

<p>1</p> <p>IN THE COURT OF COMMON PLEAS OF CUYAHOGA COUNTY, OHIO</p> <p>-----</p> <p>Karl McElfish, II, et : al., :</p> <p>Plaintiffs, :</p> <p>vs. Case No. 465040 :</p> <p>Meridia Medical Group, : et al., :</p> <p>Defendants. :</p> <p>-----</p> <p>DEPOSITION OF CHARLES L. HITCHCOCK, M.D., PH.D.</p> <p>-----</p> <p>Taken at FedEx Kinko's 4516 Kenny Road Columbus, Ohio 43220 April 22, 2005, 11:05 a.m.</p> <p>-----</p> <p>Spectrum Reporting LLC 333 Stewart Avenue, Columbus, Ohio 43206 614-444-1000 or 800-635-9071 www.spectrumreporting.com</p> <p>-----</p> <p>Realtime + Videoconferencing + Trial Presentation + Video Spectrum Reporting LLC</p>	<p>1</p> <p>3</p> <p>A P P E A R A N C E S (Cont'd)</p> <p>2</p> <p>3</p> <p>ON BEHALF OF DEFENDANT LUCILLE STINE, M.D.:</p> <p>4</p> <p>Ann R. Mitchell, Esq. (Via videoconference) Gallagher, Sharp, Fulton & Norman Seventh Floor, Bulkley Building 1501 Euclid Avenue Cleveland, OH 44115</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>
<p>1</p> <p>A P P E A R A N C E S</p> <p>2</p> <p>ON BEHALF OF PLAINTIFFS:</p> <p>3</p> <p>Michael F. Becker, Esq. (Via telephone) Becker & Mishkind 134 Middle Avenue Blyria, OH 44035</p> <p>4</p> <p>5</p> <p>6</p> <p>ON BEHALF OF DEFENDANT MERIDIA EUCLID HOSPITAL:</p> <p>7</p> <p>8</p> <p>Christine S. Reid, Esq. (Via videoconference) 1400 Midland Building 101 Prospect Avenue, West Cleveland, OH 44115</p> <p>9</p> <p>10</p> <p>ON BEHALF OF DEFENDANT MERIDIA MEDICAL GROUP, GREGORY KARASIK, M.D., AND YELENA BEREGOVSKAYA, M.D.:</p> <p>11</p> <p>12</p> <p>Stephen E. Walters, Esq. (Via videoconference) Reminger & Reminger 1400 Midland Building 101 Prospect Avenue, West Cleveland, OH 44115</p> <p>13</p> <p>14</p> <p>ON BEHALF OF DEFENDANT CHARLES BAILIN, M.D.:</p> <p>15</p> <p>16</p> <p>Robert L. Austria, Esq. (Via videoconference) Moscarino & Treu LLP The Hanna Building 1422 Euclid Avenue, Ste. 630 Cleveland, OH 44115</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	<p>1</p> <p>4</p> <p>Friday Morning Session April 22, 2005, 11:05 a.m.</p> <p>2</p> <p>3</p> <p>-----</p> <p>4</p> <p>S T I P U L A T I O N S</p> <p>5</p> <p>6</p> <p>It is stipulated by counsel in attendance that</p> <p>7</p> <p>the deposition of CHARLES L. HITCHCOCK, M.D.,</p> <p>8</p> <p>PH.D., a witness herein, called by the Plaintiffs</p> <p>9</p> <p>for cross-examination, may be taken at this time</p> <p>10</p> <p>by the notary by agreement of counsel and without</p> <p>11</p> <p>other legal formality; that said deposition may be</p> <p>12</p> <p>reduced to writing in stenotypy by the notary,</p> <p>13</p> <p>whose notes may thereafter be transcribed out of</p> <p>14</p> <p>the presence of the witness; that proof of the</p> <p>15</p> <p>official character and qualification of the notary</p> <p>16</p> <p>is waived.</p> <p>17</p> <p>-----</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>

<p>1 CHARLES L. HITCHCOCK, M.D., PH.D. 2 being first duly sworn, as hereinafter certified, 3 testifies and says as follows: 4 CROSS-EXAMINATION 5 6 BY MR. BECKER: 7 Q. Doctor, good morning. My name is Mike 8 Becker, and I'm sorry I have to take your 9 deposition by phone, but at the moment I have my 10 hands full with another case. 11 Would you tell me your full name, 12 please. 13 A. Charles Lawrence Hitchcock. 14 Q. Doctor, have you ever been deposed 15 before? 16 A. Yes. 17 Q. All right. I want to review the ground 18 rules with you. This is a question-and-answer 19 session under oath. It's important that you 20 understand the question that I've asked. If for 21 any reason the question doesn't make sense or is 22 inartfully phrased, I want you to stop me and tell 23 me so, and I'd be most pleased to rephrase or 24 restate the question. Fair enough?</p>	<p>5 7 1 A. In my office. 2 Q. Are they handwritten or are they typed? 3 A. Handwritten. 4 MR. BECKER: Steve, could we get an 5 agreement that the Doctor is going to quickly or 6 as soon as reasonably possible send me the notes? 7 MR. WALTERS: Yes. 8 Q. Doctor, we are going to jump gear here. 9 We're going to mark those notes. In fact, 10 probably the best way to do it is to send it right 11 to the court reporter. She can mark it as 12 Plaintiff's Exhibit 1, and then we'll go from 13 there, fair enough, Doctor? 14 A. Fair enough. 15 Q. Now -- 16 MR. BECKER: And, Steve, could we get 17 an understanding that if for any reason I can't 18 interpret his notes that we will subsequently gain 19 an interpretation from him? 20 MR. WALTERS: Yes. 21 Q. Doctor, let's talk a little bit about 22 your medical/legal experience. How long have you 23 been reviewing medical/legal matters? 24 A. For about five years, six years,</p>
<p>6 1 A. Fair enough. 2 Q. However, unless you indicate otherwise 3 to me, I'm going to assume that you have fully 4 understood the question that I have posed and you 5 are giving me your most -- your best and complete 6 answer, fair enough? 7 A. Fair enough. 8 Q. Doctor, I'm going to hold off getting 9 into the merits, the details of your opinion until 10 everybody arrives. 11 MR. WALTERS: We're all here, Mike. 12 MS. REID: We're all here, Mike. 13 Q. Great. Doctor, did you have any notes 14 as a result of your review in this case? 15 A. I have my letter to Marilena DiSilvio 16 in front of me. 17 Q. All right. But in addition to drafting 18 the letter, did you -- as you were working this 19 case up and looking at slides, did you create any 20 handwritten or computer typed notes? 21 A. Yes. 22 Q. Are they still in existence? 23 A. Yes. 24 Q. Where are they located?</p>	<p>8 1 somewhere in that range. 2 Q. Can you give me a sense as to how many 3 cases you've looked at in the last five years? 4 A. I've been involved in 17 different 5 cases. 6 Q. Have any of those cases involved a 7 maternal death? 8 A. No. Well, no, I'm sorry. One. One 9 case did. 10 Q. All right. And do you have a list or a 11 long sheet of your 17 cases? 12 A. No. 13 Q. The case that involved maternal death, 14 what was your conclusion as to the maternal -- the 15 source or the reason the mother died? 16 A. It was actually this case. But for 17 another defendant. 18 Q. Oh. I'm confused. Can you clarify 19 that? 20 A. I was asked to review the autopsy 21 report on this case for another defendant and for 22 another lawyer. 23 Q. And which defendant would that be? 24 A. The nephrologist, as I understand.</p>

<p>9</p> <p>1 Q. Okay. Do you remember the name of the</p> <p>2 attorney that secured you to review the case?</p> <p>3 A. I think it was Mr. Meadows.</p> <p>4 Q. Okay. Fair enough. So you look at</p> <p>5 maybe two or three cases a year and you probably</p> <p>6 might give one deposition a year?</p> <p>7 A. I have only -- this is my third</p> <p>8 deposition.</p> <p>9 Q. All right. Have you ever appeared live</p> <p>10 at trial in a courtroom?</p> <p>11 A. Not in a medical/legal sense, no.</p> <p>12 Q. In what sense did you appear live at</p> <p>13 trial?</p> <p>14 A. A friend was in an accident, and I</p> <p>15 testified for him as to the injuries that he</p> <p>16 incurred.</p> <p>17 Q. Doctor, I have a copy of your</p> <p>18 curriculum vitae. Did you bring a copy with you?</p> <p>19 A. No.</p> <p>20 Q. Are there any articles that you have</p> <p>21 authored or co-authored dealing with the subject</p> <p>22 matter of this case?</p> <p>23 A. No.</p> <p>24 Q. What do you consider your specialty</p>	<p>11</p> <p>1 in the pathology lab, are you an instructor or</p> <p>2 what?</p> <p>3 A. I would say 50 percent of my time is</p> <p>4 associated with the autopsy service, which I also</p> <p>5 direct, and 50 percent of my time is related to</p> <p>6 education, medical education. I work an average</p> <p>7 of 60 to 70 hours a week.</p> <p>8 Q. When you say you direct the autopsy</p> <p>9 service, does Ohio State have their own autopsy</p> <p>10 service? You mean for the medical school?</p> <p>11 A. For the -- for OSU Medical Center,</p> <p>12 which includes the main hospital, the James</p> <p>13 Hospital, the Ross Heart Hospital, and OSU East.</p> <p>14 We also have -- we do private autopsies as well.</p> <p>15 Q. I think you've told me that you've done</p> <p>16 about six maternal autopsies on maternal deaths,</p> <p>17 correct, in your career?</p> <p>18 A. Yes.</p> <p>19 Q. What percentage of those involved</p> <p>20 amniotic fluid embolism, how many of them did?</p> <p>21 A. This is the first one.</p> <p>22 Q. Okay. Do you have your report at hand,</p> <p>23 Doctor?</p> <p>24 A. Yes.</p>
<p>10</p> <p>1 within pathology?</p> <p>2 A. Autopsy pathology, cytology,</p> <p>3 telepathology.</p> <p>4 Q. Can you give me a sense as to how many</p> <p>5 autopsies you've done or reviewed involving</p> <p>6 maternal death in your career?</p> <p>7 A. I would say a half dozen.</p> <p>8 Q. You were board certified in something,</p> <p>9 AP/CP. What does AP -- I'm assuming it's adult</p> <p>10 pathology; is that correct?</p> <p>11 A. No. AP is anatomic pathology. CP is</p> <p>12 clinical pathology.</p> <p>13 Q. Okay. Again, can you distinguish the</p> <p>14 two for me?</p> <p>15 A. Anatomic pathology is microscopic-based</p> <p>16 tissue assessment autopsy, forensic pathology,</p> <p>17 neuropathology. Clinical pathology is laboratory</p> <p>18 pathology, microbiology, hematology, chemistry,</p> <p>19 toxicology, those areas.</p> <p>20 Q. All right. You are a professor of</p> <p>21 pathology at Ohio State?</p> <p>22 A. I am an associate professor.</p> <p>23 Q. Okay. Can you give me a sense as to</p> <p>24 what your average week is like? I mean, are you</p>	<p>12</p> <p>1 Q. Did you bring that with you?</p> <p>2 A. Yes.</p> <p>3 MR. WALTERS: He does.</p> <p>4 Q. Is that the only report you created on</p> <p>5 this case?</p> <p>6 A. Yes.</p> <p>7 Q. What I'm going to do, Doctor, is just</p> <p>8 ask you a few questions off of your report. First</p> <p>9 page, paragraph No. 1a, as in apple, the first</p> <p>10 sentence says, "Careful review identified multiple</p> <p>11 fetal and placental derived emboli within the</p> <p>12 venous vasculature of the lung."</p> <p>13 My question is: How many fetal and</p> <p>14 placental derived emboli were you able to</p> <p>15 identify?</p> <p>16 A. I did not quantitate them, but I would</p> <p>17 say it was between 10 and 15.</p> <p>18 Q. And how are you distinguishing fetal</p> <p>19 versus placental derived emboli?</p> <p>20 A. Looking for -- I'm looking for amniotic</p> <p>21 fluid, squamous epithelial cells and then</p> <p>22 trophoblasts and syncytiotrophoblasts.</p> <p>23 Q. Did you take photographs of any of</p> <p>24 these slides?</p>

<p>13</p> <p>1 A. Yes.</p> <p>2 Q. Is there one or two or three</p> <p>3 photographs that you've taken that in your mind</p> <p>4 best depict fetal squamous cell?</p> <p>5 A. Yes.</p> <p>6 Q. Did you say "yes"?</p> <p>7 A. Yes.</p> <p>8 MR. WALTERS: He did.</p> <p>9 Q. How are they identified, your</p> <p>10 photographs, your -- whatever you call them,</p> <p>11 Kodachromes or digital shots, how are they</p> <p>12 identified? By number?</p> <p>13 A. They are identified as to what they</p> <p>14 show.</p> <p>15 Q. Okay. How difficult would it be for</p> <p>16 you to reproduce the slides that you feel reflect</p> <p>17 the fetal squamous cell?</p> <p>18 A. Easily done.</p> <p>19 MR. WALTERS: You mean photos?</p> <p>20 A. I don't have photos. They're digital.</p> <p>21 They're digital images that have been unaltered.</p> <p>22 Q. Okay. Could you send the ones that you</p> <p>23 feel depict fetal squamous cell to Mr. Walters and</p> <p>24 he can send them to me. Is that okay?</p>	<p>15</p> <p>1 as well as on eMedicine. I did this as more</p> <p>2 information to the lawyers to explain exactly, you</p> <p>3 know, one, a site that has that information and,</p> <p>4 two, what they saw or what they reported.</p> <p>5 Q. Did you pull any articles, medical</p> <p>6 journal articles, in your research?</p> <p>7 A. Yes.</p> <p>8 Q. Which articles did you pull?</p> <p>9 A. One that's not noted here is called the</p> <p>10 "Clinical Pathologic [sic] Comparison Between</p> <p>11 HELLP Syndrome and Severe Preeclampsia" that came</p> <p>12 out in the Journal of Maternal-Fetal and Neonatal</p> <p>13 Medicine in 2004; "Maternal Death in Pregnancy</p> <p>14 from HELLP Syndrome: A Report of Three</p> <p>15 Medico-Legal Autopsy Cases with Special Reference</p> <p>16 to Distinctive Histopathologic Alterations." And</p> <p>17 this was published in the --</p> <p>18 Q. Excuse me, Doctor. Do you have those</p> <p>19 articles at hand?</p> <p>20 MR. WALTERS: Hold on, Mike. He's</p> <p>21 still talking. You guys are talking over each</p> <p>22 other. Go ahead, Doctor.</p> <p>23 A. The last article was published in the</p> <p>24 international journal Legal Medicine in 2002.</p>
<p>14</p> <p>1 A. Surely.</p> <p>2 Q. And how many of those digital shots</p> <p>3 actually, in your mind, clearly detect fetal</p> <p>4 squamous cell?</p> <p>5 A. I would say in my opinion all of those</p> <p>6 that I have -- the pictures I took were</p> <p>7 demonstrable of those.</p> <p>8 Q. All right. And how many shots would</p> <p>9 that be, then?</p> <p>10 A. About six, five or six.</p> <p>11 Q. Now, Doctor, did you do any research</p> <p>12 prior to preparing your October 19, 2004 report?</p> <p>13 A. Yes.</p> <p>14 Q. I see that you referenced a journal</p> <p>15 article by Morre and Ware on Amniotic Fluid</p> <p>16 Embolism, correct?</p> <p>17 A. Which page is that on?</p> <p>18 Q. It's referenced on the first page of</p> <p>19 your report.</p> <p>20 A. All right. This is an eMedicine</p> <p>21 article off a website called emedicine.com.</p> <p>22 Q. Okay. Why did you choose to do your</p> <p>23 research on eMedicine?</p> <p>24 A. I did it both in the printed literature</p>	<p>16</p> <p>1 Q. Do you have those articles at hand?</p> <p>2 A. I have one of them at hand.</p> <p>3 Q. Okay. And how do you know the citation</p> <p>4 of the other two, then?</p> <p>5 A. It's in my report.</p> <p>6 MR. BECKER: Ms. Court Reporter, if you</p> <p>7 would mark the article that he has at hand as</p> <p>8 Plaintiff's Exhibit 2, please.</p> <p>9 - - - - -</p> <p>10 Thereupon, Plaintiff's Exhibit 2 is marked</p> <p>11 for purposes of identification.</p> <p>12 - - - - -</p> <p>13 Q. Doctor, showing you what's been marked</p> <p>14 as Plaintiff's Exhibit 2, please identify that for</p> <p>15 the record.</p> <p>16 A. Yes, I so do.</p> <p>17 Q. Which journal article is it?</p> <p>18 A. This is the Journal of Maternal-Fetal</p> <p>19 and Neonatal Medicine 2004.</p> <p>20 Q. I'm turning to page 4 of your report</p> <p>21 now.</p> <p>22 A. Okay.</p> <p>23 Q. You say there's no single cause for the</p> <p>24 death of Sherry McElfish.</p>

<p>17</p> <p>1 A. Yes.</p> <p>2 Q. Okay. And from that, I'm assuming that</p> <p>3 either you don't have an opinion as to what caused</p> <p>4 her death or you feel that it was multifactorial.</p> <p>5 Which one?</p> <p>6 A. The last, I feel that it's</p> <p>7 multifactorial.</p> <p>8 Q. Okay. Do you think her HELLP syndrome</p> <p>9 played a part in her death?</p> <p>10 A. Yes.</p> <p>11 Q. Do you think her HELLP syndrome was a</p> <p>12 substantial factor in causing her death?</p> <p>13 A. Please define "substantial."</p> <p>14 Q. Was a significant player in bringing</p> <p>15 about her death.</p> <p>16 MR. WALTERS: I'll object.</p> <p>17 A. I still don't know what you mean by</p> <p>18 "significant player."</p> <p>19 Q. Well, some people say a large role or a</p> <p>20 major role versus a small role. If you --</p> <p>21 although I'm not used to putting it in a</p> <p>22 percentage, do you think it was at least 25</p> <p>23 percent responsible for her death?</p> <p>24 A. At least 25 percent, yes.</p>	<p>19</p> <p>1 Apresoline and Demerol which played a part in her</p> <p>2 death?</p> <p>3 A. In my opinion, yes.</p> <p>4 Q. Can you explain to me how Apresoline</p> <p>5 and Demerol played a part in her death?</p> <p>6 A. This is a patient who was in shock, and</p> <p>7 you're causing vasodilatation by the</p> <p>8 administration of Apresoline, which causes now</p> <p>9 less blood to come back to the heart, and that</p> <p>10 means less blood being pumped out. You are also</p> <p>11 at the same time having shock developing, and</p> <p>12 shock also causes vasodilatation and reduction of</p> <p>13 blood flow back to the heart.</p> <p>14 And then you have the resulting</p> <p>15 hypotension, and that's indicative of the</p> <p>16 vasodilatation. And she did not recover from</p> <p>17 that. The pressure never went back up.</p> <p>18 So now you have reduced blood flow to</p> <p>19 the organs, and that means you have impaired</p> <p>20 function of the organs. The Demerol is a drug</p> <p>21 that is for pain management, and it can cause</p> <p>22 respiratory depression. In an already</p> <p>23 respiratory-depressed patient, this has an</p> <p>24 additive or can have an additive effect.</p>
<p>18</p> <p>1 Q. At least. Do you think it was at least</p> <p>2 50 percent responsible for her death?</p> <p>3 A. In my opinion, less than 50 percent.</p> <p>4 Q. Okay. What's the basis of your</p> <p>5 opinion?</p> <p>6 A. Because there are other -- there's</p> <p>7 three other or two other aspects to her death.</p> <p>8 Q. Okay. So would you say it's at least a</p> <p>9 third responsible for her death, or 33 percent?</p> <p>10 A. Yes.</p> <p>11 Q. And what are the other two conditions</p> <p>12 that are responsible besides the HELLP syndrome?</p> <p>13 A. Amniotic fluid emboli and medication.</p> <p>14 Q. And when you say the medication, you</p> <p>15 mean the Demerol?</p> <p>16 A. Well, they gave her Apresoline.</p> <p>17 Q. And later -- Demerol and Apresoline?</p> <p>18 A. Demerol followed, yes.</p> <p>19 Q. I'm sorry, Doctor. I'm having</p> <p>20 difficulty hearing that.</p> <p>21 A. Okay. I will repeat myself. They gave</p> <p>22 her Apresoline, and then they gave her Demerol</p> <p>23 later.</p> <p>24 Q. Okay. So it was the combination of</p>	<p>20</p> <p>1 Q. And do you think it was an additive</p> <p>2 effect here?</p> <p>3 A. I don't know her serum level. I don't</p> <p>4 know what her toxicology results were on this, so</p> <p>5 I cannot give you a firm yes or no answer on that.</p> <p>6 Q. Do you feel that it was injudicious to</p> <p>7 give her Apresoline and Demerol?</p> <p>8 MS. MITCHELL: Objection.</p> <p>9 MR. AUSTRIA: Objection.</p> <p>10 THE WITNESS: Can I answer?</p> <p>11 MR. WALTERS: Yeah. Go ahead, Doctor.</p> <p>12 A. I think not. The Apresoline was given</p> <p>13 because she had a very -- she was very</p> <p>14 hypertensive, 201. They gave her the Apresoline</p> <p>15 to correct that. And she was in pain, and they</p> <p>16 gave her comfort.</p> <p>17 Q. Can we agree that the Apresoline was</p> <p>18 given in response to the hypertension which was</p> <p>19 created -- likely created by the HELLP syndrome?</p> <p>20 Did you say yes?</p> <p>21 MR. WALTERS: He didn't answer.</p> <p>22 A. I'm thinking. I would -- could you</p> <p>23 rephrase that, please.</p> <p>24 Q. All right. Is it more likely than not</p>

<p>21</p> <p>1 that the hypertension that was treated with</p> <p>2 Apresoline came about from her severe preeclampsia</p> <p>3 and HELLP syndrome?</p> <p>4 A. Both of those have hypertension, and I</p> <p>5 would say yes.</p> <p>6 Q. Okay. So the Apresoline -- at least</p> <p>7 the Apresoline should be put in the same category</p> <p>8 as the HELLP syndrome as to what was partly</p> <p>9 responsible for this woman's death, fair enough?</p> <p>10 A. It is treated -- it is used to treat</p> <p>11 hypertension due to either preeclampsia or due to</p> <p>12 HELLP syndrome, as we've stated. And the</p> <p>13 treatment of her hypertension by Apresoline is</p> <p>14 called for.</p> <p>15 Q. Maybe it was a poorly worded question,</p> <p>16 Doctor. In general, can we agree that at least</p> <p>17 two of the factors that you think are responsible</p> <p>18 for this woman's death, two of the three factors,</p> <p>19 came about from her severe preeclampsia HELLP</p> <p>20 syndrome?</p> <p>21 A. Yes.</p> <p>22 Q. In one way or another?</p> <p>23 A. Yes.</p> <p>24 Q. Now, let's turn our attention to the</p>	<p>23</p> <p>1 A. "Of interest here is that the</p> <p>2 proteinuria noted in the office using a dip stick</p> <p>3 was not subsequently identified in urine samples</p> <p>4 sent to the hospital laboratory on 8-21 and again</p> <p>5 on 9-5."</p> <p>6 What I mean by this is that they could</p> <p>7 not confirm in laboratory studies that she had</p> <p>8 proteinuria that was identified in the office.</p> <p>9 Q. Okay. That's fine. I was</p> <p>10 misinterpreting it, then.</p> <p>11 Doctor, were you given a copy of</p> <p>12 Dr. Redline's discovery deposition on this case?</p> <p>13 A. Yes.</p> <p>14 Q. Did you read it?</p> <p>15 A. Yes.</p> <p>16 Q. Do you know Dr. Redline?</p> <p>17 A. No.</p> <p>18 Q. You are not certified in placental</p> <p>19 pathology, correct?</p> <p>20 A. There is no certification for placental</p> <p>21 pathology.</p> <p>22 Q. Excuse me. I misspoke. Pediatric</p> <p>23 pathology.</p> <p>24 A. No.</p>
<p>22</p> <p>1 third factor. I understand you feel that you see</p> <p>2 evidence of AFE, correct?</p> <p>3 A. Yes.</p> <p>4 Q. And you feel that the AFE was likely</p> <p>5 secondary to an abruption that occurred just</p> <p>6 before delivery?</p> <p>7 A. Yes.</p> <p>8 Q. If the abruption that occurred just</p> <p>9 before delivery was secondary to severe</p> <p>10 preeclampsia from HELLP syndrome, can we agree,</p> <p>11 then, that the AFE was likely connected to the</p> <p>12 very severe preeclampsia?</p> <p>13 MR. WALTERS: This is a hypothetical</p> <p>14 question, I'm assuming.</p> <p>15 MR. BECKER: Yes.</p> <p>16 MR. WALTERS: Go ahead, Doctor.</p> <p>17 A. Yes. Hypertension puts the patient at</p> <p>18 increased risk for abruption.</p> <p>19 Q. Doctor, I'm back to your report on page</p> <p>20 4 with the sentence beginning with the words "Of</p> <p>21 interest here." Let me know when you find it.</p> <p>22 A. Yes.</p> <p>23 Q. Take a look at that sentence and tell</p> <p>24 me what you mean by that.</p>	<p>24</p> <p>1 Q. Did you make a finding of any</p> <p>2 abnormality in this mom's heart?</p> <p>3 A. Some very subtle abnormalities were</p> <p>4 seen.</p> <p>5 Q. What did you see, sir?</p> <p>6 A. I saw a -- as my report on the bottom</p> <p>7 of page 3 states, we saw a focal area of</p> <p>8 subendocardial necrosis and an area of</p> <p>9 interstitial fibrosis.</p> <p>10 Q. Okay. That may well be simply an</p> <p>11 incidental finding?</p> <p>12 A. The necrosis -- actually I saw an area</p> <p>13 of hemorrhage. That's not incidental in this</p> <p>14 case. It reflects the fact that she was</p> <p>15 undergoing shock, in my opinion.</p> <p>16 Q. All of those reflect shock?</p> <p>17 A. I would say the finding of</p> <p>18 subendocardial hemorrhage and necrosis is</p> <p>19 consistent with that picture. The interstitial</p> <p>20 fibrosis, no.</p> <p>21 Q. Okay. And what does that mean,</p> <p>22 "interstitial fibrosis"?</p> <p>23 A. It means scarring. It means that she</p> <p>24 could have had aspects of coronary artery disease,</p>

<p>25</p> <p>1 which we did not see here. It could just be a</p> <p>2 normal variant in a person.</p> <p>3 Q. Did you see any evidence in the heart,</p> <p>4 by enlargement of any of the heart walls and the</p> <p>5 weight of the heart, to support the fact that</p> <p>6 there was likely chronic hypertension present in</p> <p>7 this mom?</p> <p>8 A. No.</p> <p>9 Q. Did you say "no"?</p> <p>10 A. I said no.</p> <p>11 MR. WALTERS: He did.</p> <p>12 Q. Would you agree with me, Doctor, that</p> <p>13 trophoblastic emboli are merely indicative and</p> <p>14 suggestive of a pregnancy at the time of maternal</p> <p>15 death?</p> <p>16 A. Yes. It can be indicative of that,</p> <p>17 yes.</p> <p>18 Q. Is that -- would you agree with me that</p> <p>19 trophoblastic emboli are commonly found in</p> <p>20 maternal deaths?</p> <p>21 A. I have not observed them before in the</p> <p>22 other cases that I have done.</p> <p>23 Q. Now, Doctor, you've indicated that</p> <p>24 you've done some -- you did some research before</p>	<p>27</p> <p>1 talking about the autopsy findings, at least what</p> <p>2 I've read. They're talking about it in the</p> <p>3 clinical sense.</p> <p>4 Q. Right. But you appreciate that if</p> <p>5 there truly was an amniotic fluid embolism, that</p> <p>6 the impact on the mom would be immediate. It's</p> <p>7 kind of like an anaphylactic reaction. Do you</p> <p>8 agree?</p> <p>9 A. It can be like an anaphylactic</p> <p>10 reaction. But the immune response associated with</p> <p>11 this can be delayed. It does not have to be</p> <p>12 immediate.</p> <p>13 Q. All right. Are you familiar with any</p> <p>14 reported cases in the literature where a patient</p> <p>15 became acutely ill from an amniotic fluid embolism</p> <p>16 over two hours after a cesarean section?</p> <p>17 A. No.</p> <p>18 Q. Do you agree with me, Doctor, that for</p> <p>19 there to be an amniotic fluid embolism, by</p> <p>20 definition, there has to be amniotic fluid in</p> <p>21 existence to pass into the mom's circulation?</p> <p>22 A. Yes.</p> <p>23 Q. Would you agree with me, Doctor, that</p> <p>24 when one has a true amniotic fluid embolism, the</p>
<p>26</p> <p>1 you drafted your report on this case.</p> <p>2 A. Yes.</p> <p>3 Q. Did you conclude that if, in fact --</p> <p>4 strike that. Did you, in fact, conclude that this</p> <p>5 clinical picture of Sherry McElfish is not</p> <p>6 consistent with amniotic fluid embolism based on</p> <p>7 timing?</p> <p>8 A. No. I made no mention of that in my</p> <p>9 report.</p> <p>10 Q. I'm sorry. I did not hear your answer.</p> <p>11 A. I did not mention that in my report.</p> <p>12 Q. Okay. But would you agree with me that</p> <p>13 based on your research about amniotic fluid</p> <p>14 embolism, the clinical picture in Sherry McElfish</p> <p>15 is not consistent with the world of literature of</p> <p>16 amniotic fluid embolism?</p> <p>17 MR. WALTERS: I'll object. I don't</p> <p>18 understand. Go ahead, Doctor.</p> <p>19 A. Again, nothing is 100 percent.</p> <p>20 Q. Doctor, would you agree with me that</p> <p>21 the literature talks about amniotic fluid embolism</p> <p>22 as occurring either during labor, particularly the</p> <p>23 last stages of labor, or at the time of delivery?</p> <p>24 A. Yes. However, they're not looking or</p>	<p>28</p> <p>1 fetal cells appear as little aggregates of</p> <p>2 squamous cells that adhere to one another and are</p> <p>3 sort of embedded in a small globule mucosae</p> <p>4 material?</p> <p>5 A. No.</p> <p>6 Q. Then how do they normally appear?</p> <p>7 A. They can vary, in that they can be</p> <p>8 indeed as that, and they can -- they don't have to</p> <p>9 have the mucous aggregation. They can be single</p> <p>10 or they can be multiple. They do not have to come</p> <p>11 in an aggregate.</p> <p>12 Q. What does it mean, the phrase</p> <p>13 "degeneration artifact"?</p> <p>14 A. Please put that in context.</p> <p>15 Q. A pathologist who was reviewing slides</p> <p>16 in a maternal death case and sees what could be</p> <p>17 squamous cells or what could be degeneration</p> <p>18 artifact. What does that mean?</p> <p>19 A. I would have to ask the pathologist</p> <p>20 exactly where he's seeing and what he's talking</p> <p>21 about. This is still a very general question that</p> <p>22 I don't clearly understand where you're going with</p> <p>23 it.</p> <p>24 Q. Fair enough. Are there things that can</p>

<p>29</p> <p>1 mimic fetal squamous cells on autopsy in a</p> <p>2 maternal death?</p> <p>3 A. Yes.</p> <p>4 Q. Give me some examples.</p> <p>5 A. I would -- shedding of tumor cells into</p> <p>6 blood vessels, if a patient had cancer, could</p> <p>7 conceivably do that. You could have abnormal</p> <p>8 cells shed from a clot that could be mistaken for</p> <p>9 that. You could have instrumentation that the</p> <p>10 patient underwent that dislodged endothelial cells</p> <p>11 that could be mistaken for that.</p> <p>12 Q. Could you repeat the last one about</p> <p>13 endothelial cells?</p> <p>14 A. Instrumentation that's rubbing it off</p> <p>15 could be mistaken in that. Somebody who had a</p> <p>16 central line in could have knocked cells off,</p> <p>17 possibly.</p> <p>18 Q. Do you know a Dr. Gilbert Varness?</p> <p>19 A. No.</p> <p>20 Q. Did you review your finding of AFE with</p> <p>21 any of your colleagues down there at Ohio State?</p> <p>22 A. No.</p> <p>23 Q. Did you review those findings with</p> <p>24 anyone else of AFE?</p>	<p>31</p> <p>1 A. No.</p> <p>2 MR. BECKER: All right. Then, Steve,</p> <p>3 can we get an agreement that as soon as the doctor</p> <p>4 sends them to you, you'll tender them to me?</p> <p>5 MR. WALTERS: Correct.</p> <p>6 MR. BECKER: Doctor, I think I'm going</p> <p>7 to look at my notes. I'll pass to anybody else,</p> <p>8 but I think I'm about done. Anybody else have any</p> <p>9 questions?</p> <p>10 MS. REID: Yeah, I do Mike.</p> <p>11 - - - - -</p> <p>12 CROSS-EXAMINATION</p> <p>13 BY MS. REID:</p> <p>14 Q. Dr. Hitchcock, I don't know if you can</p> <p>15 see me, but my name is Christine Reid, and I</p> <p>16 represent Euclid Hospital in this case.</p> <p>17 A. Fine. Now I can see you.</p> <p>18 Q. Okay. I just have a couple of quick</p> <p>19 questions. Number one, you made some comments</p> <p>20 earlier about the administration of Apresoline and</p> <p>21 Demerol in this case. First of all, can we agree</p> <p>22 that the administration of those medications was</p> <p>23 appropriate?</p> <p>24 A. Yes.</p>
<p>30</p> <p>1 A. No, no.</p> <p>2 Q. Since this was the first time in your</p> <p>3 career that you've ever diagnosed AFE, did you</p> <p>4 turn to any textbooks, pathology textbooks, to</p> <p>5 double-check to make sure that what you're seeing</p> <p>6 is consistent with what's pictured, if there is</p> <p>7 such a thing, in pathology textbooks?</p> <p>8 A. Yes.</p> <p>9 Q. What is the name of the textbook that</p> <p>10 you turned to?</p> <p>11 A. No, I -- a resource in this case.</p> <p>12 There are on-line images where it's shown that I</p> <p>13 found, images that corresponded to mine.</p> <p>14 Q. All right. Doctor, what I need you to</p> <p>15 do is identify that on-line resource for me, or</p> <p>16 maybe you already have.</p> <p>17 A. I will. I will get you the URL for</p> <p>18 that.</p> <p>19 Q. I didn't hear your answer.</p> <p>20 A. I will.</p> <p>21 Q. You will give me what?</p> <p>22 A. I will get you the URL, U-R-L, address</p> <p>23 for those sites.</p> <p>24 Q. Okay. You don't have them at hand?</p>	<p>32</p> <p>1 Q. And, secondly, is it your opinion that</p> <p>2 the administration of Apresoline and/or Demerol or</p> <p>3 the combination of those drugs was a proximate</p> <p>4 cause of the patient's death?</p> <p>5 A. Would you please restate that?</p> <p>6 Q. Well, let me put it another way. Can</p> <p>7 we agree that even if those drugs had not been</p> <p>8 administered, Mrs. McElfish most likely would have</p> <p>9 come to her unfortunate death?</p> <p>10 A. Yes.</p> <p>11 MS. REID: Okay. That's all I have.</p> <p>12 Thank you.</p> <p>13 MS. MITCHELL: Doctor, my name is Ann</p> <p>14 Mitchell. I represent Dr. Lucille Stine. I don't</p> <p>15 have any questions for you. Thank you.</p> <p>16 - - - - -</p> <p>17 CROSS-EXAMINATION</p> <p>18 BY MR. AUSTRIA:</p> <p>19 Q. Dr. Hitchcock, how are you doing? My</p> <p>20 name is Bob Austria. I'm here on behalf of Dr.</p> <p>21 Charles Bailin. I just have a few questions.</p> <p>22 First of all, with respect to your --</p> <p>23 you indicated earlier that the death of the</p> <p>24 Ms. McElfish was due to multifactorial reasons,</p>

<p>33</p> <p>1 correct?</p> <p>2 A. Yes.</p> <p>3 Q. And one of the reasons, I think you</p> <p>4 indicated, and tell me if I'm wrong, was the HELLP</p> <p>5 syndrome; is that correct?</p> <p>6 A. Yes.</p> <p>7 Q. Pathologically speaking, can you</p> <p>8 determine when this patient sustained the HELLP</p> <p>9 syndrome?</p> <p>10 A. No.</p> <p>11 Q. Pathologically speaking, can you tell</p> <p>12 when this patient sustained severe preeclampsia or</p> <p>13 preeclampsia?</p> <p>14 A. No.</p> <p>15 Q. And with respect to hypertension, is it</p> <p>16 correct that with respect to your pathological</p> <p>17 findings with respect to the heart, there was no</p> <p>18 indication of hypertension in this patient?</p> <p>19 A. No indication of chronic hypertension.</p> <p>20 Q. Okay. And when you say -- when you're</p> <p>21 saying the word "chronic hypertension," what</p> <p>22 standards are you using or what's your definition</p> <p>23 of chronic hypertension? Excuse me.</p> <p>24 A. Chronic -- would you rephrase that,</p>	<p>35</p> <p>1 A. No. Unless -- no.</p> <p>2 Q. Okay. Bear with me. Are you going to</p> <p>3 be offering any opinions as to the standard of</p> <p>4 care with respect to any of the physicians that</p> <p>5 rendered treatment to Mrs. McElfish? And that</p> <p>6 includes Dr. Bailin.</p> <p>7 A. No.</p> <p>8 Q. With respect to the administration of</p> <p>9 Apresoline, okay?</p> <p>10 A. (Indicates affirmatively.)</p> <p>11 Q. Have you ever treated a patient, an</p> <p>12 obstetric patient, presenting like Ms. McElfish</p> <p>13 clinically?</p> <p>14 A. No.</p> <p>15 Q. Okay. And with respect to the Demerol,</p> <p>16 have you ever treated a patient, an obstetric</p> <p>17 patient, like Ms. McElfish with Demerol?</p> <p>18 A. No.</p> <p>19 Q. But, clinically speaking again, the</p> <p>20 administration of, at least in your opinion,</p> <p>21 Apresoline and Demerol were clinically indicated?</p> <p>22 A. Yes.</p> <p>23 MR. AUSTRIA: That's all I have. Thank</p> <p>24 you, Doctor.</p>
<p>34</p> <p>1 please. Clinically or pathologically?</p> <p>2 Q. Why don't you give me on both. Well,</p> <p>3 start with clinically. Clinically what is chronic</p> <p>4 hypertension?</p> <p>5 A. I would have -- to be perfectly honest,</p> <p>6 I would have to look that up as to what the</p> <p>7 American Cardiology Society defines as that. In</p> <p>8 my own opinion --</p> <p>9 Q. Okay.</p> <p>10 A. In my opinion, it would be -- chronic</p> <p>11 hypertension is something that, one, the patient</p> <p>12 has hypertension over 140, 150 systolic, diastolic</p> <p>13 over 190, for several months or years requiring</p> <p>14 treatment.</p> <p>15 Q. And pathologically?</p> <p>16 A. Pathologically, I would expect to see a</p> <p>17 very heavy heart. That is the number one</p> <p>18 pathology finding that correlates in the heart. I</p> <p>19 would also want to see vascular changes in the</p> <p>20 kidneys. But the heart is the key here.</p> <p>21 Q. Okay. I'm going to take you a little</p> <p>22 bit back again. With respect to the severe</p> <p>23 preeclampsia, pathologically speaking, can you</p> <p>24 determine the severity of the severe preeclampsia?</p>	<p>36</p> <p>1 - - - - -</p> <p>2 FURTHER CROSS-EXAMINATION</p> <p>3 BY MR. BECKER:</p> <p>4 Q. Doctor, I have a few more questions.</p> <p>5 Does severe preeclampsia result in uteroplacental</p> <p>6 insufficiency?</p> <p>7 A. It can, as I know.</p> <p>8 Q. Did you study -- sorry? Did you say it</p> <p>9 can?</p> <p>10 A. In my opinion, yes.</p> <p>11 Q. Okay. Did you actually look at the</p> <p>12 placental slides in this case?</p> <p>13 A. No.</p> <p>14 Q. Why not?</p> <p>15 A. They were not available to me.</p> <p>16 Q. What part of the autopsy slides didn't</p> <p>17 you look at?</p> <p>18 A. If you look at my report, I have</p> <p>19 detailed the slides that were made available to</p> <p>20 me. These were from the --</p> <p>21 Q. Have you looked at placental slides in</p> <p>22 your career?</p> <p>23 A. Yes.</p> <p>24 Q. Did you -- after comparing the autopsy</p>

<p>37</p> <p>1 report with what you received, did you call up</p> <p>2 defense counsel and say, send me the rest of the</p> <p>3 slides?</p> <p>4 A. No. The placenta was not part of the</p> <p>5 autopsy.</p> <p>6 Q. Okay. Did you learn that there were</p> <p>7 slides taken of the placenta?</p> <p>8 A. When I reviewed the material -- prior</p> <p>9 to my preparation for this, no, I did not know</p> <p>10 where they were.</p> <p>11 Q. But you never asked -- once you read</p> <p>12 Redline's deposition you never said, send me the</p> <p>13 placental slides, let me look at them?</p> <p>14 A. No.</p> <p>15 Q. Doctor, back to your opinion that you</p> <p>16 just gave a few minutes ago, that even had the</p> <p>17 Apresoline and Demerol been withheld, she still</p> <p>18 would have died. Is that your opinion?</p> <p>19 A. Her shock --</p> <p>20 Q. Did I hear that?</p> <p>21 A. Her shock was progressing to the point</p> <p>22 that she would most likely have died.</p> <p>23 Q. Doctor, do you have an opinion or would</p> <p>24 you defer to a clinician whether had this mom</p>	<p>39</p> <p>1 WITNESS SIGNATURE PAGE</p> <p>2</p> <p>3 I have read the entire transcript of my</p> <p>4 deposition taken on April 22, 2005. The changes</p> <p>5 and/or corrections, if any, which I desire to make</p> <p>6 to my testimony have been noted on a separate</p> <p>7 errata sheet. I request that those changes, if</p> <p>8 any, be entered into the record by attaching the</p> <p>9 errata sheet to the original transcript.</p> <p>10</p> <p>11</p> <p>12</p> <p>13 CHARLES L. HITCHCOCK, M.D., PH.D.</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21 Spectrum Job No.: 7823</p> <p>22</p> <p>23</p> <p>24</p>
<p>38</p> <p>1 received blood, that would have helped her out</p> <p>2 during the 2:00 to 3:00 a.m. time period?</p> <p>3 MR. WALTERS: What does "helped her</p> <p>4 out" mean, Mike?</p> <p>5 MR. BECKER: Would have improved her</p> <p>6 clinical status.</p> <p>7 MS. REID: Objection. Chris Reid.</p> <p>8 MR. WALTERS: Go ahead, Doctor.</p> <p>9 A. I would defer to a clinician.</p> <p>10 MR. BECKER: Okay, Doctor. Those are</p> <p>11 all the questions I have. Please send the digital</p> <p>12 snapshots to Steve and also apprise him of that</p> <p>13 referral source that you used to affirm that you</p> <p>14 were actually looking at an AFE.</p> <p>15 THE WITNESS: Okay.</p> <p>16 MR. BECKER: That's it. I'm done.</p> <p>17 I'll take a copy.</p> <p>18 MR. WALTERS: Doctor, I want you to</p> <p>19 read this, and then you can just forward that</p> <p>20 stuff to me, and we'll go from there.</p> <p>21 - - - - -</p> <p>22 Thereupon, the foregoing</p> <p>23 proceedings conclude at 12:00 noon.</p> <p>24 - - - - -</p>	<p>40</p> <p>1 State of Ohio : C E R T I F I C A T E</p> <p>2 County of Franklin:</p> <p>3 I, Barbara Rogers, a Notary Public in and</p> <p>4 for the State of Ohio, do hereby certify the</p> <p>5 within named CHARLES L. HITCHCOCK, M.D., PH.D. was</p> <p>6 by me first duly sworn to testify to the whole</p> <p>7 truth in the cause aforesaid; testimony then given</p> <p>8 was by me reduced to stenotypy in the presence of</p> <p>9 said witness, afterwards transcribed by me; the</p> <p>10 foregoing is a true and correct transcript of the</p> <p>11 testimony so given; and this deposition was taken</p> <p>12 at the time and place as specified on the title</p> <p>13 page.</p> <p>14 I do further certify I am not a relative,</p> <p>15 employee or attorney of any of the parties hereto,</p> <p>16 and further I am not a relative or employee of any</p> <p>17 attorney or counsel employed by the parties</p> <p>18 hereto, or financially interested in the action.</p> <p>19 IN WITNESS WHEREOF, I have hereunto set my</p> <p>20 hand and affixed my seal of office at Columbus,</p> <p>21 Ohio, on April 27, 2005.</p> <p>22</p> <p>23 Barbara Rogers, Notary Public - State of Ohio</p> <p>24 My commission expires July 10, 2009.</p>

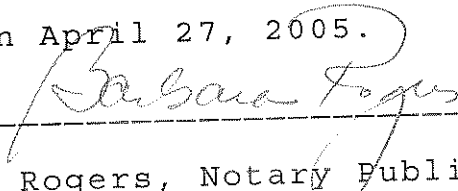
1	I N D E X	41
2	Examination By	Page No.
3	Mr. Becker - Cross	5
	Ms. Reid - Cross	31
4	Mr. Austria - Cross	32
	Mr. Becker - Further Cross	36
5		
6	Hitchcock Exhibit No.	Page No.
7	1 - Notes of Dr. Hitchcock (to be provided	
8	by Dr. Hitchcock)	7
9	2 - An article entitled "A	
10	Clinicohistopathologic comparison	
	between HELLP syndrome and severe	
	preeclampsia"	16
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22	(Exhibit 1 not yet marked or received by the court	
23	reporter. Exhibit 2 attached to original	
	transcript.)	
24		

1 State of Ohio : C E R T I F I C A T E
2 County of Franklin:

3 I, Barbara Rogers, a Notary Public in and
4 for the State of Ohio, do hereby certify the
5 within named CHARLES L. HITCHCOCK, M.D., PH.D. was
6 by me first duly sworn to testify to the whole
7 truth in the cause aforesaid; testimony then given
8 was by me reduced to stenotypy in the presence of
9 said witness, afterwards transcribed by me; the
10 foregoing is a true and correct transcript of the
11 testimony so given; and this deposition was taken
12 at the time and place as specified on the title
13 page.

14 I do further certify I am not a relative,
15 employee or attorney of any of the parties hereto,
16 and further I am not a relative or employee of any
17 attorney or counsel employed by the parties
18 hereto, or financially interested in the action.

19 IN WITNESS WHEREOF, I have hereunto set my
20 hand and affixed my seal of office at Columbus,
21 Ohio, on April 27, 2005.

22 
23 Barbara Rogers, Notary Public - State of Ohio

24 My commission expires July 10, 2009.

