And the deposition, I believe, is being taken by agreement of counsel.

Therefore, there can be a waiver of any defects in notice or service, correct?

MR. GOLDWASSER: Correct.

MR. BUCK: Agreed.

Q. Have you ever given a deposition before?

A. Yes.

Q. So you are somewhat familiar with the protocol or the procedure that's involved?

A. Yes.

Q. If at any time I ask you a question that is not clear to you, please tell me and I will try to clarify it for you, or rephrase it, or have the court reporter read it back to you.

If you don't understand the question, don't try to answer it, and tell me,

A. All right.

Q. That way we will all be clear at the end of the deposition that you understood the question and answered as if you understood it.

A. Okay.

Q. Fair enough?

A. Fair enough,

Q. As you also know, I am sure, you must speak your answers out loud, or verbalize them, so the court reporter is not confused by a nod of the head or a shrug of the shoulders,

A. Okay,

Q. Good.

Do you have available a curriculum vitae or resume of any kind?

A. I don't have it; but my secretary can provide one for

you.

Q. Do you have one that's done up?

A. I am sure she can type it up.

Q. I don't want to impose on you.

A. I am sure she has the information.

Q. If you could provide that to your counsel and he will provide that to me, it may shorten things.

A. I will do that.

Q. What is your residence address, Doctor?

A. 6700 Norvale Circle, West, Gates Mills, Ohio, 44040.

Q. And your professional address?

A. 27155 Chardon Road, Suite 303, Richmond Heights, Ohio, 44143.

Q. And what is your age?

A. Forty-seven.

Q. Your specialty in practice is?

A. Neurological surgery.

P And are you board certified?

A. Not yet.

Q. Are you board qualified?

A. Yes. I finished the written part of my board, and I am going back for my orals in September of 1985.

P So you have taken the written?

A. Yes. I passed that one.

Q. You received the results from the written?

A. Yes.

P And you will be taking the orals?

A. In September of 1985.

Q. Prior to the taking of the written and the upcoming taking of the oral part, have you taken the oral or written part before?

A. I have taken the written and passed,

I took the oral and I did not get through the oral, so that's why I have to come back again.

I have to go through the written part to get back to the oral.

Q. You have to retake the written if you don't pass the oral?

A Yes.

Q. How long ago did you go through that first round?

A 1984.

Q. Are you board certified or board qualified in any other areas?

A. No.

P And you are licensed in the State of Ohio?

A. Yes.

Q. When did you become licensed?

A. 1971.

9 Are you licensed in any other states?

A. No.

Q. Has your license in Ohio been held continuously since 1971?

A. That is correct.

Q. Has it ever been suspended or revoked for any reason?

A. No.

Q. The course of your medical practice, has it always been in the area of neurosurgery?

A. That is correct.

Q. Are you presently in practice with any other physicians?

A. Yes.

Q. Who is in practice with you?

A. He is another neurosurgeon, His name is Gilreath.

P Is your practice incorporated?

A. Yes.

Q. Is there a name to the corporation?

A. Hassan & Gilreath, Inc.

P How long has that corporation been in existence?

A. The new corporation?

Q. Yes,

A. I guess a couple of months,

I don't know the exact date,

P It is rather new?

A. Yes,

P How long have you and Dr, Gilreath been associated?

A. For about two years now.

Q. There were other physicians with you previously?

A. There was a neurologist. His name is Dr. Robert Coppola.

He was with us till February of this year.

He went on his own now.

Q. Were the three of you together for approximately two years, or does that go back further with Dr. Coppola?

A. He was with us, Coppola, about a year and a half. Then he decided to go on his own.

I've noted that Dr. Coppola was involved in the care and treatment of Mr. Hall,

A. Correct.

Q. Is he the one who brought you into the picture?

A. I think it was Dr. Weiner, the family physician.

Q. Prior to your association with Doctors Gilreath and Coppola, were you in practice with any other physicians?

A. In the past I have been associated with two other physicians. One was Dr. Trowbridge, William Trowbridge. I was with him.

Q. Okay.

A. Then I was with another physician, Dr. Erasmus.

Q. When you first went into practice, what year was that, 1971?

A. It was either the real late part of 1971 or the early part of 1972.

Q. When you first went into practice, was that here in the Cleveland area?

A. That is correct.

Q. And initially were you with one of those doctors?

A. With Dr. Trowbridge.

P From what period of time were you with Dr. Trowbridge:

A. I think approximately three years.

Q. And when you and Dr. Trowbridge parted company, did you then go into association --

A. I was alone for sometime.

Q. Okay.

A Then I think in 1975 Dr. Erasmus joined me.

Q. How long was he affiliated with you?

A. I think he moved to California in 1979. I am not sure of the exact time, but that's the approximate time.

Q. Between Dr. Erasmus and your association with Doctors Coppola and Gilreath, were **you** in full practice?

A. That is correct.

Q. Where did **you** do your medical school. training?

A. In Bangalore, India.

Q. Did you obtain an M.D. there, or the equivalent of an M.D.?

A. That is right.

Q. What year?

A. 1963.

Q. Did you pursue post medical school training?

A. I did one year of training there as a house surgeon.

Q. In India?

A. In India.

Q. Okay.

A. Then I came to the United States.

I did one year of rotating intership.

Q. Where was that?

A. Northeastern Hospital, Philadelphia.

Then I did one year of residency in pathology. That was Episcopal Hospital, Philadelphia.

Q. Okay.

A. Then four years of residency in neurosurgery, Episcopal Hospital, Philadelphia.

Then I did one year of residency in general surgery in Queens Medical Center, Honolulu, Hawaii.

Then I did six months fellowship in stereotactic surgery. That was at St. Barnabas Hospital in Livingston, New Jersey.

Q. Does that complete your postgraduate training?

A. That was all the training.

After that, I came over to St. Vincent Charity Hospital I was there as a house physician in neurosurgery until I got my license.

Q. Are you a U. S. Citizen now?

A. Yes, I am.

P When did you become a U. S. citizen?

A. The exact date?

P Or what year?

A. I don't know exact dates. It was in the mid-seventies.

Q. Do you presently hold certain hospital affiliations?

A. Yes, I do.

Q. With what hospital or hospitals are you affiliated?

A. At the present time I am on the staff at Richmond Heights General Hospital and Brentwood Hospital, Marymount Hospital and St. Vincent Charity Hospital.

I am on the staff at Ashtabula General Hospital also, but I go there very rarely.

Q. Do you have admitting privileges at all of those hospitals?

A. Yes, I do.

Q Have your privileges ever been suspended or revoked at any of those hospitals?

A. No.

Q. During the course of time that you have been in the Cleveland area, have you had affiliations with any other hospitals besides the ones you mentioned?

A I used to be at St. Luke's Hospital until I quit.

Then there was a small hospital, Shaker Medical Center Hospital, then it folded up.

Q. So you were affiliated at St. Luke's, and you gave up

your affiliation there?

A. Yes.

Q. Then when Shaker Medical Center went out of business, that ended your relationship there?

A. With the hospital.

Q. Do you hold any special positions at any of the hospitals?

A. No. Just as a staff physician.

Q. Do you have any teaching responsibilities?

A. Brentwood Hospital and Richmond Heights General.

Q. In the clinical setting, you teach at these hospitals?

A. Yes.

Q. Do you have any publications?

A. No.

Q. Other than the action that we are here about today, have you ever been named as a defendant in any other matters relating to your professional practice of medicine?

MR. GOLDWASSER: Objection. You may answer.

A. Yes.

Q. Can you tell me how many besides this one?

MR. GOLDWASSER: Show a continuing objection to this. You may tell him, if you remember.

A. 13 or 14, over the years.

Q. By and large, have they been in Cuyahoga County?

A. Yes.

Q. Have there been any that have been outside of Cuyahoga County?

A. There was one patient from Ashtabula Hospital, from Ashtabula, who filed a malpractice suit against me, but they never went anywhere. They just dropped it.

Q. That was filed in Ashtabula County, or somewhere out that way?

A. I am not sure where exactly it was filed, but it never -- I didn't even go for a deposition. They just dropped it.

Q. Other than the matter involving Mr. Hall, are any of the others still pending?

A. There are six of them pending. I am not sure of the exact number, but I think that's what it is.

Q. I want to draw your attention to the plaintiff in this case, Gerald W. Hall.

Have you had an opportunity to review your office records concerning Mr. Hall?

A. Yes.

Q. Did you actually ever see him in your office?

A. The first time I saw him was in the hospital. It was at the request of Dr. Weiner. I did an investigation and did a carotid endarterectomy.

Subsequent to that hospitalization, I saw him in the office several times.

MR. GOLDWASSER: Noor, let me remind you that the question was: Have you ever seen him in your office, and the answer is yes.

Q. You saw him on occasions in between the two Richmond Heights General hospitalizations?

A. And after the second operation also.

Q. Do you have a conscious recollection of Mr. Hall? Do you remember him?

A. Yes, I do.

Q. Do you remember the two procedures that you did on him?

A. Yes, I do.

Q. If you would, tell us, and also, have you had an opportunity to review the charts from the two hospital confinements?

A. I have looked over them. I have not gone over it line by line, but I have looked them over.

Q. You have those charts available to you?

A. Yes, they are here, I may have to look at them.

Q. If we need to make reference to them?

A. Right.

Q. Tell me if you would, what was the date of your first contact with Mr. Hall?

A. The first time I saw him was on 2-10-82.

Q. Where did that take place?

A. That was at Richmond Heights General Hospital.

Q. He had already been admitted to the hospital?

A. That is correct.

Q. And who had admitted him to the hospital; was that Dr. Weiner?

A. Theodore Weiner.

Q. For what purpose did Dr. Weiner ask you to consult with him in Mr. Hall's case?

A. On the sheet it is written as consult with Dr. Hassan regarding T.F.C.A. That stands for transfemoral arterio-gram.

It also mentions surgical management regarding -- I cannot read that,

MR. GOLDWASSER: Mr. Kaufman, these are copies we received from plaintiff's counsel, but much of it is illegible because of the poor quality of the copy,

MR. KAUFMAN: That's the way it was delivered.

MR. GOLDWASSER: I am just stating that's why he can't read it.

**BY MR. KAUFMAN:**

Q. Did you speak with Dr. Weiner at the time they requested the consultation?

A. I don't remember at this time.

Q. How does it normally work over at Richmond Heights General Hospital?

A. Normally when a doctor writes on the order sheet requesting another doctor to come in as a consult and do the consultation, go ahead with the test, the nurse takes the order and the secretary calls the doctor's office, in this case to my office, and leaves a message to see the patient.

Many of the times the doctors then just call personally and talk to the consulting physician, but I don't remember what exactly had happened before the consultation. I don't recall.

Q. And the date of the request was what?

A 10 February, 1985.

MR. GOLDWASSER: '82.

A. Excuse me, '82.

Q. Now in the chart there is a consult from the gentleman who was your associate, I believe at that time, Dr. Coppola?

A. Yes. He was not my associate at that time.

Q. Okay, He had been asked to consult in this case by Dr. Weiner also?

A. That is correct.

Q. And he had done his consultation two days previous, on February the 8th of 1982?

A That is correct,

Q. So you would have had his consultation information available to you at the time that you came in?

A. Yes.

Q. Do you remember whether you spoke with Dr. Coppola about this case?

A. I don't remember.

Q. What was going on?

Generally what was the reason that it was felt necessary to call you in?

A. This patient had come in with a pain problem, pain in the neck, shoulder and arms. That was the primary reason for him to be brought in to the hospital.

They had found during the routine examination loud bruit in the neck.

The diagnosis of carotid artery disease was made.

In addition to the primary symptoms, he was having cervical spondylosis, He had a neck problem, and they found additional problems.

They wanted me to come in and do a certain test to see how the arteries looked.

Q. The cerebral arteriorgram?

A. Yes.

Q. You had occasion in your career to deal with carotid artery disease?

A. Yes.

Q You diagnosed that on other patients previous to Mr. Hall?

A. Yes.

Q. And you've treated it?

A. Yes.

Q. And you've operated on other people with that?

A. Yes

Q. After you've done those exams, you know what the extent of his carotid artery disease was?

A. After we did the test, we know.

Q. One side was completely occluded, as I recall?

A. Yes.

Q. And he had disease in the other side as well?

A. That is right.

Q. Someone with carotid artery disease to the nature and extent Mr. Hall had it, would that disease be competent to cause the neck, shoulder and arm pain that he was experiencing?

A. That problem had nothing to do with his pain problem. They were two different problems.

Q. Your testimony, then, is that any carotid artery disease that he had was not what was causing, or would not explain the pain that he was complaining about in his neck, in his shoulders, or in his arms?

A. That is correct.

Q. Prior to your doing an arteriorgram on him, did you examine him yourself?,

A. Yes, I did.

Q. Tell me what you found:'

A. This was dictated on 10 February, 1982, 3:30 P.M.

'Clinicallyat this time he is conscious, alert and cooperative. Neck movements are severely restricted in all directions. He is hardly able to extend his neck. He has good strength on both sides. Speech, gait and coordination are normal. Grossly no significant motor or sensory deficiencies are present.

He has loud bruits over both sides of the neck.:

This was the clinical examination, what I have put on there.

Q. Based upon your consultation at that time, I gather you concurred that an arteriogram should be done as soon as possible?

A. I agreed that he needed an arteriorgram.

Q. Did you make a diagnosis based on just your clinical examination?

A. Yes. I have the clinical examination here.

Q. What was that?

A. Arteriorsclerotic cerebrovascular disease.

Probably bilateral carotid artery stenosis.

Cervical spondylosis with nerve root compression.

Lumbar spondylosis.

I had these four diagnoses on him,

Q. Now, the first one dealt with primarily the carotid arteries?

A. Yes, and cerebrovascular disease.

Q. That's what you would be doing the arteriorgram for, directing that to that part of your impression?

A. That is right,

Q. What was the basis upon which you had an impression concerning the cervical and lumbar areas?

A. Cervical spondylosis was the cause of the pain.

He was experiencing considerable pain in the neck with radiation over the shoulder and the arm, and on clinical examination, the lack of normal movement in the neck.,

He just couldn't budge his neck.

Q. What about the lumbar findings or impressions he had?

A. He gave me a history of having pain in the lower back with radiation into the posterior aspect of both lower extremities,

He had given me that information on the history.

As many times as patients have pain in the neck and lower back, if you suspect disease in one segment of the spine, you are safe in assuming that he has similar problems in other parts of the spine also.

Q. Based upon your clinical impression, what did you

recommend by way of treatment?

A. I will read off the suggestions here.

Because of the intensity of the bruit, would proceed with cerebral arteriograms initially as requested,

Once that problem is investigated, then myelogram should be carried out for further evaluation of the lumbar and cervical areas in the spine.

The patient has been told about the cerebral arteriograms. The procedure and possible risks, including weakness and stroke, have been explained.

The patient is agreeable to it, Will proceed with the test on 2-11-82.

Q. In the constellation of things we are dealing with here, was it your professional opinion that the carotid artery problem was the more pressing problem at the time?

A That is right.

Q. That is life-threatening to him?

A. Potentially more damaging. It could give him a stroke, and it could make him disabled, It could also kill him.

Q. And you proceeded to do the arteriogram?

A. That is correct.

Q. And the findings on the arteriogram just in summary were?

A, He had total occlusion of the left internal carotid

artery and an ulcerative lesion in the common carotid artery at the bifurcation area.

Q. Were they split?

A. Split,

Q. Your recommendation, based on the findings in the arteriogram was to proceed with the carotid endarterectomy, right?

A. To have that done first before we do anything because of the potential hazards,

Q. Was anything done by way of diagnostic, up to that point, on his cervical or lumbar situation?

A. He had x-rays done.

Q. Those were just plane films?

A. That is correct.

Q. What were the findings?

Firstly, when were those done and what findings, if any, were made?

A. Let me read off the records to you.

[x-rays of the cervical spine with obliques done on 2-8-82. There is straightening of the normal AP lordosis with osteopenia of the bony structures.

There is narrowing of the C-5 - 6 and C-6 - 7 disc spaces with mild hypertrophic changes at these levels.

Q. Does that say mild?

MR. GOLDWASSER: Do we need him to read what

is contained in the record?

Q. My question was, what if anything was of any significance,

A. Spondylitic changes and neurologic encroachment.

Q. It does say, according to the report, that the narrowing of the **C-5** and C-6 showed mild hypertrophic changes at these levels, is that correct?

A. Correct.

Q. And spurring at **C-3** and **C-4** was described **as** mild also, right?

A. Right.

Q. The oblique projections described encroachment at **C-4-5** and **C-5-6**, as mild also, correct?

A. On the left, right.

Q. The films of the lumbar spine were done also on February 10th?

A. That is correct.

Q. Which indicate, and I quote "There is no evidence of spondylolysis or spondylolisthesis,"

A. Right.

Q. There was no evidence described in the lumbar spine x-rays of those, is that correct?

A. This is different from spondylosis.

Q. Are you saying that there was evidence of spondylosis?

A. As far as I know, yes, there was.

Q. There is nothing described in the report about that, is there?

A. No. I am assuming it was not severe.

Q. And correct me if I am wrong, during that entire confinement of February of 1982, there was no myelogram done on Mr. Hall, is that correct?

A. That is correct.

Q. A myelogram was done at the next confinement?"

A. That is correct.

Q. There was no EMG or nerve conduction test done during that first examination, was there?

A. Let me look at Dr. Coppola's record. No, he did not perform any.

Q. Those were done in the next confinement also?

A. Correct.

Q. Did you formulate any treatment plan upon the carotid""* endarterectomy, or dealing with the lumbar or cervical spine, at the time of this initial evaluation of him that you did?

A. Yes. It was decided to go ahead with the arteriograms, first, then see what the problem is regarding the arteries going to the brain, and then deal with the problem of the spine.

P Once you had done the arteriorgram and knew what it, disclosed, that then led you to recommending doing the surgery as soon as possible?

A. That is correct.

Q. Did you formulate also a treatment plan for his lumbar cervical spine at that time?

A. We told him we would manage it at a later date."

Q. What did you do at a later date about managing that?

A. Proceeded with a myelogram and got an EMG test done to see what we can do.

Q. Did you formulate any opinion in your mind professionally that he, based on what you knew about him up to that time, the condition of his carotid arteries, the reviews of the x-rays that were done of his spine, and your examination, did you formulate a treatment plan by way of any indicated surgery on his spine?

A. No. I usually decide that after doing the myelogram. We don't say one way or another the exact type of surgery until we do the myelogram.

Q. Did you anticipate that he was going to come to some type of surgery on his spine?

A. Yes.

Q. At this earlier time?

A. That is right.

Q. So you anticipated that at some point in the future he was going to have to have spine surgery?

A. That was my initial impression.

Q. The carotid endarterectomies were done on what date,

now?

A. 15 February, 1982.

Q. Do you have a recollection of that procedure that you did on him?

A. Yes, I do,

Q. Do you recall anything unusual or out of the ordinary occurring during the course of that surgical procedure?

A. No, nothing that I can recall.

Q. It seems fairly well documented in the chart that afte Mr. Hall awoke, or shortly after this procedure, was found to have some deficits.

A. Yes.

Q. Can you describe that?

A. He had mild left side weakness.

He was alert.

He was talking.

He was able to move the right side.

He was able to communicate, but he was weak on the left side.

Q. This was noted practically as soon as he awoke, was it not?

A, I don't have a notation on the chart as to what exact time I noticed it, but I made it the next day, immediately after the examination, after I examined the patient.

Q. Do you have an opinion, based on your experience and

training, as to what the cause of the left side weakness was?

A. Obviously there was some damage to the right side of the brain, which controls the left side of the body. That could have happened while we were dissecting the artery out during surgery, during the time we had the artery clamped, or immediately after we closed the artery.

It could have happened at any one of those times.

Q. It could have happened from stretching of the neck during surgery?

A. Yes. It could have happened while we were positioning

It could have happened anyone of those times during the surgery.

Q. Can you tell me, either from your own recollection, or from the record, or any source, how long he was clamped?

A It could not have been more than a few minutes because we put an internal shunt in,

Q. You would say it would be a matter of minutes?

A. At the most, two or three minutes,

Q. Based upon what you are telling me, however, I gather you are in agreement that whatever caused his deficit occurred temporarily or some time during the course of the procedure?

A. From the time he went to sleep.

Q. To the time he woke up?

A. Yes,

Q. Whatever it was that caused it, you are not in a

position to give an opinion as to what was probably the most likely explanation?

A. Sometimes the shunts can cause an infection also.

Q. There is nothing that would have happened to his vital signs, or anything, during the course of the procedure that would give you a tipoff that something happened at that given point?

A. No. I wouldn't know during the operation, because this patient was under anesthesia.

Q. I thought maybe a blood pressure finding or some other vital sign would vary or change based upon what would happen.

A. At that time we did not have any kind of indication. We have now, but not at that time.

Q. What's the indication you have now?

A. EEG monitoring. Now during the operation we use that.

Q. You are talking about -- you are not talking about information you have now that relates to Mr. Hall?

A. No.

Q. We are also in agreement, I think, based upon what you said, that the damage occurred on the right side of the brain?

A. That is right.

Q. And is it fair to state that it probably occurred in the area of the thalamus?

A. Probably in the area of the internal capsule or the

motor area.

The thalamic area controls the pain fibers. It does not control the motor fibers..

Q. Okay.

A. The sensitive fibers and the motor fibers are coming in, so to involve the motor area, it has to be in the internal capsule area or above or just below.

Q. Does that capsule include the thalamus in it?

A. The thalamus is inside the internal capsule, medial to it.

Q. Are you familiar with thalamic pain syndrome?

A Yes, I am.

Q. What is that?

A It causes an unpleasant burning sensation.

Q. Is it causative to any other cause or complaints?

A. That's the main one, as far as I know. It can cause a loss of pain sensation.

Q. Loss of pain sensation?

A. Yes.

Q. You made some progress notes, I believe, immediately after?

A I have progress notes.

Q. Immediately after the endarterectomy?

A. Yes.

Q. Just so I can be clear, because sometimes we have a

problem in reading handwriting, would you go through your progress notes and give us the dates and the word for word notes that you made concerning Mr. Hall, subsequent to the procedure?

A. On the day of operation, after the operation, I have made a note, OR note. Under general, which means under general anesthesia, right carotid endarterectomy and thromboendarterectomy, shunt used during the procedure.

Patient tolerated the procedure well,

The subsequent note is on the 16th of February. That's the first postoperative day, patient alert, talking, slight weakness left arm, speech good.

Moving right side well, will transfer him to regular floor. Till then he was in the intensive care unit.

17th of February, 1982, alert, minimal weakness left arm, will ambulate him.

20th of February, patient still slightly weak on the left side, however ambulating, improving.

22nd of February, patient improving, still weak on left side, but improving.

24th of February, patient alert. Left side weakness, mild. Again physical therapy.

Will send him home on Saturday. Sutures from the neck removed, wound well healed.

Q. Now, when he was sent home, was he sent with

instructions to return to see you?

A. Yes.

Q. Do your office visits reflect when you saw him next after that?

A. Yes. Let me look up the exact date,

I am sorry. I told you earlier that he did not have an EMG done.

During the first hospitalization he had one done.

Q. He did?

A. Yes.

Q. Did you locate that in the chart?

A. Yes. He had it done on the 8th of February, 1982.

Dr. Coppola did that.

Q. Is there a report in there?

A. It is here on the progress sheet.

Q. I see.

A. There it is.

Q. Impression noted to be essentially within normal limits except for mild chronic right equal to left L4-L5 radiculopathies consistent with chronic nerve root impingement with osteophytic deformities at that level.

The remainder of the study is within normal limits.

MR. GOLDWASSER: That was not a question.

Q. Is that what the impression was?

A. Well, I just read the progress sheet.

Q. Nothing was found on it with respect to the cervical area, is that correct?

A. What you read is correct.

Q. Pardon?

A. That is correct.

Q. All right. Now when did you see him after he had been released from the hospital?

A. He was sent home on the 27th of February, 1982, and I saw him for the first time on 11 March, 1982.

Q. Do you have some kind of chart or something that evidences that?

A. I have my letters sent to Dr. Weiner, his family physician.

Q. What letter are you referring to?

A. March 11th, 1982.

MR. GOLDWASSER: It is reversed, It goes in reverse chronological order.

Q. So March 11, 1982 would have been the first time you saw him outside of the hospital,

Would that have been consistent with your instructions to him, as to when to return?

A. Right.

Q. What findings were made when you saw him on March 11th?

A. I'll just read off the main things. He still has mild weakness in the left side, and the left leg. However, it

is continually improving. He seems to be somewhat depressed.]

However, after talking to me, he seems in a better mood.

I asked him to continue to exercise the arm and the leg and come back to the office in a couple of weeks time. I have also started him on Ascriptin, one tablet three times a day and also Persantine, one tablet three times a day.

Q. Well, both the weakness in the left arm and left leg that you describe, is that the weakness that was found subsequent to the endarterectomies?

A. That is right.

Q. So am I correct in concluding that that description, does not refer to any lumbar or spinal problems?

A. No. It is just a continuation of the same problem.)

Q. Of the incident that occurred during the operation?

A. Correct.

Q. Nothing is stated in this letter about any complaints or problems with his spine, is that correct?

A. No. I did not mention that.

Q. Can we conclude, then, that it was either not significant in your findings, or there were no complaints referrable to it on that day?

A. He was having a lot of pain in the neck, shoulder and arm.

Q. He was?

A. Yes.

Q. Would this be all that you would have by way of an office record for that visit?

A. Yes.

Q. There are no notes you made of your own?

A. No separate notes by me.

Q. You had him on certain medications, and you had advised him to come back to the office in a couple of weeks?

A. That is correct.

Q. And he did in fact return?

A. The next office visit was on the 1st of April, 1982.

MR. GOLDWASSER: We don't have to have the doctor read these verbatim, do we, Paul?

Q. No, I just want to know what findings he made in general at each of these visits.

MR. GOLDWASSER: They speak for themselves. If you want to mark them, you can.

They speak for themselves.

BY MR. KAUFMAN:

Q. This one paragraph letter that you wrote back to Dr. Weiner again seems to be only in reference to the problems from the incident during the endarterectomy.

A. That is correct.

Q. Nothing in this letter makes any reference to any lumbar or cervical spine problems, right?

A. That is correct.

Q. Were there complaints, or was there an evaluation made of his lumbar cervical spine at that examination?

A. He was still having continued pain.

Q. Were you treating him for that in any way?

A. No. He was getting pain medications,

Q. The pain medications that he was getting would cover the lumbar and cervical problems?

A. Just to make him comfortable.

That wasn't a specific therapy at that time.

Q. Those pain medications given him, were they given to him by you?

A. I think Dr. Weiner was taking care of those pain medications.

Q. Was this directed towards specifically the cervical and lumbar spinal pain?

MR. GOLDWASSER: I don't want you to guess as to what Dr. Weiner was doing.

A. He was on Motrin. He was on anti-inflammatory medications.

Q. Pursuant to your instruction, you re-examined him then about six weeks later, in the middle of May?

A. That is right.

Q He did still continue to have complaints referrable to numbness and aching in the left arm and leg at that time, right

A. That is correct.

Q. And in that followup letter of May 15th to Dr. Weiner, nothing is mentioned about cervical or lumbar problems.

A. That is correct.

Q. Or any treatment for those?

A. Right.

Q. Pursuant to your instruction at that time for him to see you in about two months, he returned to see you on August 5th?

A. That is correct.

Q. Still evidencing minimal weakness in the left lower extremity, right?

A. That is correct.

Q. And now we have a reference to pain in the shoulders and scapular areas.

A. Yes.

Q. Which you stated you felt was most probably due to his cervical spondylosis, right?

A. That is correct.

Q. Did you continue to treat that in any fashion other than to have him take medication?

A. I have made a notation, asked him to continue to exercise and then come back to the office in a couple of weeks time.

MR. GOLDWASSER: Couple of months.

Q. A couple of months?

A. A couple of weeks it says.

Q. August 5th?

A. I must have dictated two,

Q. Do you mind if I see the one you are looking at?

MR. GOLDWASSER: It should be right underneat the other one,

Turn the page. You will see it in your copy.

BY MR. KAUFMAN:

Q. Now, you apparently wrote two letters to Dr. Weiner on August the 5th.

A. This is strange. I cannot imagine -- I have no idea how this has happened.

Q. But the difference?

A. Yes, because there is so much similarity between the two letters, One says a couple of weeks and one says a couple of months.

Q. One you say a couple of weeks, and one you say a couple of months?

A. One must have been a mistake, and another one was typed up.

Q. Also you make reference to complaints of lightheadedness, and dizziness in that one.

A. I don't know. Do you want me to guess, or not?

MR. GOLDWASSER: No, don't guess.

A. I think I have a fairly good idea of what has happened.

Q. Was he complaining of the lightheadedness and dizziness?

A. Yes.

Q Do you have an opinion as to what was causing this lightheadedness?

A. This person had cerebral vascular disease.

Q. It could be responsible for those conditions?

A It could be a reflection on the cervical problem, and, also sometimes spinal arthritis in the neck can cause compression of the arteries to the brain, which could cause lightheadedness, dizziness.

Q. When did you see him next again?

A. December 2, 1982.

Q. So for one reason or another he did not return in either a couple of weeks or a couple of months?

A. That is correct,,

Q. Do you know why he did not return until December?

A. He might have just stayed --

MR. GOLDWASSER: I don't want you to guess.

Q. If you know.

A. I don't know the exact reason.

Q. And you have a note, a handwritten note, now?

A. That is correct.

Q. And that is from December 2 of 1982?

A. That is right.

Q. Could you read your writing to us, please?

A. Patient doing well. Weakness on left side has subsidded.

Grossly no motor or sensory deficiencies.

Deep neck movements restricted, fairly severe in all directions.

Will bring him back to hospital for further evaluation of cervical and lumbar spondylosis.

Q. Now, he was admitted -- readmitted to Richmond Heights General Hospital in December of 1982, is that correct?

A. That is correct.

Q. And the purpose of admitting him the second time is to now shift to the lumbar and cervical spine problems?

A And also evaluation of the cerebral circulation,

Q. Now, during that next Richmond Heights General Hospital confinement, he went through fairly extensive surgery at your hands; correct?

A. Correct.

Q. Could you tell us what the occasions were for doing the surgery that you did on him the second time?

A. He was still having a lot of pain in the neck, shoulder and the arm. As a matter of fact, he was constantly suffering from that pain, and neurologically his neck movements were restricted,

I had made a diagnosis that the patient was having: cervical spondylosis with nerve root compression, and

the surgery was undertaken to diminish that aspect of the problem.

Q. Now, other than clinical evaluations of him, prior to surgery, did you do any examinations or testing of any kind?

A. He had myelograms and cerebral arteriograms.

P EMGs and nerve conduction tests also, didn't he?

A. I want to doublecheck on that. No. I do not see that on the chart.

Q. Okay.

MR. GQLDWASSER: Referring to EMG.

Q. Did he also have x-rays during that followup confinement?

A. He did.

Q. Am I correct that the myelogram that was done -- strike that for a minute.

You also said he had evaluations of his cerebral blood circulation, right?

A Yes.

Q. That would have no bearing on the decision to do his neck or spinal surgery, would it?

A No.

Q. Did everything check out okay?

A. It checked out all right.

Q. It was more or less a followup to see how he was doing

in that area, post the endarterectomies?

A. That is correct.

Q. The myelogram that was done, and correct me if I am wrong, demonstrated clearly the wide open lumbar canal, did it not?

A. That is correct.

Q. I am sorry?

A. That is right,

Q. Therefore, there was no finding of lumbar canal stenosis, was there?

A. That is correct.

Q. The cervical myelogram showed no evidence of cord compression, did it?

A. No major cord compression,

Q. And also it shows only minimal, at best, evidence of nerve root compression?

A. See, we could not do oblique films on him.

He couldn't turn his neck.

We could not pull the contrast medium to see everything. We saw defects in the area where the nerves apparently were to be compressed.

Q. Let me understand this correctly,

I thought there was no evidence of nerve root compression.

A. There was evidence of nerve root compression,

Q. There was in the myelogram?

A. Yes.

Q. What you just said, would that constitute a recording of spinal cord signs?

A. Nerve roots. That is referring to nerve roots.

Q. We are talking about nerve roots, then?

A. I have on my progress sheet dated 12-6-82, cervical area shows spondylitic changes C-4-5 and C-5-6 and C-6-7 levels.

Q. Those are the notes that you made?

A. That is right,

Q. But what are you basing that on?

A. Examination of the myelogram.

Q. There were no spinal cord signs recorded anywhere, were there?

A. I have to look at the myelogram to see how much of that spondylitic bulge was into the spinal canal.

I don't have it now. I have a notation here, "Spondylitic changes."

Q. That constitutes the recording of spinal cord signs?

A. No.

Q. That would be nerve root compression?

A. Well, this is just reading into the myelogram findings.

Q. Can you point to us any evidence, either in the chart or anything, that would support the conclusion of spondylitic ridges causing pressure on the spinal cord and over the

outgrowing nerve roots?

A. Yes. The myelogram report and my own report,.

Q. And your own report, you are stating, is based upon your viewing of the myelogram?

A. That is correct, and I do 1,000 of them every year.

Q. I think we've already covered this, but correct me if I am wrong:

In any EMG done pursuant to the operation, there was no evidence of nerve root compression, right?

A. The EMG did not show any nerve root damage in the cervical area.

Q. The leg pain that he was evidencing, is it your opinion that that leg pain was nerve root in origin?

A. That's what I assumed, that the pain in the lower extremity was coming due to nerve root compression, and the EMG had shown lumbar radiculopathy.

Q. Is it your professional opinion that -- you said you made that assumption.

I want to know, is it your opinion that the left leg pain was nerve root in origin?

A. That is right.

Q. Could the left leg pain be explainable by the thalamic pain syndrome?

A. No. He had that pain even before the operation.

Q. The mechanism of his left arm pain, is that nerve root

in origin, in your opinion?

A. That is correct,

Q. So it is your opinion that that is not due to the infarct that occurred during the first surgery?

A. No. The patient was brought into the hospital during the first admission for the pain problem, before the endarterectomy was undertaken.

Q. And the procedure that you did on him in the second confinement constituted a laminectomy of C-4 through C-7, is that correct?

A. Let me just doublecheck,

Yes.

Q. And bilateral foraminotomies at the 4th, 5th and 6th interspace levels?

A. That is correct.

Q. That's fairly extensive?

A. Yes, it is.

Q. Did anything unusual or out of the ordinary occur during that second procedure?

A. Nothing that I can recall,

Q. Did everything go well, in your estimation?

A. That is correct,

Q. No complications or similar incidents as what had occurred during the endarterectomies?

A. No,

Q. How would you describe his postoperative course?

A. The patient had pain postoperatively.

He was real uncomfortable, He had pain in his neck, shoulder and arm, Then he started improving again.

Q. And did you make some progress notes for him after that second surgery?

A. Yes, I have made notes.

Q. If you could, as you did previously, relate to us word for word the dates and notes that you made, so that we can be clear as to what your writing was?

A. On the 10th, decompressive cervical laminectomy, 4th, 5th, 6th and 7th levels.

Bilateral foraminotomies at the 4th, 5th and 6th levels, more extensive on left side,

The next note is in my handwriting on the 16th of December. Patient says that he still is having considerable spasms in the neck, ambulating.

And on the 18th of December, patient improving slowly, having still pain left arm.

21st of December, improving, surgical wound healing well. Ambulating more,

Then the 24th of December, patient alert, has numbness left hand, but 'sharppain left arm receding.

Patient moving all extremities, instructions given. Tylenol was given and Soma compound.

P Was that the last progress note?

A. Yes.

P The date of that was what?

A. The 24th of December, 1982,

P Was he instructed to follow up with you?

A. That is right.

Q. You saw him next when?

A The 14th of January, 1983,

Q. And at that time, when you saw him in the office, he was still complaining of pain in the neck with radiation into the left shoulder and left arm, is that correct?

A. That is correct.

Q. He still had mild weakness?

A. Of abduction in left arm,

Q. And left hand grip?

A. Weakness.

Q. You make this statement in your letter to Dr. Weiner: We **has** not improved sufficiently yet,

A. Correct.

Q. Were you meaning to state by that sentence that you were not satisfied with his progress at that time?

A. That is correct.

Q. Now, these complaints that he had in the left arm, left neck, left shoulder, left arm, was it or is it your professional opinion that those related to the complication of

the endarterectomy or from his cervical lumbar problems?

A. No. The pain problem, I thought, was related to the neck problem.

Q. I am sorry?

A. The pain problem related to the neck problem.

Q. To his cervical problem?

A. Cervical spondylosis,

Q. So to that extent the procedure that had been done did not relieve that?

A. It did not relieve as much as I wanted it to relieve.

Q. You had given him some neck exercises to do and asked him to come back in approximately six weeks?

A. That is right.

Q. Did he return to see you?

A. He returned to see me on the 10th of February, 1983.

Q. Slightly less than a month later?

A. Correct,

Q. Still complaining of pain in neck with radiation to the left arm, right?

A. Right,

Q. Neurologically still had weakness on the left side?

A. Yes.

Q. Now that would relate back to the endarterectomies, correct, or are we talking about a different kind of weakness?

A. I think he had another weakness after the neck operation.

This, I think, was relating to the neck surgery.

Q. Okay, Had he completely recovered from the weakness of the endarterectomy by that time?

A. I have made a note: He had done pretty well. The weakness on the left side has subsided from the endarterectomy.

Q. You again, in the January letter, then again in the February letter make reference to ankylosing spondylitis.

A. This is a degenerative disease where the calcification of the ligaments in the spine becomes almost totally immobile.

It becomes very stiff and practically no movements are seen in the spine.

Many times the patient develops symptoms before you totally see the signs on the x-rays; as I said, calcification of practically all the ligaments in the spine.

Q. Is that a treatable condition?

A. You can relieve the pain to some extent, but it is not -- you cannot get rid of the problem.

Q. Can you treat it surgically or with medication; or how do you treat it to relieve the pain?

A. The pain medications and anti -- non-steroidal anti-inflammatory medications.

Q. It is not a surgical approach to that point?

A. Sometimes these patients develop paralysis, weakness, compression of the spinal cord, nerve root, and in those cases, you have to operate.

Q. How do you diagnose it?

A. Many a times x-rays are the best.

Q. X-rays?

A. Yes.

Q. Okay,

A. But the patient usually develops symptoms long before you see the signs on the x-rays, Now since then, there have been a lot more new tests.

Q. Well, let's just talk in terms of 1982-83.

A. At that time just x-rays anda strong suspicion of the disease.

Q. Are we correct in saying that there was no evidence in any of the x-rays that he had up to that time?

A. I had not seen anything definite indicating that he had ankylosing spondylitis.

Q. You had actually been in and taken a look at his spine during the surgery, had you not?

A. We look at a part of the spine, You don't see the whole thing.

Q. You were operating in the neck area, right?

A. *Yes,*

Q. Where you are making reference to this ankylosing spondylitis, did you make any direct observation of it when you operated on him?

A. At that time I couldn't say.

Again, I have to repeat, I did not see the whole spine, We are operating only the back part of the spine.

Q. The areas that you did see, though, you did not observe any ankylosing spondylitis?

A. No.

Q. Is that something that is grossly observable if you are in there operating?

A. If it involves the anterior part of the spine, and the ligaments, if they are calcified, then I am not able to see that part from behind.

Q. But if there is ankylosing spondylitis in the area that you are operating on, then is it grossly observable? Can you see it?

A. The posterial longitudinal ligaments I am able to see.

Q. On February 10th your instructions to him were to return in about six weeks, and it appears that he did around the end of March.

A. Yes.

P According to your letter, you describe him as complaining of considerable pain across the neck and left shoulder area and numbness in the left leg.

A. That is correct,

Q. Was the numbness a new finding at that time?

A. This is the first time I have made that notation: Numbness in the left leg.

Q. And the numbness -- and I think previously you stated that his left leg problems were caused by his spinal problem?

A. Pain,

Q. What's causing the numbness at this point?

A. The numbness, I still think, was probably relating to the back problem.

Q. Whataspect or nature of the back problem?

A. Nerve root compression.

Q. Was there nerve root compression occurring at this time?

A. The myelogram did not show it,

The EMG had shown evidence of damage.

Q. It is nerve root compression in an area that was not revealed in the myelogram?

A. Probably.

Q. What root or nerve roots are we talking about?

A. Usually when we refer to numbness in the leg, it involves the 3rd, 4th, 5th and 1st sacral nerve roots.

Q. At this point you described his pain as considerable. It appears that there was a worsening of his pain complaints in the left shoulder.

A. *Yes*.

Q. It is your feeling at that time that those related to his neck and spinal problem?

A. Spinal problem.

Q. What was causing the escalation of pain at that point?

A. Again as I said earlier, at that time I started suspecting, does he have something else going on like ankylosing spondylitis or nerve root compression?

These are the possibilities I was entertaining. I wanted to see if I could find if he has some of those problems,

Q. Were you satisfied at the time you operated on him that you had relieved the problems surgically?

A. Yes, I had.

I was satisfied.

I was satisfied decompressing the nerve from behind,

Q. At that time you indicate in your letter that you are thinking about getting another opinion.

A. Right.

Q. And that Mr. Hall was agreeable to that -- by the way, was he basically a cooperative patient?

A. He was a very tense person. He was very apprehensive and very tense, in general terms.

Q. Based upon your findings of reasons for his pain, that would not be difficult to understand, would it?

In other words, you didn't suspect that his complaints were not genuine, did you?

A. No, I did not suspect that.

Q. Did you feel that he was basically being true?

A. I know he was suffering.

Q. He was basically being truthful to you?

A. Yes.

Q. Was he cooperative, inasmuch as he followed your instructions, and did what you told him to?

A. Basically he was doing what I said,

Q. Did you actually have him seen by someone else?

A. Yes. I wanted to make an arrangement at that time for him to go see another specialist,

And at that time I think he wanted me to send him to somebody else, and I think we made arrangements at that time for him to see somebody else.

I told him to come back. He never got back to me again.

Q. Who did you want him to be seen by?

A. I was going to send him to a specialist in arthritis at Metro General Hospital.

Q. Who is that?

A. I don't remember the exact name now, but I was going to send him to the Department of Arthritis,

Q. At Metro General?

A. At Metro General,

Q. You are saying he wanted to go to someone else?

A. Yes, I think so.

MR. GOLDWASSER: I don't want you to guess,

A. This is the recollection I have.

MR. GOLDWASSER: All right. Fine,

Q. Who was that someone else?

A. I think he mentioned Cleveland Clinic.

Q. Did you then arrange for the referral to the Cleveland Clinic?

A. That's my impression, that we made arrangements.

We said, okay. We'll get all the records ready and make arrangements.

Q. Do you have any indication or evidence that the information was --

A. No.

Q. Excuse me, let me finish,

Do you have any indication that the information was sent to anyone else, be it the Cleveland Clinic?

A. I don't have anything written.

Q. Do you know that it was actually sent to someone else?

A. Yes. That's my recollection, that it was forwarded to another doctor.

Q. Who was it forwarded to?

A. I don't know the name, to whom he went.

Q. Did you receive any letters, make a followup evaluation

A. No, I did not get followup on him.

Q. The last time you saw him was March 31st of 1983?

A. That is correct.

Q. And you have not had occasion to see him or speak to him since then?

A. I don't have any recollection of it.

Q. You don't have any office records or notes to indicate that you saw him since March 31st, 1983?

A. That is correct.

Q. Based on his situation as of the last time you saw him, is it your professional opinion that the extensive spinal surgery that you performed on him was successful?

A. No. I did not say that.

Q. I didn't say you did; I am just asking you.

A. Successfully in the sense of relieving the symptoms?

Q. Yes.

A. No, it did not relieve his symptoms. He was still suffering from pain, and I was concerned about it.

Q. Would we be fair in an observation that he was in more pain after that surgery than he was before?

A. In the last letter of March 31, 1983, I have mentioned that he is still complaining of considerable pain across the neck and left shoulder, and numbness in the left leg.

I did not get the impression that he was any worse off than he was before.

Q. How would you characterize that, about the same as he had been before?

A. Yes, I would say that.

Q. How would you describe the nature of the left hemiparesis after the spinal surgery?

MR. GOLDWASSER: Hemiparesis?

Q. As opposed to before?

MR. GOLDWASSER: I didn't know that was mentioned before.

Q. Did he not have hemiparesis?

A. On the left side, after the neck operation.

Q. Well, he had it after the endarterectomies, did he not?

A. That is right.

Q. Did he have it after the spinal surgery?

A. Not as far as I know.

Q. After the spinal surgery, did he have numbness and weakness in the left first through third fingers?

A. I have to look.

Q. Numbness and weakness in the left first through third fingers.

A. I have to look in the chart.

He was complaining of pain and numbness.

I don't have an exact notation as to the areas of the arm.

Q. Okay. It may have even been into the hands, into the left hand, fingers of the left hand.

A. I just have left arm, left hand.

Yes, has numbness left hand, but sharp pain left arm.

Q. He had general pain in the left arm, generalized pain in the left arm?

A. Yes.

Q. He had radiation of pain from the neck into the fingers?

A. Into the whole left arm he had pain,

Q. As things are mentioned in one of your letters, he had some lightheadedness?

A. Yes.

Q. Possibly posterial in nature?

A. No, I didn't mention that,

Q. Are you saying it was not posterial?

A. Could be anything,

Q. Could have been posterial?

A. Could have been.

Q. Is it fair to say that even after the neck surgery and the spine surgery, that his neck motion was severely limited?

A. That is correct.

Q. And that his symptoms had been progressively worsening?

A. I am sorry, can you repeat that question?

Q. That his symptoms had continued to progress into worsening fashion,

A. His symptoms were not relieved. He was still suffering from pain in the neck and left arm.

Q. You will not agree with me that they were not progressively getting worse?

MR. GOLDWASSER: The doctor already testified they were about the same.

Q. Is that your testimony?

A. Yes.

Q. His limitation in neck range of motion, was that limited in all directions?

A. Yes.

Q. Were his posterior neck muscles tight bilaterally?

A. Which part of the hospitalization are you referring to, after the operation?

A. Anytime post-operatively,

Q. Yes. Sometimes they do have that, because of the surgery, spasms in the neck.

Q. But did he have it?

A. I prescribed muscle relaxants for him, so --

9 What's hypalgesia?

A. Hypo or hyper?

MR. GOLDWASSER: I don't know.

9 Are you familiar with hypalgesia?

A. I am assuming that's a reduction in pain sensation.

Q. Did he have a reduction in his pain sensations in the left extremities?

A. Not that I know of.

Q. Do you have an opinion, with any reasonable degree of neurosurgical probability as to whether or not Mr. Hall sustained any cervical cord damage during the endarterectomies?

A. Yes, I have an opinion.

Q. Waht is your opinion?

A. He did not suffer any damage to the spinal column.

Q. No cervical cord damage?

A. That is correct.

Q. Based on your knowledge and experience, would extension of the neck during intubation be competent to cause cervical cord damage?

A. It is one of the possibilities.

Q. But it is your opinion in this case that he did not?

A. You could not budge his neck. It was stiff.

He couldn't turn it in any fashion.

Q. As I recall from your operative note, there was some movement of his neck, right?

A. I don't know about that,

Q. I will have to find the operative note.

During the endarterectomy.

A. The endarterectomy?

Q. Yes. It states that near the beginning.

A. Slightly extended and slightly turned to the left side.

Q. You are saying that was regarded so slight as to be minimal?

A. That's it.

Q. You assume that it was extended and turned far enough for you to be able to do what you had to do?

A. Yes.

Q. With respect to his left leg weakness, would you say that it was the same or less or more, after the second operation, after the spinal operation?

A. I did not find any weakness in the left lower extremity.

Q. No left leg weakness?

A. No, I didn't make any mention of that.

Q. If one was found to have left leg weakness after the spinal surgery, would that be suggestive of cord damage?

A. Then I would expect weakness of all four extremities, when we are operating on the neck, because the whole spinal column was exposed.

I would expect more like a quadroparalysis than monoparalysis.

Q. My question was: If someone was found to have left leg weakness after spinal surgery, would that be suggestive of cord damage?

A. Yes, there are associated signs.

Q. The left arm symptoms, are they suggestive of fixed

root compromise?

A. I think it was more than one root, fi e, six, seven.

Q. The left hemiparesis that he had after the endar-terectomy, would you characterize that as "minor"?

A. Mild.

Q. Mild.

Does mild relate to minor in any fashion, lesser or more?

Is mild worse than minor?

A. Minor is not like minor league and major league. We classify them as mild, moderate, extensive and severe. Those are words we use, You can choose any word you want.

Q. If Mr. Hall had ankylosing spondylitis, would that condition be competent to explain the complaints and symptoms that he had?

A. Pain, yes. A patient could have a lot of pain and severe limitation of movement.

Q. So that condition could present with the same clinical picture that he presented with?

A. Yes, it could.

Q. Am I safe in concluding that at no time up until towards the end of your treatment of him -- when you were writing about it in your letters, did you ever consider ankylosing spondylitis as the cause of his problem?

A. No. I wasn't suspecting it, and subsequently I don't

know whether it turned out to be ankylosing spondylitis or not.

That was one of the possibilities he was considering.

Q. You never considered that until the end of your treatment, when you wrote about it in the letters to Dr. Weiner?

A. That is correct,

Q. If you had considered that as part of a differential diagnosis, or earlier on, what from a neurosurgical diagnosis would have been indicated as followup care or treatment or evaluation?

A. I don't think there would have been much of a difference, because he was still suffering from pain, and I had to give him pain medications, and again nonsteroidal anti-inflammatory drugs.

I had to just keep an eye on him.

Q. Are you saying that the drugs that you would use to treat ankylosing spondylitis are the same drugs he had been on?

A. Yes, A couple of the drugs he had been on.

Q. No different drugs or regimen of treatment?

A. At that time I don't think there was anything different.

Q. Even if it was suggested or diagnosed as being ankylosing spondylitis?

A. That is correct.

Q. Is it your testimony, Doctor, that the cervical and lumbar spinal operation you did on Mr. Hall was not causative of any additional symptoms or pains or problems for Mr. Hall?

A. I did not do any lumbar operations on him.

Q. I'm sorry,

The cervical operation you did on him was not causative of any additional or new pain or symptomatology --

A. That is correct,

Q. -- that he did not have prior to that time?

A. He had a progressive pain problem coming on and progressing.

Q. And it appears, from what you are saying, that in essence the procedure didn't help him any?

A. That particular procedure did not help him as much as I expected.

Q. He was the same after the procedure as he had been before?

A. Right.

Q. But no worse?

A. I expected him to continue to worsen if it didn't help him.

Q. If you hadn't operated on him, he would have gotten worse?

A. I would expect so, because he had a pain problem becoming worse.

Q. By the time you and he parted company, he wasn't any worse; he was the same as before?

A. Yes. That's my opinion.

Q. What happened to him beyond that, you wouldn't know, of course?

A. Unless you tell me.

MR. GOLDWASSER: We will find out.

Q. You don't know whether he got worse after that or not?

A. No.

Q. Doctor, you were the doctor that was exclusively in charge of Mr. Hall's care and treatment from the standpoint of decisions about procedures to do, and whatever, were you not?

A. Well, there were two other doctors involved,

We all like to agree with each other, then follow a line of treatment, and then take care of the problem,

Q. Those doctors being who, Dr. Weiner and --

A. Primarily Dr. Weiner, his family physician.

Q. Dr. Weiner, to your knowledge, is not a neurosurgeon, is he?

A. No, he is not, He is a family physician, but he is familiar with his problems.

Q. You actually performed the two surgeries?

A. That is correct.

Q. Doctor, I am looking at the radiology work which includes the myelogram reports that were done on December 6 of 1982, and that was prior to your operating on Mr. Hall the second time, correct?

A. Yes.

Q. Cervical spine, at least the report of the radiologist, raised the possibility of ankylosing spondylitis in the cervical spine films, did he not?

A. He says it cannot be excluded,

Q. Do you remember being aware of that at the time?

A. At this time I don't recall, It is possible. I might have mentioned it to Dr. Arco, and he might have put it in, because whenever we do the x-rays and myelograms, we are all there.

Then we go over the films.

Q. Based on what you have told us up to this point, if the person has ankylosing spondylitis, doing the procedures that you did would be of no use, would it?

A. No. If he has nerve root compression you still have to decompress the nerve; even in ankylosing spondylitis, calcification, bone spurs, if you have that problem, you still have to decompress.

Q. I asked you what the treatment was.

A. Depends on the specific problem. If he has no problem other than just ankylosing spondylitis, then you don't do any.

Q. Doctor, have we covered all the aspects of your contact and care and treatment with Mr. Hall?

A. If we haven't, you can ask me more questions.

Q. Have we covered everything about your contact with him, all of the contacts that you had with Mr. Hall?

MR. GOLDWASSER: What he means is -- you are talking about the chronological course of his medical care and surgical care of the patient, going from the first hospitalization until March of 1983.

A. I think I talked to him on the telephone a couple of times.

I think it was all during that period of time. I don't remember talking to him afterwards.

Q. Okay. We covered all of the surgery that you did on him?

A. I think so,

Q. And you had never seen him in a professional capacity before that first time that you saw him --

A. That is correct.

Q. -- on referral from Dr. Weiner?

A. That is correct.

MR. **KAUFMAN:** I don't have any further questions for you.

MR. **BUCK:** Doctor, I represent the hospital. I have one question.

**BY MR. BUCK:**

Q. Do you have any knowledge of anything that an employee of the hospital, i.e., residents, interns, house doctors, et cetera, did or failed to do which contributed to this man's medical complications?

A. There was nothing done.

Q. None of the employees of the hospital did or failed to do something which contributed to his medical complications?

A. That is correct.

MR. **BUCK:** Okay, Thank you,

THE WITNESS: Thank you very much.

(DEPOSITION CONCLUDED,)

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**NOOR HASSAN,** M.D.

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CERTIFICATE

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

I, Robert A. Cangemi, Notary Public within and for the State of Ohio, duly commissioned and qualified, do hereby certify that the within-named witness, DR. NOOR HASSAN, was by me first duly sworn to testify the truth, the whole truth and nothing but the truth in the cause aforesaid; that the testimony then given by him was by me reduced to stenotypy in the presence of said witness, afterwards transcribed upon a typewriter, and that the foregoing is a true and correct transcript of the testimony so given by him as aforesaid.

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

I do further certify that I am not a relative, employee or attorney of 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, on this 28th day of June 1985.

ROBERT A. CANGEMI, Notary Public
within and for the State of Ohio

My commission expires on February 26, 1986.

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