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IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

FRANCES L. CHAPPELL, etc., et al.,
Plaintiffs,
-vs- JUDGE GRIFFIN CASE NO. 324732

LLOYD COOK, M.D., et al.,
Defendants.

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Deposition of DONALD W. JUNGIAS, M.D., taken as if upon cross-examination before Laura L. Ware, a Notary Public within and for the State of Ohio, at University Suburban Hospital, 1611 South Green Road, Cleveland, Ohio, at 2:30 p.m. on Wednesday, February 9, 2000, pursuant to notice and/or stipulations of counsel, on behalf of the Plaintiffs in this cause.

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EXHIBIT INDEX



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(Thereupon, Plaintiffs' Junglas Exhibits 1 through 6 were mark'd for purposes of identification.)

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DONALD W. JUNGLAS, M.D., of lawful age, called by the Plaintiffs for the purpose of cross-examination, as provided by the Rules of Civil Procedure, being by me first duly sworn, as hereinafter certified, deposed and said as follows:

CROSS-EXAMINATION OF DONALD W. JUNGLAS, M.D

BY MR. GORDON:

Q. Could you please give us your full name and home address, please.

A. Yeah, Donald W. Junglas, J-U-N-G-L-A-S, 2658 Kingston Road, Cleveland Heights, Ohio, 44118.

Q. Dr. Junglas, my name is Harley Gordon. This afternoon I'll be asking you questions primarily regarding your opinions and your bases for your opinions in this case because you've been identified by Mr. Betz as an expert on behalf of the late Dr. Harold Klein.

Doctor, can we agree that if, for whatever reason, you don't understand my question or questions you'll not answer them and just tell me

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that you don't understand the question?
A. Yes.
Q. If you want to take a break for whatever reason, just stop me and we'll take a break. Okay?
A. Yes.
Q. You are an internist?
A. General internal medicine.
Q. And are you an oncologist?
A. No.
Q. Do you treat patients with cancer for the cancer?
A. No, not any longer. If they are in a position where they are in a hospice situation then I may get involved.
Q. But do you actually treat a patient for the cancerous condition?
A. No.
Q. Do you stage cancer?
A. No. I don't know anything about staging.
Q. Okay. Doyoudosurgery?
A. No.
Q. Do you do endoscopies?
A. No.
Q. If you want an endoscopy, you order it?
A. Yeah. I have three gastroenterologist partners; I have no trouble getting endoscopy

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Q. Do you have any special interest in any area of internal medicine?
A. No, just general internal medicine.
Q. Do you treat patients with peptic ulcer disease?
A. Yes.
Q. Do you also diagnose that condition?
A. Yes.
Q. What is peptic ulcer disease?
A. That's a disorder of the stomach and duodenum whereby patients have an erosion in the mucosa or the lining of the stomach which results in a defect in that lining causing what's called an ulceration or a scooped out area of the mucosa which is eroded away.
Q. Have you ever diagnosed a patient with stomach cancer?
A. Rarely.
Q. When was the last time you diagnosed a patient with stomach cancer?
A. Twentyyears.
Q. You are practicing presently with a group of other physicians?
A. Yes.
Q. In terms of your knowledge of the patients of the other physicians in your group, when was the last

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time any member of your group --
A. I have no idea.
Q. -- diagnosed a patient with stomach cancer?
A. I havenoidea.
Q. Okay. Please let me finish my question.
A. I'm sorry. I knew what it was going to be, so that's why I answered it.
Q. I understand. Again, this is not a social conversation.
A. I know, I know.
Q. When was the last time you treated a patient with peptic ulcer disease?
A. Well, with a new ulcer probablysix months. All of my patients tend to be in the older age group with their doctor and they tend to have been my patients for a long time, and most of their illnesses we have been through before and so I don't see very many new patients, therefore I don't diagnose any new peptic ulcer disease very often.
Q. When was the last time you had diagnosed a new case of peptic ulcer disease?
A. Probablyabout six months.
Q. And how frequently in the last, let's say, five years have you diagnosed a new case of peptic ulcer disease?

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A. I would say two a year maybe.
Q. Is there any difference in the workup of a duodenal ulcer as compared to a stomach ulcer?
A. Not really.
Q. Have you authored any publications in the diagnosis and treatment of peptic ulcer disease?
A. No.
Q. And am I correct you haven't authored any publications in the area of stomach cancer?
A. No.
Q. Have you done any research in regard to any of the issues in this case specifically for this case?
A. No.
Q. Do you rely upon any literature in conjunction with your opinions in this case?
A. No. Most of what I'm going to give you today is just my experience and practice.
Q. And --
A. In fact, I would say all of it.
Q. And in terms of that, when did you begin practicing internal medicine after your education and training?
A. 1964, December.
Q. And you've been continuously practicing internal medicine since 1964 to the present?

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A. Uh-huh. I started out part time in '64 and full time in July of '65.
Q. Can you break down the nature of your practice into the type of diseases that you treat?
A. Well, I usually tell people I take care of headaches to hemorrhoids, so that pretty much encompasses it.
Q. How much is your practice in the area of treating patients with peptic ulcer disease?
A. A quarter of one percent, very small.
Q. And in terms of that percentage, how long has that been in place, going back for let's say the last ten years?
A. I suppose when I was younger maybe it was half of one percent. I mean, as the patients have gotten older it's been less.
Q. In 1991 when you were suspecting that a patient had peptic ulcer disease, did you on occasion order an upper GI series?
A. I did occasionally do that, yes.
Q. And why?
A. If the patient's symptoms didn't respond to appropriate therapy I would further investigate their symptoms.
Q. And why would you further investigate?
A. Because I was looking to find out what was causing

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their symptoms. The symptoms of peptic ulcer disease can also be symptoms of gastritis and other conditions of the stomach or small intestine.
Q. And also --
A. It could also be symptoms of cancer, although usually cancer is accompanied by weight loss, loss of appetite, nausea, a general lack of stamina.
Q. Those--
A. That's just a general, you know, a general overview.
Q. Right, but --
A. It's so rare that I see them.
Q. Okay.
A. And most of the time that practicing physicians see stomach cancer it is advanced. Unfortunately, it's picked up late.
Q. And the symptoms that you described, including loss of weight, et cetera, including stamina, those are the symptoms of advanced stomach cancer?
A. Well, advancing we'll say, yeah.
Q. Well, with respect to --
A. Early on stomach cancer probably has no symptoms at all and many patients they don't know they have it and that's why they don't seek medical attention.
Q. You indicated that when a patient doesn't respond to

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therapy you would order an upper GI series for a patient --
A. Right.
Q. -- you would suspect peptic ulcer disease. When you say would not respond to therapy, what are you referring to?
A. Oh, I would say three to four months of usually the H2 blockers, Tagamet, Zantac, Pepcid, Axid, one of those. Nowadays we have things like Prevacid or Prilosec which are even more potent but usually use those as second line therapies.
Q. In 1992, '93 and '94 --
A. Those were not available.
Q. -- you would order Zantac for peptic ulcer disease?
A. Yeah.
Q. Did you on occasion in 1991, '92 and '93 order an endoscopy for a patient who has peptic ulcer disease?
A. My modus of practice is I interview the patient, I treat them as their symptoms indicate. If it doesn't respond, I order a GI series. I then rely upon the radiologist to tell me if the stomach lining is normal, does it move well, is there an ulcer, are there other findings that are indicative of possible further disease, and then they usually

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are the ones that say, you know, I think this patient ought to have an endoscopy. So that's usually the way the patient gets an endoscopy from my end of the spectrum.
Q. For instance, 1991, '92 or '93 if a radiologist identifies an abnormality --
A. Right.
Q. -- and you're suspecting peptic ulcer disease, would yougoaheadanddoanendoscopy?
MR. MEADOWS: Objection.
A. Not necessarily. If there's a small ulcer, I have frequently treated the patient for four to six weeks, had them have another x-ray, and if the x-ray is clear, the patient is asymptomatic, I conclude that they have been treated well and send them on their way with instructions to return if their symptoms reoccur.
Q. Have you ever had an instance in which a radiologist did identify an abnormality and did not recommend an endoscopy but nonetheless you ordered an endoscopy?
A. I can't recall any.
Q. The ultimate determination as to whether to order an endoscopy is the internal medicine physician treating the patient?
A. Yeah, the family practitioner or the internal

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medicine person, unless, you know, some of my fellow practitioners, the gastroenterologists, do general internal medicine too, so they may select not -- they would naturally go toward doing something that's in their line of work and therefore they might not ever order a GI series, they may just endoscope all of their patients.

I don't really know how they handle it, to be honest with you. I'm not speaking for them, but I mean I have never interviewed them as to find out whether they ever order upper GIs. I don't know whether they do or not.

Q. Did you finish your answer?

A. Yes. I say, I don't know whether they order them or not. I can't tell you.

Q. Okay.

A. I suspect they don't order many.

Q. How do you know that if you don't know what they're doing?

A. Just because I just know gastroenterologists like to use endoscopes, that's all.

Q. Do you know or did you know Harold Klein, M.D.?

A. No.

Q. Do you know Dr. Gill?

A. No.

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Q. Do you know Dr. Lloyd Cook?

A. No.

Q. Dr. Porter?

A. No.

Q. Now, prior to this case have you ever consulted with the Gallagher, Sharp law firm before in a medical malpractice case?

A. Not that I recall. If it were, it was only once or twice. I don't do a lot of these, and I don't keep a list.

Q. You've consulted with the Reminger & Reminger law firm before in a medical malpractice case?

A. Yes.

Q. On how many occasions?

A. Two dozen maybe.

Q. Have you ever consulted with Mr. Bill Meadows before?

A. On occasion.

Q. How many cases?

A. Maybe three or four.

Q. Have you ever consulted with Ms. Beth Sebaugh before today?

A. I believe once.

Q. Have you ever consulted with Mr. Mark O'Neill before today?

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A. In regards to his mother.

Q. Have you consulted with any other member of the Weston, Hurd law firm?

A. No.

Q. Have you consulted with any other member of the Quandt, Giffels & Buck law firm?

A. Yes, I think Mr. Buck many years ago.

THE WITNESS: Is he still practicing?

MS. SEBAUGH: No.

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(Thereupon, a discussion was had off the recerd.)

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Q. In any of the cases in which you have acted as an expert on a medical malpractice case, did any of them involve the diagnosis and treatment of a peptic ulcer disease and/or stomach cancer?

A. No.

Q. Do you consult with plaintiffs' attorneys on medical malpractice cases?

A. On occasion.

Q. Have you ever testified on behalf of a patient or injured party in the greater Cleveland area in a medical malpractice case?

A. Once in Medina, I believe.

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Q. Could you give me a percentage how many times you've acted as a consultant for a plaintiff versus a medical care provider or a defendant?

A. One out of ten.

Q. 90 percent for the medical care provider, 10 percent-

A. Yes.

Q. --for the patient?

A. Yes.

Q. What do you charge, for instance, for your review of--

A. 250 an hour.

Q. What are you charging me for the deposition?

A. 350 an hour.

Q. And what do you charge for your trial testimony?

A. $500 an hour.

Q. Have you ever testified in either trial or in a deposition involving a case involving peptic ulcer disease or stomach cancer?

A. No.

Q. So is this the first case you ever acted as a consultant on involving those issues?

A. Uh-huh, that's correct.

Q. Have you ever been sued in malpractice?

A. Yes.

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Q. How many times?
A. Once.
Q. And what was that case about?
A. An infected post fractured patella where the patient ended up with a difficult leg.
Q. And how was that case resolved?
A. I won.
Q. Who represented you on that?
A. Bob Maynard.
Q. Speaking of that, were you insured by PIE at any time?
A. Yes.
Q. When were you insured by PIE?
A. Before they went out of business, but before that when I was sued I was, I'm trying to think of the firm in Illinois, Medical Protective. I was sorry to leave them. The price was right, but it was wrong.
Q. Then in the '90s you were insured by PIE?
A. Uh-huh, that's correct. Luckily we didn't have any cases at the time they went down.
Q. Other than with Mr. Betz or any member of his law firm, have you had any discussions with any other individuals regarding this case?
A. No.

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Q. In conjunction with this deposition we issued a notice of deposition for you to bring certain materials. Did you ever see that notice?
A. I guess I have.
Q. Is today the first time then that you've seen the notice of deposition that was issued on December 10th, 1999?
A. As far as I know that is.
Q. Okay. Request one asks for your current curriculum vitae.
A. That's correct.
Q. And is this your current curriculum vitae?
A. That's correct.
MR. GORDON: Is that the same one we've been forwarded?
MR. BETZ Yes.
Q. Okay. And you brought your complete file?
A. On this case?
Q. Yes.
A. Yes, you have seen it.
Q. Okay. Did you prepare any notes while you reviewed any of the materials in conjunction with this case?
A. No.
Q. Do you intend to use any demonstrative exhibits in conjunction with your testimony?

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A. No.
Q. Exhibit 1 is your report dated September 14th, 1999?
A. Yes,
Q. And then earlier you wrote a report August 16th, 1999, Exhibit 2?
A. Yes.
Q. And why did you write two reports?
A. It was felt that a little more explanation should be given in my second report vis-a-vis endoscopy.
Q. And are Exhibits 3, 4, 5 and 6 correspondence that you've received from the Gallagher, Sharp law firm?
A. Yes.
MR. MEADOWS: While you're going through that, can we look at what you've marked as an exhibit?
MR. GORDON: Yeah.
Q. And you've also, just for purposes of identification, reviewed Dr. Porter's deposition?
A. Yes.
Q. Dr. Coppa's report?
A. Yes.
Q. The deposition of Dr. Levitan?
A. Yes.
Q. Do you know Dr. Levitan?

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A. Yes.
Q. And how do you know Dr. Levitan?
A. He practices at University Hospitals.
Q. And is that where you practice too?
A. Yes. Everybody in this building practices at University Hospitals.
Q. Have you had any of your patients treated by Dr. Levitan?
A. Yes.
Q. How many patients, approximately?
A. Four or five.
Q. And are any of your patients presently under the care of Dr. Levitan?
A. There may be. Many times when you have patients treating with an oncologist you don't necessarily see them, and unless you're getting regular information you don't necessarily keep up with them, so I can't really say for sure. I think not, but I'm not sure.
Q. You read the deposition of Dr. Barry Singer?
A. Yes.
Q. You've read the deposition of Dr. Gene Coppa?
A. Yes.
Q. The report that you authored September 14th, 1999 also indicates that you read the deposition

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transcripts of Dr. Gill and Dr. Cook. Do you have those depositions with you?
A. No. Maybe they're upstairs in my office, however. I thought I had everything together. I'm sorry, I don't.
Q. You also indicated in your report of September 14th, 1999 you reviewed Dr. Cook's records. Did you bring those with you?
A. Well, they're probably with the other and I don't know where they are. They must be upstairs. I happen to have a number of files and I may not have had them all together.
Q. When you say a number of files, files involving your consultation in medical malpractice cases?
A. Yes.
Q. How many cases presently are you participating in as a consultant?
A. Maybe four or five.
Q. Are there any other materials that you reviewed, including we have Dr. Klein's records here, that we have not identified?
A. No. Would you like me to go up and hunt for those others?
Q. Only unless you put some notes --
A. No, I didn't make any notes anywhere.

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Q. There's nothing? As long as you didn't put any notes or anything.
A. No.
Q. Unless you feel you need them for your opinions today.
A. No, my opinions today should be confined to Dr. Klein.
Q. And why is that?
A. Because that's what I was asked to do.
Q. Could you briefly tell me what you understand the facts are in this case.
A. Mr. Chappell had symptoms of abdominal distress, presumably in July of '91, for which he was given Maalox or took Maalox and was seen a month later by Dr. Klein and was better.

And then a year later was seen with complaints of a pain in his belly relieved by food where an examination was performed and was negative. He was given Zantac which he took, I believe, one at bedtime.

He was seen a month later and his belly pain was better. Evidently, he stopped the Zantac sometime in that month and his symptoms had recurred. He was given another prescription for Zantac at that time, 100 tablets, was seen a week

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later for symptoms seemingly not related to those which he had the previous week, presumably was on Maalox at the time.

Blood tests done in August of '92 were normal, stool guaiac done at the same time a week later was negative, his weight was stable. And that was the extent of Dr. Klein's dealings with Mr. Chappell.
Q. Do you understand further that Mr. Chappell died of stomach cancer on December 28th, 1995?
A. Yes.
Q. And you also understand that after treating with Dr. Klein he sought treatment and was treated by Dr. Cook?
A. Yes.
Q. And to clarify some dates, in 1992 Dr. Klein first saw the patient July loth, 1992?
A. That's correct.
Q. Where he prescribed Zantac; is that correct?
A. That's correct.
Q. And August loth, 1992 you indicated that after stopping Zantac the belly pain returned?
A. That's correct.
Q. Now, you have Dr. Klein's records in front of you. Could you read for me -- first of all, Dr. Klein took care of Mr. Chappell before 1991; is that

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correct?
A. Yes.
Q. Actually, Dr. Klein was taking care of Mr. Chappell at least from 1977?
A. December 28th.
Q. Okay. Now, in your review of Dr. Klein's records, did you find any complaints of belly pain, abdominal pain, before July loth, 1992?
A. Well, presumably in July of '91 he had, I think it says, broiling roiling guts, I don't know, under much tension, sister died. I presume that's a -- in reference to his abdominal symptoms. Prior to that it's very difficult for me to make out his handwriting. He had a rectal polyp.

MR. BETZ: Is there a particular notation you have in mind that you'd like him to look at?

A. I don't see anything that strikes me.
Q. Okay. Could you look at the entry of August 13th, '91 and could you help us --well, could you help us by reading that?

MR. ONEILL August 13?

MR. GORDON: 1991.

A. Age 63. Feels much better on Maalox. Moving his bowels well and abdominal roiling broiling is

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improved. Blood pressure 100 over 60. Tenderness over --
Q. Does that have abdomen tenderness?
A. I'm not able to make that out, maybe it is abdomen tenderness, I can't make out that word, sigmoid, and E-X-T, I guess extremities, negative, no polyps. Sigmoidoscopy, no polyps seen, stool negative. Maalox PRN.
Q. Can you read what's above that Maalox?
A. No.
Q. Then to the right?
A. Rectal polyp history. Not sure. Something colon syndrome, maybe spastic, I'm not sure. Spastic colon syndrome, rectal polyps history. I don't know what the other word is.
Q. When you mentioned abdominal railing, what does that mean?
A. Roiling.
Q. Roiling.
A. That's not a medical term, so you'd have to ask Dr. Klein.
Q. What do you understand it to mean?
A. I would think there's a lot of intestinal borborygmi, which means noise caused by the peristaltic action and the fluid in the bowel.

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Q. Okay.
A. The medical term is borborygmi.
Q. Could you spell that?
A. B-O-R-B-O-R-Y-G-M-I, I think it is.
Q. Then could you turn to the entry of July 10th, 1992. Could you read that for us?
A. Belly pain relieved by food. PE negative. Blood pressure 110 over 60, weight 136 and three-quarters. Zantac 300 milligrams one at HS, and I don't know what that IO is or what that stands for. To come in next month.
Q. Then could you read what is above that?
A. No, I don't know what that is.
Q. And then turning to August 10th, 1992, could you read that note?
A. Age 64, I can't make out the first part, belly pain better since on Zantac, coming back since he quit, 133 and a quarter.
Q. That's the weight?
A. Yeah.
Q. Okay.
A. PE, complete --abdomen tender right upper quadrant. I can't read the other part. Rectal -- sigmoidoscopy deferred. I'm not sure what that rectal thing says there. Zantac 300 milligrams at

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bedtime, number 100. Duodenal ulcer, and I don't know what the next word is, rectal polyp. And then on 8-17 he comes --
Q. Wait. Can we stop there, August 10th, 1992.
First of all, above renew Zantac there's a word. Can you identify that?
A. No.
Q. When it has D, period, ulcer, okay. Could that be diagnosis ulcer?
MS. SEBAUGH: Objection.
A. I don't know. It could be duodenal ulcer.
Q. Goahead.
A. On August 17th, '92 lower abdominal cramps, PE negative, I believe that's what it says, sigmoidoscopy normal, hemorrhoids, stool negative, which I presume means guaiac negative, and then there's a word I can't make out. It says rectal polyp and then parentheses, another word, his weight was 135 and a quarter.
Q. Now, in your report you indicate that after reviewing the combined records and depositions that Dr. Harold Klein's care of Mr. Frances Chappell was exemplary. I assume that's an error. It's Isaac Chappell.
A. Oh, okay.

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Q. Okay. Why do you state that Dr. Klein's care was exemplary?
A. Because that's what I would do.
Q. Then it states his diagnosis and treatment program were appropriate and within the standard of care for a medical practitioner.
A. Right.
Q. What diagnosis are you referring to?
A. Duodenal ulcer.
Q. And how did Dr. Klein reach the diagnosis of a duodenal ulcer?
A. Only by his conclusion. He didn't have any pathologic or x-ray evidence of it, he just treated him on the basis of what he thought the symptoms represented.
Q. Would you say it was a guess on the part of Dr. Klein whether it was a duodenal ulcer?
MR. BETZ: Objection.
A. It's his diagnosis.
Q. How then did Dr. Klein reach the diagnosis of a duodenal ulcer?
A. The symptoms were consistent with it and the treatment relieved the symptoms, which is consistent with that diagnosis.
Q. Were the symptoms also consistent with a stomach

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ulcer?
A. They could have been.
Q. Would you agree that before a physician can reach the diagnosis of a duodenal ulcer that you need a study, be it an upper GI series or endoscopy, to demonstrate a duodenal ulcer?
A. No. I don't think you have to have something to make it a diagnosis, other than the patient's history and the treatment and the results of the treatment. I'm not saying that it's going to be right, I'm just saying that I don't think you need that to make the diagnosis. You can make a diagnosis which is appropriate based upon the treatment and response.
Q. Isn't there a difference between the propensity of a duodenal ulcer to be cancerous as compared to a stomach ulcer to be cancerous?
A. Yes.
Q. And what is the difference?
A. Duodenal ulcers, I wouldn't say never, but are very, very rarely associated with cancer. Stomach ulcers more commonly are associated with cancer.
Q. And why are they more commonly associated with cancer?
A. I don't know, they just are.

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Q. One statistic I saw is that five percent of all stomach ulcers are malignant.
A. That may well be true.
Q. So for the benefit of the patient, this patient, Isaac Chappell, wouldn't it be worthwhile to find out whether he had a duodenal ulcer or a stomach ulcer in terms of the potentiality of being a stomach cancer?
MR. BETZ: Objection as to what's worthwhile.
A. My own personal treatment plan for patients like this is I treat them and withdraw the treatment after a period of two to three months. If the patient's symptoms recur, I then order appropriate studies, GI series or endoscopy. If the GI series is abnormal or if the patient doesn't respond to the therapy I will order studies.
Q. But you're saying --
A. I don't initiate studies on the basis of a single visit with a single complaint unless there's evidence of lack of response.
Q. And it's also in your practice that you do not order any study to differentiate between a duodenal ulcer and a stomach ulcer?
A. Not necessarily, unless they don't respond. If the

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patients have a malignant ulcer their symptoms will reoccur.
Q. And symptoms reoccurring would be a reoccurrence of abdominal pain or belly pain?
A. Abdominal pain usually, belly pain, weight loss, nausea, loss of appetite.
Q. And then why, under those circumstances, do you order an upper GI series?
A. Well, because then you suspect there may be something else.
Q. Something else, including cancer?
A. It could be including cancer. Rarely it could Include people that have a rare disorder called Zollinger-Ellison which doesn't respond well to ulcer treatment because they have an abnormality of acid -- hyperacidity, and therefore they require high doses of Prilosec or Prevacid and an investigation of that condition.
Q. Ail right. Going on, you're talking about his treatment program was appropriate. Why was the treatment appropriate?
A. Well, the usual treatment that's given for duodenal ulcer is one of the H2 blockers, Zantac.
Q. Then you go on, no gastrointestinal endoscopy was indicated because after treatment his symptoms

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disappeared. Is that your statement?
A. Yes.
Q. Where is evidence that his symptoms disappeared?
A. It says in his August 10th note that when he was under treatment his symptoms were better, and when he stopped the treatment his symptoms got worse. So his symptoms did get better with treatment.
Q. But they came back when he was --
A. Treatment was stopped.
Q. Right. So how --
A. The treatment didn't go on long enough at the time.
Q. So --
A. Peptic ulcer disease with treatment with H2 blockers is not unusual for there to be a six to eight-week period where treatment is required before the ulcer heals.
Q. So with respect to your statement that the symptoms disappeared, there's no evidence that they disappeared?
A. When he was -- well, when he was on his treatment his belly pain was better.
Q. But it came back, so you're saying that means the symptoms disappeared?
A. When he stopped the treatment, the symptoms reoccurred over this short period of time. This is

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a four-week period.
Q. So is that, in your mind, the symptoms disappeared?
A. While on treatment.
Q. And while off of treatment they reappeared?
A. Yes.
Q. And you're saying that's irrelevant?
A. Well, it's relevant only to the fact that he needed a more treatment at that time.
Q. What type of treatment?
A. H2 blockers.
Q. And for how long?
A. Well, he was given somewhat less than a month on the first occasion and on the second occasion was given enough to last three months, but the patient never came back.
Q. If the symptoms did not disappear, then it's your opinion the standard of care would be that a gastrointestinal endoscopy be done?
A. At the end of the period of time when the second prescription was finished, at that point if his symptoms reoccurred then I would have done further studies.
Q. And that would be what further studies?
A. Probably an upper GI series and then, depending upon what was found, an endoscopy.

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Q. If the upper GI series indicated a deformity of the antrum or stomach would you have ordered an endoscopy?
MR. MEADOWS: Objection.
MS. SEBAUGH: Show an objection.
MR. BETZ Me too.
A. One of the difficulties of that statement is that you don't have the -- or I don't have a talk with the radiologist. Ordinarily when I order these, I talk with the radiologist. I'm just telling you what my experience is, to find out what their opinion is of this antral deformity, and usually they will tell me whether or not the stomach moves or whether they feel that there's some difficulty with the lining that doesn't allow it to move and they would suggest that maybe further studies be done at that time.
Deformities of the antrum are classically associated with long-term chronic ulcer disease. In the medical field that's what they're usually associated with.
Q. Andwhy?
A. Because there seems to be some abnormality that occurs in the stomach that allows the antrum to become deformed, and I'm not a pathologist so I

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don't know what that is.
Q. So if--
A. Results of healing is possibly some scarring.
Q. You're saying then if a radiologist just indicated to you that there was an antrum deformity you would talk to the radiologist to determine whether further studies would be done?
A. Yes.
Q. And why do you do that?
A. Well, to get as much information as I can before I subject the patient to further studies.
Q. Do you consider that the accepted standard of care?
A. It is for me.
Q. How do you then define accepted standard of care?
A. When I do these cases the accepted standard of care is the care that I use.
Q. You judge it from what you do?
A. That's correct.
Q. In terms of your opinions relative to Dr. Klein, can you refer me to any literature specifically that supports your opinions?
A. No.
Q. With respect to Harrison's on Internal Medicine, do you consider that a reliable authority?
A. Yes.

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Q. Do you consider Cecil and Lowe a reliable authority?
A. Yes.
Q. Do you ever look at the Washington Manual?
A. No.
Q. You would agree that the patient did have belly or abdominal pain when he saw Dr. Klein?
A. Yes,
Q. Would you agree that the abdominal or belly pain was going on from 1991?
A. It doesn't say that.
Q. Are you saying the pain identified in August of '91 is different than the pain that's identified in July of '92?
A, It's described differently.
Q. But does that mean it's in the same area or a different area?
A. It's in the same area, it's just described differently.
Q. And how would you characterize that?
A. Well, what he describes in '91 appears to be more associated with his increased intestinal transit, possibly a nervous kind of disorder as opposed to a belly pain relieved by food, which appears more to be a physical condition, a pathological condition. What he describes above is not associated usually

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with a pathological condition, like an ulcer.
Q. Is the pain though described in 1991 related to the pain described in '92?
MR. BETZ Objection. I don't know how the witness --
A. I don't think that I can say that. If you have rapid intestinal transit, you frequently have cramps and distress, you feel that your abdomen is under stress, whereas when you have a belly ache from an ulcer you eat something, it gets better. You recognize there's something a little different about that.
Q. Assume hypothetically that Isaac Chappell did have abdominal pain continuously from August of '91 until July of 1992. Did the standard of care require Dr. Klein to order an upper GI series?
MS. SEBAUGH: Objection.
MR. BETZ Objection.
A. No.
Q. And why?
A. I don't think that -- as I told you, I think the symptoms are different. It just appears from what he writes there the symptoms are different to me --
Q. Okay, assume --
A. -- so --

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Q. Go ahead.
A. -- it doesn't appear that what he had in August of '91 would have warranted any particular study of any kind at any time. He got better with Maalox treatment, and ulcers do occasionally, but usually they require more than that.
Q. Assuming, hypothetically, that the pain described in '91 is the same pain he's describing in July of '92. I want you to assume that hypothetically. Did the standard of care require Dr. Klein to order an upper GI series?
A. Not at that time. He gave an entirely different treatment. He gave him Tagamet, which is much more potent and much more directed towards duodenal ulcer disease.
Q. Assume hypothetically a patient does have chronic abdominal pain. Does the standard of care require a physician to do a workup to determine the cause of the abdominal pain?
MR. BETZ I'm going to object to the hypothetical because I don't think it provides enough facts for this witness to respond to it.
MR. MEADOWS: Same objection.
A. I can't say that there's anything here that tells me he's had chronic abdominal pain. He had pain a year

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before and he had pain again in July, so I'd say they're two separate episodes.
Q. Mrs. Chappell, I don't think you read her deposition, indicated that he did have abdominal pain since 1991. Okay?
A. All right.
Q. I want you to assume that, that Mr. Chappell had abdominal pain since 1991.
A. Yes.
Q. And then he sees Dr. Klein in July of 1992. At that time, or in August of '92, did the standard of care require Dr. Klein to order further studies, such as an upper GI series or an endoscopy?
MS. SEBAUGH: Objection.
A. No. I think he can give him a therapeutic trial when he has symptoms that are so classic for ulcer disease, there being no other associated symptoms, weight loss, nausea, vomiting, loss of appetite.
Q. And the trial of therapy would be for how long?
A. I would say three to four months, if it were required that long. I don't know how long, you know, one never -- one doesn't know from looking at this record how long it was required. All we know is he got better with a period of less than a month of Tagamet and had another prescription given and we

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don't have any follow-up further from that, so I have no knowledge about whether he got better the second time around and for how long and whether or not he sought care from somebody else later or not. I don't know, other than the fact that he went to Dr. Cook some time later in March, I believe, of the next year.
Q. Is it your opinion that the patient did have an ulcer in 1992?
A. He could well have had, yes. I don't absolutely know what he had, but his symptoms and his results of treatment were consistent with an ulcer, a peptic ulcer.
Q. What, in your opinion, was the type of ulcer that the patient had --
A. I don't know.
Q. -- in 1992?
A. I don't know.
Q. Now, retrospectively, do you have an opinion as to whether the patient had a stomach ulcer in 1992?
A. I don't know.
Q. And why don't you know that?
A. Because I don't have any studies to prove or disprove anything I would say.
Q. You're aware of the upper GI series that was done in

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March --
A. Yes.
Q. -- of '93 --
A. Yes.
Q. --which identified a chronic antrum deformity?
A. Yes.
Q. That indicates some deformity in the stomach?
A. That's correct.
Q. Is that suggestive that the patient had stomach cancer?
MR. BETZ Stomach cancer or stomach ulcer?
MR. GORDON: Stomach cancer.
A. I don't know that.
Q. Does that antral deformity indicate that the patient had a stomach ulcer?
A. It indicates he had some stomach condition. I'm not -- I am not able to tell you what that is.
Q. What condition --
A. Radiologically, it is a diagnosis made on a series of shadows cast by barium against the film and does not give you a pathologic diagnosis.
Q. What are the potential diagnoses?
MR. MEADOWS: Objection.
MS. SEBAUGH: Join in the objection.

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MR. BETZ Me too.
A. Ulcer disease, gastritis, cancer, possibly other conditions which could be in existence and wouldn't be found unless something was biopsied.
Q. And you can do a biopsy by endoscopy?
A. That's correct.
Q. So do you have an opinion to a reasonable degree of medical certainty or probability what condition or disease process Mr. Chappell had in 1992 relative to his belly or abdominal pain?
A. My conjectural feeling is that he had an ulcer at that time, a peptic ulcer.
Q. Okay. Do you hold that opinion to a reasonable degree of medical probability?
A. Yes.
MS. SEBAUGH: Objection.
MR. MEADOWS: Objection.
MS. SEBAUGH: Was there an answer to that?
- - - -
(Thereupon, the requested portion of the record was read by the Notary.)
- - - -
Q. Do you have any opinion as to whether the patient had stomach cancer in 1991 and/or 1992?

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A. No.
Q. Do you have any opinion as *to* whether the cancer metastasized?
A. No.
Q. Do you have any opinion as to the prognosis of this patient if the cancer was diagnosed in '91, '92 or '931
A. No.
MR. ONEILL: What is your question, sir? I didn't hear that.
THE WITNESS: No.
MR. GORDON: Why don't you repeat the question.
- - - -
(Thereupon, the requested portion of the record was read by the Notary.)
- - - -
MR. BETZ I'm going to object to the form of the question.
Q. Do you have an opinion as to if an endoscopy was done in 1991 or 1992 what the endoscopywould have shown?
A. No.
Q. Do you have an opinion as to if an upper GI series would have been done in 1991 or 1992 what it would

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have shown?
A. No.
Q. Do you have an opinion as to, in the event the cancer was diagnosed and treated and the patient had survived, what his life expectancy would have been?
A. No.
Q. Do you have an opinion as to the cause of death of this patient?
A. I believe the cause of death was cancer of the stomach. That's what you told me, I believe.
Q. Are you familiar with the fact that patients with early stomach cancer have the same symptoms as gastric ulcers that are benign?
MR. BETZ Objection.
A. I am familiar with the fact that they may have those symptoms.
Q. Are you also familiar with an early stage stomach cancer that patients sometimes have their symptoms relieved by food?
MR. MEADOWS: Objection.
MR. BETZ: Objection.
A. They may have symptoms relieved by food.
Q. Also, patients with early stomach cancer may have their symptoms relieved by Zantac or H2 blockers?
MR. BETZ objection.

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A. They may have symptoms relieved by those.
Q. Does Zantac normally make an ulcer go away within a few days?
A. No.
Q. How long does it take?
A. Usually six to eight weeks.
Q. And what do you base that on?
A. That's what I have read over the years, and my experience would indicate that.
Q. Would you agree that early gastric cancer may only show signs of an ulcer or no symptoms at all?
A. That's correct, no symptoms at all would be more likely than anything, that's why they're not detected until very late.
Q. Well, similarly, many patients with gastric cancer which is in an early stage may somatically improve with a period of H2 blockers or Zantac; is that correct?
MR. BETZ: Objection. That's been asked and answered.
MR. MEADOWS: Objection. They might.
Q. Have we covered all your opinions?
A. Yes.
Q. Do you have --well, let me rephrase that.

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Do you believe that the earlier, generally speaking, you diagnose cancer the better the prognosis?
A. Yes.
Q. And why is that?
A. Because cancer is a condition which is of a malignant type which means that it grows uncontrolled in the area where it starts and then frequently will spread into other areas, and in this case in the lymph nodes and then to other areas of the body and over a period of time consumes the patient because it deprives them of his vitality and eventually they die.
Q. Is it correct that you'd like to diagnose the cancer before it metastasizes to the lymph nodes?
A. *Yes.*
Q. Because if you diagnose the cancer before it has nodal involvement it gives you a better prognosis?
A. That's correct.
Q. Is early stomach cancer a treatable and curable condition?
MR. MEADOWS: Objection.
A. Yes.
Q. Andwhy?
A. Well, the usual treatment would be to remove the

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stomach where the cancer is, and if you remove the cancerous tumor and you do that, provided it hasn't spread into the lymph system or into the blood system, you have removed all the malignant cells from the body and therefore the patient should remain free of that cancer.
Q. In terms of Mr. Chappell's presentation and complaints August 10th, '92, what is your opinion as to why when he did stop Zantac the pain came back?
A. Because the ulcer wasn't completely treated.
Q. And this is true even though he had been on Zantac for approximately a month?
A. Well, somewhat less than a month. He stopped it at some point because he had -- because his pain recurred, so I would have to say somewhat less than a month of treatment, which is not enough.
Q. You're saying that the accepted standard of care when you have a situation such as with Mr. Chappell, that he had pain while he was on -- am I reading -- excuse me. Let me go back to the August 10th, 1992 entry.
It says belly pain better since on Zantac?
A. That's correct.
Q. Okay. Then coming back --
A. Since he quit. So I would have to assume he quit

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some days before. So he really didn't have a full month of treatment.
Q. Should Dr. Klein have investigated as to when he stopped the Zantac?
A. No.
Q. So you're saying that the standard of care was, with respect to Mr. Chappell as of August 10th, 1992, based upon his complaints and what's reported here is to continue the treatment of Zantac?
A. Continue the treatment for a stipulated period of time, and in this case Dr. Klein chose 100 tablets, which was three months, and presumably be reevaluated or wait for the patient to come back if the symptoms reoccur after the treatment is discontinued. If he took it for 100 days and his symptoms reoccurred again, you would expect him to return.
Q. And the Zantac that was prescribed August 10th was for what period of time?
A. I presume a hundred days. It says a hundred. I'm making a presumption. I don't know whether that hundred refers to the number of tablets or the number of days or exactlywhat. That's just a presumption I'm making.
Q. Should there have been, according to the standard of

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care, a specific time for the patient to come back? In other words, return in a month, two months, three months?
A. That varies with each physician. In general, I have the patient come back. Dr. Klein seems to have relied upon Mr. Chappell to make his appointments when he needed to make them. I don't think that's a deviation from the standard of care.
Q. So with the Zantac therapy from August 10th, 1992, how long should Dr. Klein have had the therapy for Mr. Chappell before he asked him to return?
A. Well, it's about a three-month --well, I don't know whether he -- I didn't say he had to ask him to return. I said that's an option. I don't think the standard of care required him to return.
I think the patient would have returned if his symptoms reoccurred. He came in July because he had symptoms, so I would assume the patient would come back if his symptoms recurred. It's another assumption I'm making.
Q. So you're saying Dr. Klein didn't have to establish, in terms of his treatment plan after he gave Zantac on August 10th, any time to come back?
A. No. His diagnosis was duodenal ulcer, he gave him an appropriate amount of time for treatment. His

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symptoms, I don't know what happened to the symptoms after the 10th of August, so I have no more comment because I don't know what happened to this patient's symptoms.
Q. All right. Hypothetically if the symptoms continued --
A. Hypothetically if the patient's symptoms continued after the Tagamet or the Zantac ran out, Dr. Klein was relying upon the patient to return.
Q. And if the patient returned with continued complaints of abdominal pain --
MR. BETZ: I think we've been through this at least twice, Harley.
MR. MEADOWS: I object on the same basis.
A. If he had come back three months later, then what Dr. Klein would have done I don't know, but what I would have done would be to investigate him.
Q. And that would be the standard of care?
A. Yes.
Q. Either do an upper GI series or --
A. I would have done an upper GI series.
Q. To determine what's causing the continued abdominal pain?
A. Well, in an effort to identify some abnormality, and

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then depending upon what the study showed further studies may have been indicated at that time.
MR. GORDON: Why don't you give me a brief moment. I'm almost done.
MR. BETZ: Sure.
- - - -
(Thereupon, a discussion was had off the record.)
- - - -
Q. Do you know Dr. Bukowski of The Cleveland Clinic Foundation?
A. No.
Q. The only expert report that you've seen in this case is that of Dr. Coppa's?
A. The expert reports that I've seen were the ones that I gave you. I think there's Dr. Singer in there.
Is he an expert?
Q. Yes.
A. And Dr. Levitan, is he an expert?
Q. Yes.
A. Okay. I've seen those.
Q. You've seen their reports?
A. Yes.
Q. They're apparently upstairs too.
A. Maybe they are. Sorry.

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Q. You also read Dr Singer's deposition?
A. Yes.
Q. Do you have any disagreement with what Dr. Singer says–
MR. BETZ: Objection.
MR. MEADOWS: Objection.
Q. --with respect to Dr. Klein?
A. I think he makes some remarks that Dr. Klein was not following the standard of care, and I would disagree with that.
Q. What specifics does Dr. --
A. I believe he said something about doing an endoscopy.
Q. And you disagree with that?
A. Yes. I don't think this patient needed an endoscopy when Dr. Klein was taking care of him up to 8-17-92.
Q. And why wasn't an endoscopy indicated?
MR. BETZ: Wait a minute Harley. He's answered this question about three times. I think enough is enough.
MR. MEADOWS: No kidding.
A. His symptoms resolved with the appropriate treatment.
Q. Do you have any other disagreement with Dr. Singer

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in terms of Dr. Klein's care?
MR. BETZ: Objection. I don't think that's a fair question.
A. I didn't memorize the deposition.
Q. Okay. Because the questions are there, I might as well pose them to you.
You read Dr. Coppa's deposition?
A. Yes.
Q. Do you have any disagreement with Dr. Coppa?
MR. BETZ: Objection.
A. I believe he made similar statements and I would disagree with those.
MR. GORDON: All right. Let me just take a brief break and I'll be right back.
- - - -
(Thereupon, a recess was had.)
- - - -
Q. What is the purpose of prescribing Zantac for peptic ulcer disease?
A. It reduces the secretion of hydrochloric acid in the stomach and therefore allows the ulcer to heal. Usually the ulcers are assumed to be due to the hydrochloric acid's action on the mucosa of the lining of the stomach.
Q. Does a physician prescribe Zantac with just a

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history of peptic ulcer disease?
A. If there's a history of peptic ulcer disease it's very frequently prescribed. **It's** also prescribed for people that have nonspecific abdominal complaints. And in fact, now it has been made over the counter, **so** when patients have nonspecific over-the-counter abdominal complaints, they go and buy it and take it themselves. The physician isn't even involved anymore.
Q. Do you, yourself, prescribe Zantac if a patient doesn't have peptic ulcer disease?
A. Sure.
Q. For what purposes?
A. Nonspecific abdominal complaints.
Q. **Is** ulcer disease treated prophylactically with Zantac?
A. Well, there are those people who in their -- who have suffered the disorder who immediately, upon the presentation of similar symptoms, begin it themselves. And **so,** yes, the answer is prophylactic treatment with Zantac sometimes prevents the development of ulcers.
In other words, if you take it early on, the symptoms which usually mean you're going to get an ulcer are aborted. If **you** read the old textbooks,

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the classical spring and fall recurrence of peptic ulcers has been pretty much wiped out by the advent of the treatment with H2 blockers.
Q. With respect to stomach cancer, does that occur, to your knowledge, more often in black males?
A. I don't know.
Q. Do **you** know what age range stomach cancer occurs in terms of males?
A. Older males. **It's** very rare. I've had two cases in 32 years, one a black, one a white.
Q. Even though stomach cancer is still diagnoseable?
A. Oh, yes. **It's** much more common in the orient.
Q. Would you agree that endoscopy is done for minimal abdominal symptoms?
MR. MEADOWS: Objection.
Q. Let me rephrase the question. Endoscopy can be done for minimal symptoms?
MR. MEADOWS: Objection.
MR. BETZ Objection.
A. Endoscopy can be done for no symptoms.
MR. ONEILL: It can be done for a fee.
A. That's the point, cha-ching, cha-ching, cha-ching. At one point there was a physician in town that did that and Medicare fired him.

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Q. In July or August of 1992 did the standard of care require Dr. Klein to consider at all that the patient may have cancer of the stomach or the duodenum?
A. Only if he didn't respond to the therapy after a period of some months. If I knew how to diagnose cancer early I'd have a line from here down to Public Square waiting to come in to see me. I don't know how to do that.
Q. Would you agree the identification of malignant gastric ulcers prior to penetration in surrounding tissues is crucial since the curability of such early lesions, when limited to the mucosa or submucosa, is greater than 80 percent?
MR. MEADOWS: Objection.
MR. BETZ Objection.
MS. SEBAUGH: Join in the objecfion.
MR. BETZ He's already indicated he's not an expert in the treatment of cancer. **You** can go ahead and answer if you can, Doctor.
THE WITNESS: What?
MR. BETZ: You're welcome to answer.
THE WITNESS: Oh.
A. The earlier the diagnosis is made, the more likely the patient will be cured. If anybody has a cancer

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in their system, it is good luck if they do not have invasion of the lymphatics or the blood system early in the disorder, because even if it's found in a very small area and it's invaded the lymphatics or the blood system and you take out the original lesion eventually the cancer will recur. So early diagnosis is not always associated with cure.

MR. ONEILL With good --

THE WITNESS: With cure.

MR. ONEILL: With good --with cure, okay.

THE WITNESS: Yes.

Q. Have you ever read in the literature that gastroscopic biopsy and breast cytology are required with all patients with a gastric ulcer in order to exclude a malignancy?

MS. SEBAUGH: Objection.

MR. MEADOWS: Objection.

MR. BETZ: Objection.

A. No.

Q. If you have any additional opinions could you -- that you formulate from now until the time of trial, could you tell Mr. Betz so he'll advise us? Other than that --

A. My opinions are that I don't like depositions and I

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don't like trials.

Q. But could you tell Mr. Betz if you do arrive at any further opinions?

A. Yes.

Q. Is there anything else that you find significant in this case that we have not covered?

A. No.

MR. GORDON: That's all I have.

MR. BETZ Okay.

MR. MEADOWS: Do you have anything?

MR. ONEILL: No.

MR. MEADOWS: Dr. Junglas --

THE WITNESS: Yes.

MR. MEADOWS: -- I have just a few questions for you.

- - - -

CROSS-EXAMINATION OF DONALD W. JUNGLAS, M.D BY MR. MEAUOWS:

Q. As you know, my name is Bill Meadows. I represent Dr. Cook in this case.

A. Yes.

Q. You have had a chance to look at Dr. Cook's records?

A. Yes. I don't recall them verywell, but I did look at them at one time.

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Q. You may have answered this already. I apologize if I'm repeating Mr. Gordon's questions. Have you looked at Dr. Cook's depo transcript?

A. I looked at that too, but I don't recall what it says.

Q. Is it fair to say that you have no opinions critical of Dr. Cook's care?

A. Absolutely none.

Q. And when you reviewed the medical records, including those of Dr. Cook, did you find from your experience that it appeared he met the standard of care?

MR. GORDON: Objection.

MR. BETZ Objection.

Q. As you recognize it.

A. It appeared from my memory, which is very vague, that it was appropriate.

Q. In terms of your prior testimony regarding the radiologist's role in doing upper GI studies, is it your experience that a radiologist will call you as the ordering physician if he or she finds or interprets findings on upper GI that are concerning to the radiologist?

MS. SEBAUGH: Objection.

A. Yes. I happen to be a bird dog, personally. I usually go down and look at the pictures with him so

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I know in my mind what we're looking at.

Q. Have you looked at the results of the upper GI --

A. I looked at the films --

Q. --that was done here?

A. -- but I don't know how to interpret them.

Q. With regard to the upper GI that was ordered by Dr. Cook in March of 1993; have you looked at those films?

A. That's the films, copies of those films, but I don't know how to interpret them. See, a lot of the interpretation of films depends upon not the static picture but the way the barium traverses and the way the stomach contracts, and of course if there is a rigidity about the stomach lining or something the nature that indicates that it's not functioning the way it should like a muscular organ that contracts and expands, then one has to be more suspicious of a problem. That's why I go and talk to the radiologist.

Q. I understand. What is the meaning of good peristaltic activity?

A. Good peristaltic activity?

Q. Exactly.

A. Well, it seems to indicate that the stomach was contracting properly.

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Q. Is that what you're referring to when you're talking about the --
A. Yes.
Q. -- movement --
A. Uh-huh, that's correct.
Q. -- that the radiologist would be able to report?
A. Your intestines work in waves of contractions to push things from the mouth to the anus.
Q. And that's the kind of activity that you want to know about when you rely upon a radiologist who does an upper GI study that you order?
A. Yes.
Q. And is it reasonable for you as a clinician, or any clinician who orders an upper GI study, to rely upon the radiologist to give them that sort of information?
A. Yes. Radiologists are referred to as the doctors' consultant.
Q. Was your CV marked as an exhibit?
MR. GORDON: No.
MR. BETZ I thought it was.
Q. You are licensed to practice medicine in the State of Ohio?
A. Yes.
Q. And I take it more than 50 percent of your

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professional time is spent in clinical practice?
MR. GORDON: Objection.
A. 98 percent.
MR. MEADOWS: Thank you. That's all I have.

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CROSS-EXAMINATION OF DONALD W. JUNGLAS, M.D.
BY MS. SEBAUGH:
Q. Dr. Junglas, you're not critical of the radiologist who authored that upper GI --
A. No.
Q. -- study, are you?
A. I have no opinions regarding specialties that I am not a part of.
MR. ONEILL: I do have some questions. Oh, go ahead, Beth.
MS. SEBAUGH: I have just one more.
Q. You said that radiologists are often referred to as the doctors' consultant. If you had a question about a radiology report or a radiology film, in your practice you would contact the radiologist, is that correct --
A. Yes.
Q. -- if you didn't understand something or if you had further questions?

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A. Yes.
MS. SEEAUGH: I don't have any further questions. Thanks for your time.

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CROSS-EXAMINATION OF DONALD W. JUNGLAS, M.D.
BY MR. ONEILL:
Q. Do you usually take the initiative in contacting the radiologist?
A. I usually go down there at the time the patient is released when they're back in my office and look at the films, yes.
Q. Would that include the movie films of the fluoroscope?
A. In general if they do a movie film, yes.
Q. The films that would normally be available for you would be the still pictures?
A. Yes, but if you talk to the radiologist that does it he can sort of describe what he saw.
Q. Do you expect a call from a radiologist every time they do an x-ray on one of your patients?
A. I mark all my requisitions call.
Q. Call, call me?
A. Yes.
Q. I see, okay, all right.
A. That's been my habit.

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Q. You say that you are, by nature, a bird dog and therefore you assume the responsibility or the interest of following up with the radiologist --
A. Yes.
Q. --to find out what his examination has disclosed?
A. That's correct.
MR. O'NEILL: Okay. Thanks. That's all.

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RECROSS-EXAMINATION OF DONALD W. JUNGLAS, M.D.
BY MR. GORDON:
Q. First of all, you rely upon the interpretations of a radiologist in the performance of an upper GI series in terms of the treatment and diagnosis that you render?
A. Yes.
Q. Andwhy?
A. Because I've had great success in following the disease processes that they define for me and therefore I have great confidence that their diagnoses are usually correct.
Q. Did you bring with you today Dr. Cook's records?
A. No.
Q. And you're prepared today to discuss his care in terms of whether he complied with the accepted

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standard of care?
A. I said from my memory, that's all I said. It's very foggy, but as far as I knew I had no criticisms of it.
Q. But are you giving an opinion today that Dr. Cook complied with the accepted standard of care or you're saying I don't want to discuss that issue?
A. I don't want to discuss that issue because I don't have the information in front of me, A. And B, if I did I wouldn't want to discuss it because that's not my role here.
Q. Did you testify in response to Mr. Meadows' question that it was your opinion that Dr. Cook complied with the accepted standard of care?
A. I said I think I had no criticism of it from my memory, which was foggy. I believe I said that.
Q. Do you still want to state that, in light of the fact you don't have his records here and your assignment was not to evaluate the care of Dr. Cook?
MR. MEADOWS: Well, object. He's answered my questions and I'm not sure what the implication of your question is. I don't think it's a proper question.
MR. BETZ Well, let me weigh in too.
Q. I'm prepared to go ahead and discuss Dr. Cook with

66

you.
MR. ONEILL: I think it's clear from the record that Dr. Junglas is an expert not for Dr. Cook but for Dr. Klein's estate and he has not formed an opinion that he wishes to testify to with respect to the compliance of Dr. Cook with the standard of care, so let's leave it go at that.
Q. Is that correct?
A. That's correct.
THE WITNESS: That's well said. Thank you, Mark.
MR. BETZ: Yes, much better than i could have done.
MR. GORDON: Okay. That's all I have.
MR. BETZ: Are we done? We'll read it.

DONALD W. JUNGLAS, M.D.

67

CERTIFICATE

The State of Ohio ) SS:
County of Cuyahdga.)

I, Laura L. Ware, a Notary Public within and for the State of Ohio, do hereby certify that the within named witness, DONALD W. JUNGLAS, M.D., 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 was reduced by me to stenotypy in the presence of said witness, subsequently transcribed into type- under my direction; that the foregoing is a true and correct transcript of the testimony so given as aforesaid.

I do further certify that this deposition was taken at the time and place as specified in the foregoing caption, and that I am not a relative, counsel or attorney of either party or otherwise interested in the outcome of this action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office at Cleveland, Ohio, this day of , 2000.

Laura L. Ware, Ware Reporting Service
21860 Crossbeam Lane, Rocky River, Ohio 44116
My commission expires May 17, 2003.

## E



## F



## G



## H

## S

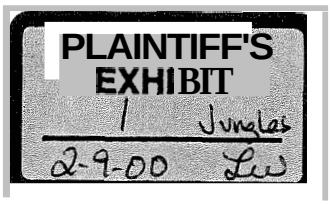
**Cleveland Physicians In**
***University Suburban***
***Health Center***

1611 South Green Road
South Euclid, Ohio 44121

Abby Goulder Abelson, M.D.
James M. Coviello, M.D.
Debra Anne DeJoseph, M.D.
Kevin T. Geraci, M.D.
Edgar B. Jackson, M.D.
Donald W. Junglas, M.D.
Philip D. Junglas, M.D.
Georgianna P. Kates, M.D.
Michael K. Koehler, M.D.
Todd W. Locke, M.D.

Hermann Menges, Jr., M.D.
S.D. Morehead, Ph.D.
Janet D. Morgan, M.D.
Franklin H. Plotkin, M.D.
Howard E. Rowen, M.D.
Raymond W. Rozman, Jr., M.D.
Adrian M. Schnall, M.D.
Michael G. Sheahan, M.D.
R.D. Thompson, Jr., M.D.
Richard Tomm, M.D.
Chester L. Plotkin, M.D., emeritus

September 14, 1999




Ms. Pamela S. Schremp
Gallagher, Sharp, Fulton & Norman
Seventh Floor, Bulkley Bldg.
1501 Euclid Avenue
Cleveland, Ohio 44115-2108

Dear Pam:

I have reviewed the chart of Dr. Harold Klein and his care of Frances Chappell. I have also reviewed Dr. Lloyd Cook's medical record as well as deposition transcripts of Dr. Wilfrid Gill, Dr. Lloyd Cook, and Dr. Robert J. Porter.

I have concluded after reviewing the combined records and depositions that Dr. Harold Klein's care of Mr. Frances Chappell was exemplary. His diagnosis and treatment program were appropriate and within the standard of care for a medical practitioner. No gastrointestinal endoscopy was indicated because after treatment his symptoms disappeared. I stand ready to defend this position in both deposition and at trial if this becomes necessary.

Sincerely yours,

Donald W. Junglas MD

Donald W. Junglas, M. D.

DWJ/nmi

Cleveland Physician
*University Suburban*
*Health Center*

1611 South Green Road
South Euclid, Ohio 44121

Abby Goulder Abelson, M.D.
James M. Coviello, M.D.
Debra Anne Deloseph, M.D.
Kevin T. Geraci, M.D.
Edgar B. Jackson, M.D.
Donald W. Junglas, M.D.
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Todd W. Locke, M.D.

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Adrian M. Schnall, M.D.
Michael G. Sheahan, M.D.
R.D. Thompson, Jr., M.D.
Richard Tomin, M.D.
Chester L. Plotkin, M.D., emeritus

August 16, 1999

PLAINTIFF'S EXHIBIT 2 Junglas 2-9-00 PL

received 8/23/99

Ms. Pamela S. Schremp
Gallagher, Sharp, Fulton & Norman
Seventh Floor, Bulkley Bldg.
1501 Euclid Avenue
Cleveland, Ohio 44115-2108

RECEIVED SEP 14 1999

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Sincerely yours,

Donald W. Junglas, M.D.

Donald W. Junglas, M. D.

DWJ/nmi

No upper gastrointestinal endoscopy was performed indicated because his symptoms disappeared after treatment was

Law Offices of
GALLAGHER, SHARP, FULTON & NORMAN
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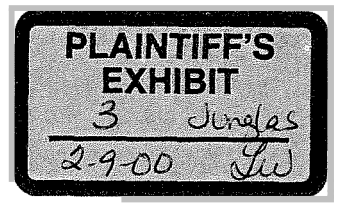
Playhouse Square • Cleveland, Ohio 44115-2108
(216) 241-5310 • Fax (216) 241-1608
Internet: http://www.gsfn.com

Direct Dial No. (216) 522-1277
E-Mail: pss@gsfn.com




September 15,1999

VIA FAX TO (216) 691-3531

Donald Junglas, M.D.
Cleveland Physicians, Inc.
1611 South Green Road
South Euclid, OH 44121

**Re:** Frances L. Chappell, etc. vs. Lloyd Cook, M.D., et al
Case No. 324732
Our File No. 94418-102009

Dear Dr. Junglas:

Accompanying this transmission is the report of another expert retained by plaintiff *in the* above-captioned matter, Gene F. Coppa, M.D. Dr. Coppa opines that had Mr. Chappell been properly evaluated and diagnosed in March of 1993, the gastric cancer would have been treated a year earlier and would have bean smaller, less evasive, and would *not* have metastasized to lymph nodes. According to Dr. Coppa, Mr. Chappell would, to a reasonable degree of medical certainty, more likely than nat, have survived after proper surgical therapy in early 1993.

Once again, my sincere thanks for your assistance in the defense of Dr. Harold Klein.

Very truly yours,

Pamela S. Schremp

PSS/lec
**Enclosures**
cc: Tom Betz
328693

**Law** Offices of
GALLAGHER, SHARP, FULTON & NORMAN
Seventh Floor • Bulkley Building • 1501 Euclid Avenue
Playhouse Square • Cleveland, **Ohio** 44115-2108
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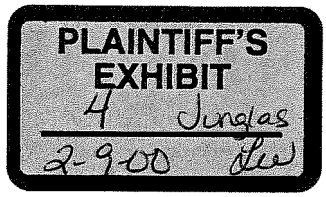
Internet: http://www.gsfn.com

**Pamela S.** Schremp
Direct Dial: (216) 522-1277
E-mail: pss@gsfn.com

May 12, 1999




Donald Junglas, M.D.
1611 S. Green Road
S. Euclid, OH 44121

***RE: Frances Chappell, Extrx. etc., v. Lloyd Cook, M.D.***
***Cuyahoga County Common Pleas***
***Case No. 324732***
***File #94418-102009***

Dear Dr. Junglas:

Thank you for agreeing to review this matter on behalf of our client, the estate of Harold Klein, M.D. Dr. Klein was Mr. Chappell's physician until August 17, 1992. According to information this firm received from previous counsel, Mr. Chappell began being followed by Dr. Cook when he began to complain of abdominal difficulties in late February of 1993. A laparoscopy and subtotal gastrectomy were performed on April 12, 1994. Pathology revealed invasive poorly differentiated adenocarcinoma.

Enclosed are the records from Dr. Klein's treatment of Mr. Chappell between the years 1977 and 1992. Due to the poor legibility of these records, I am enclosing a transcription of the records prepared by one of the nurse consultants from this office. I am in the process of obtaining the records of Mr. Chappell's subsequent treating physicians. As soon as I have those records, I will provide you with same. If there is any other information I can provide, please free to call.

I look forward to discussing this matter with you once you have had the opportunity to review these materials.

Very truly yours,

GALLAGHER, *SHARP*, FULTON & NORMAN

Pamela Schremp

Pamela S. Schremp

PSS:plz
Enclosures
cc: Thomas E. Betz, Esq.

Law Offices of
GALLAGHER, SHARP, FULTON & NORMAN
Seventh Floor • Bulkley Building • 1501 Euclid Avenue
Playhouse Square • Cleveland, Ohio 44115-2108
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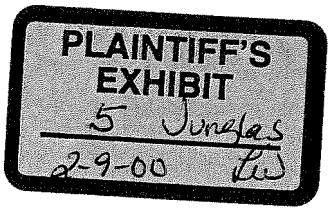
Internet: http://www.gsfn.com




Writer's Direct Dial 216 522-1277
May 17, 1999

Donald Junglas, M.D.
1611 S. Green Road
S. Euclid, OH 44121

**RE:** ***Frances Chappell, Extrx. etc., v. Lloyd Cook, M.D.***
***Cuyahoga County Common Pleas***
***Case No. 324732***
***File #94418-102009***

Dear Dr. Junglas:

Thank you for reviewing this case on behalf of our client, the Estate of Harold Klein, M.D. Enclosed please find copies of the lab work you requested:

1. ~~SMA performed on 8/1/91~~ not needed.
2. CBC performed on 7i31/91
3. SMA performed on 8/1 1/92

Thank you for your continued assistance in this matter. If there is further information I can provide, or if questions arise, please feel free to contact me at the telephone number noted above.

Very truly yours,

Pamela Schremp

Enc.
PS/ebc
cc: Thomas Betz w/oc

RECEIVED MAY 1 8 1999

**Law** Offices of
GALLAGHER, SHARP, FULTON & NORMAN
Seventh Floor • Bulkley Building • 1501 Euclid Avenue
Playhouse Square • Cleveland, Ohio 44115-2108
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**Pamela S. Schremp**
Direct Dial: (216) 522-1277
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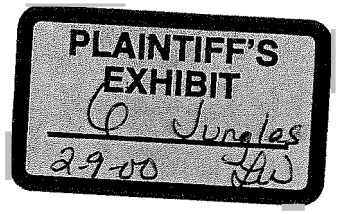
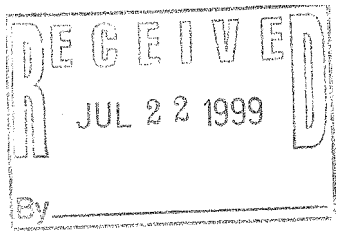



July 21, 1999

Donald Junglas, M.D.
1611 S. GreenRoad
S. Euclid, OH 44121




***RE:*** ***Frances Chappell, Extrx. etc., v. Lloyd Cook, M.D.***
***Cuyahoga County Common Pleas***
***Case No. 324732***
***File #94418-102009***

Dear Dr. Junglas:

Enclosed please find the deposition of Robert J. Porter, M.D. taken in the above-captioned matter. At the time in question, Dr. Porter was president of the Radiology Group that employed Dr. Gill as a locum tenens physician. Dr. Gill was the radiologist who performed the Upper GI series on Isaac Chappel. Please review the material at your convenience and let me know your thoughts.

Also enclosed are plaintiffs expert reports from the following experts: Gene F. Coppa, M.D., Myron Marx, M.D. and Barry L. Singer, M.D. Drs. Coppa and Marx focus on the interpretation of the radiology report for the Upper GI series and Dr. Cook's decision not to do any further testing at that time. Dr. Singer's supplemental report, dated May 28, 1999, does indicate that Dr. Klein deviated from the standard of care when he failed to order an endoscopy which, according to plaintiff s expert, would have revealed Mr. Chappell's carcinoma.

Please contact me after you have had the opportunity to review these expert reports.

Thank you for your assistance in this matter.

Very truly yours,

Pamela S. Schremp

PSS:lec
Enclosures
cc: Thomas Betz, Esq.
Stephanie Jursek (OIGA 104724)

10/13/99

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

| | | |
|---|---|---|
| FRANCES CHAPPELL, et al. | ) | CASE NO. 324732 |
| | ) | |
| | ) | JUDGE BURT GRIFFIN |
| Plaintiffs, | ) | |
| | ) | |
| -v- | ) | |
| | ) | NOTICE OF DEPOSITION WITH DUCES TECUM TO DONALD JUNGLAS, M.D. |
| LLOYD COOK, M.D., et al. | ) | |
| | ) | |
| | ) | |
| | ) | |
| Defendants. | ) | |

The Defendants will take notice that the Plaintiffs will take the deposition of Donald Junglas, M.D., pursuant to Ohio Rules of Civil Procedure 45 and 30, at the offices of:

Donald W. Junglas, Esq.
Cleveland Physicians, Inc.
1611 South Green Road
South Euclid, Ohio 44121

on the 9th day of February, 2000, commencing at 2:30 p. m. The deposition will be taken before a Notary Public and will continue from day to day until completed. No subpoena will be issued to the deponent inasmuch as she is a party to the within action.

At the time of the deposition, the deponent is requested to produce the following documents, records and things:

LAW OFFICES OF
NURENBERG, PLEVIN, HELLER & McCARTHY CO., L.P.A.
1370 ONTARIO STREET • FIRST FL • CLEVELAND, OHIO 44113-1792
(216) 621-2300

1. A current and up to date Curriculum Vitae and/or Resume.

2. Your complete file including any personal notes relative to this case.

3. Any and all medical research the deponent has done relative to the issues in this case.

4. Any demonstrative exhibits the deponent intends to use during his trial testimony.

Thomas Mester, Esq. #0019042

Attorney for Plaintiffs

LAW OFFICES OF
NURENBERG, PLEVIN, HELLER & McCARTHY CO., L.P.A.
1370 ONTARIO STREET • FIRST FL • CLEVELAND, OHIO 44113-1792
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1370 ONTARIO STREET • FIRST FL • CLEVELAND, OHIO 44113-1792
(216) 621-2300

## SERVICE

A copy of the foregoing Notice of Deposition with Duces Tecum to Donald Junglas, M.D. has been mailed this 10 day of December, 1999, to the following:

William Meadows, Esq.
Reminger & Reminger
The 113 St. Clair Building
Cleveland, Ohio 44114

Attorney for Defendant
Lloyd Cook, M.D., & Greater Primary Care

Beth A. Sebaugh, Esq.
800 Leader Building
526 Superior Avenue
Cleveland, Ohio 44114

Attorney for Defendants
Robert J. Porter, M.D., & Central Radiology
Consultants, Inc.

Mark O'Neill, Esq.
Weston, Hurd, Fallon, Paisley & Howley
2500 Terminal Tower
50 Public Square
Cleveland, Qhio 44113

Attorney for Defendants
Wilfrid M. Gill, Jr., M.D., and Westiake Radiology, Inc.

Thomas Betz, Esq.
Gallagher, Sharp, Fulton & Norman
1501 Euclid Avenue
Seventh Floor, Bulkley Building
Cleveland, Ohio 44115

Attorney for Defendants
Miraim Klein, Exec., of Estate of Harold C. Klein, M.D., and Internal Medicine, Inc.

Martin Franey, Esq.
Gravens & Franey
1240 Standard Building
1370 Ontario Street
Cleveland, Ohio 44113

Attorney for Defendant
St. Vincent Charity Hospital

Thomas Mester, Esq.

Attorney for Plaintiff

# Donald W. Junglas, M. D

## CURRICULUM VITAE

### EDUCATION:

| | |
|---|---|
| B.A. Adelbert College, Case Western Reserve University | 1955 |
| M.D. Case Western Reserve University, School of Medicine | 1959 |

### POST GRADUATE EDUCATION:

| | |
|---|---|
| Internship, Internal Medicine - University Hospitals of Cleveland | 1959-60 |
| Residency, First Year - University Hospitals of Cleveland | 1960-61 |
| Medical Officer, Captain - U. S. Air Farce | 1961-63 |
| Residency, Second Year - University Hospitals of Cleveland | 1963-64 |
| Residency, Third Year - University Hospitals of Cleveland | 1964-65 |

### BOARD CERTIFICATION:

| | |
|---|---|
| American Board of Internal Medicine | 1966 |
| American Board of Internal Medicins - Recertification | 1974 |

### MEDICAL SCHOOL APPOINTMENTS

| | |
|---|---|
| Demonstrator, Case Western Reserve University, School of Medicine | 1965-66 |
| Clinical Instructor, Case Western Reserve University, School of Medicine | 1966-67 |
| Senior Clinical instructor, Case Western Reserve University, School of Medicine | 1967-68 |
| Assistant Clinical Professor, Case Western Reserve University, School of Medicine | 1968-82 |
| Associate Clinical Professor, Case Western Reserve University, School of Medicine | 1982-1995 |
| Clinical Professor, Case Western Reserve University, School of Medicine | 1995-present |
| Faculty Council, Case Western Reserve University School of Medicine | 1988-present |
| Committee on Appointments, Promotions, and Tenure, Case Western Reserve University School of Medicine | 1998-present |

### HOSPITAL APPOINTMENTS

| | |
|---|---|
| University Hospitals of Cleveland, Assistant Physician | 1965-present |
| Benjamin Rose Institute, Assistant Physician | 1965-present |
| Veterans Administration Hospital, Attending Physician, Dialysis | 1965-71 |
| University Hospitals of Cleveland, Professional Advisory Committee | 1987-1998 |
| University Hospitals of Cleveland, Department of Medicine, Quality Assurance Committee | 1990-present |

# DONALD W. JUNGLAS, M. D.

## PRIVATE PRACTICE:

| | |
|---|---|
| Internal Medicins | 1$66-present |
| Cleveland Physicians, Inc., University Suburban Health Center | 7973-present |

## ORGANIZATIONS:

| | |
|---|---|
| The Academy of Medicine of Cleveland | 1965-present |
| Ohio State Medical Association | 1965-present |
| American Medical Association | 1965-present |

## COMMITTEES AND ORGANIZATIONS:

| | |
|---|---|
| Case Western Reserve University, Medical Alumni | |
| Board of Directors | 1972-75 |
| President | 1974-75 |
| Greater Cleveland Health Quality Choice | |
| Trustee | 1990-93 |
| Laurel Lake Retirement Community | |
| Trustee | 1985-1995 |
| Vice President | 1992-93 |
| Margaret Wagner Mouse | |
| Medical Advisory Committee | 1974-90 |
| Chairman, Executive Committee | 1974-75:1984-87 |
| Cleveland Allen Medical Library | |
| Trustee | 1990-2000 |
| President-Elect | 1992-93 |
| President | 1994-95 |
| University Suburban Health Center | |
| Member, Board af Governors | 1982-90 |
| Chairman, Personnel Committee | 1986-90 |
| Quality Assurance Committee | 1998-present |
| Cleveland Physicians, Inc. | |
| President | 1984-88 |
| Academy of Medicine of Cleveland | |
| Board Member | 1980-1993 |
| Member, Public Information Committee | 1984-85 |
| Medical-Surgical Peer Review Committee, Chairman | 1985-91 |
| Trauma Committee | 1990-92 |
| Public Relations Committee | 1990-92 |
| Community Advisory Committee | 1990-present |
| Steering Committee, Greater Cleveland Health Quality Choice Program | 1990-92 |
| Chairman, Honors | 1992 |
| Chairman, Nominating | 1992 |
| Vice President | 1988-90 |
| President Elect | 1990-91 |
| President | 1991-92 |
| Past President | 1992-93 |

# DONALD W. JUNGLAS, M. D

## TEACHING RESPONSIBILITIES:

| | |
|---|---|
| **University Hospitals,** of Cleveland | |
| **Ward** Rounds | 1966-82:1984-86 |
| **Renal** Clinic Visitant | 1966-75 |
| **Diabetes** Clinic Visitant | 1975-90 |
| **Medical** Clinic **Visitant, Wednesday afternoons,** three months **each year** | 1988-present |
| Resident "Teaching, University Suburban **Health** Canter | 1$97-present |
| Case Western Reserve **University,** School af **Medicine** | |
| **Phase II - Clinical Teaching** | 1983-85 |
| Medical Student Teaching-In-Office at USHC, Preceptorship 1/2 **day** per **week, September** through **May** | 1977-present |

## PUBLICATIONS:

None

## OTHER:

| | |
|---|---|
| Blue Cross of Cleveland, Review Consultant | 1983-88 |
| Clinician of the Year, The Academy of Medicine of Cleveland | 1996-97 |

9/9/99