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IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

EDWARD RANDOLPH,
et al.

Plaintiffs

- vs -

RICHARD KATZMAN,
M.D.

Defendant

: CASE NO. 323244
:
: JUDGE LILLIAN GREENE
:
: DR. RICHARD A. KATZMAN

Deposition of DR. RICHARD A. KATZMAN, a
witness herein, taken before Dave Lightman, a
Notary Public within and for the State of Ohio,
at 26900 Cedar Road, Beachwood, Ohio, this 15th
day of December, 1999, commencing at 11:00 a.m.
by agreement of counsel.

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APPEARANCES

FRANCIS E. SWEENEY, JR., ESQ.

on behalf of Plaintiff Randolph

REMINGER & REMINGER, by
JAMES M. RELLEY, III, ESQ.

on behalf of Defendant

STIPULATIONS

It is stipulated by and between
counsel for the respective parties that this
deposition may be taken by video and tape
recording by Dave Lightman; that his tapes
may be subsequently transcribed in the
absence of the witness; and that all
requirements with regard to notice of time
and place of taking this deposition are
waived.

OBJECTION PAGE

BY MR. KELLEY:

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THE NOTARY: We're on
the record.

MR. SWEENEY: You want
to swear the doctor?

THE NOTARY: Certainly.
Doctor, please raise your
right hand. Do you swear
that the testimony you're
about to give is the
truth, the whole truth and
nothing but the truth, so
help you God?

THE WITNESS: I do.

THE NOTARY: Thank you
You can proceed, counsel.

MR. SWEENEY: Let the
record reflect that this
is the deposition of Dr.
Richard Katzman being
reconvened by order of
Court on this date.
Counsel, can we waive
notice?

MR. KELLEY: Waive any
defects in notice or time

1 and manner of service.

2 DR. RICHARD A. KATZMAN

3 a witness, being by me first duly sworn, as
4 hereinafter certified, deposes and says as
5 follows:

6 DIRECT EXAMINATION

7 BY MR. SWEENEY:

8 Q Okay. Doctor, good morning. We have met
9 before, have we not?

10 A Yes.

11 Q My name is Francis Sweeney. I represent Mr
12 Edward Randolph in this action. I
13 understand that you are aware of the
14 circumstances and in fact we have met before
15 in a prior deposition, correct?

16 A Yes.

17 Q And this is just a continuation of that?

18 A Yes .

19 Q I'm not going to go over the ground rules
20 that I set for you before because I'm
21 assuming that you understood those and those
22 will apply today.

23 A Yes.

24 Q Correct? I will tell you one thing, if you
25 have any questions regarding anything feel

1 free to stop me and voice those concerns,
2 okay? Otherwise we'll just move ahead where
3 we left off before. Fair enough?

4 A Yes.

5 Q Okay. We are currently in your offices
6 where the last deposition took place?

7 A Yes.

8 Q A different office within the facility,
9 correct?

10 A Yes.

11 Q And this at 26900 Cedar Road, correct?

12 A Yes.

13 Q Can you please state your full name?

14 A Richard A. Katzman, M.D.

15 Q And position?

16 A I am a Director of Electrocardiography now
17 for Mt. Sinai Hospital, on the staff
18 cardiologist and internist.

19 Q You are an M.D., correct?

20 A Yes.

21 Q Do you have any subspecialties?

22 A I do cardiopulmonary medicine, mostly
23 cardiology now.

24 Q Are you Board Certified in internal
25 medicine?

1 A Yes .

2 Q Are you Board Certified in cardiology?

3 A No .

4 Q Are you Board Eligible?

5 A I don't think so .

6 Q Does any of your family work in the medical
7 field?

8 A No .

9 Q Any of your immediate family?

10 A No .

11 Q Do you understand the nature of the
12 insurance issues in this case?

13 MR. KELLEY: Just an
14 objection to any reference
15 to insurance, continuing
16 objection but you can
17 answer the question.

18 Q Do you understand the insurance issues in
19 this case, the PIE debacle? Are you aware
20 of that situation?

21 A That I'm aware of. Is there anything else?

22 Q No. But it's ongoing. I'd like to ask --
23 you were covered under a policy of insurance
24 which was through PIE, correct?

25 A Yes.

1 Q That is now with Insurance Guaranty --
2 A Yes.
3 Q -- Corporation, through your understanding?
4 Were there any other policies of insurance
5 that you had in effect in August of 1995?
6 A No.
7 Q Okay.
8 MR. KELLEY: For his
9 medical practice.
10 Q Correct. Do you -- have you retained any
11 private counsel, any private attorney other
12 than your attorney here today to represent
13 you with regard to this matter?
14 A Not that's made an appearance.
15 Q Okay.
16 A I think he has probably corporate counsel
17 and things like that.
18 Q Doctor, have you ever testified as an expert
19 in a medical malpractice case?
20 A Yes.
21 Q And when was the last time you did that?
22 A In malpractice?
23 Q Correct.
24 A Sears ago.
25 Q Who hired you to testify?

1 A It's in -- for malpractice it's so long ago
2 that I can't remember.

3 Q When is the last time that you testified or
4 gave a deposition similar to this prior to
5 today and the one that we had before?

6 A When is the last time I gave a deposition
7 where I was the defendant?

8 Q No. Where you were an expert, where you
9 were a witness or a defendant.

10 A Earlier this year.

11 Q What case -- tell me about that.

12 A I believe I had a deposition with the
13 Attorney General of the State of Ohio as an
14 expert witness.

15 Q So you served as an expert witness in a case
16 where you were retained by the State of
17 Ohio?

18 A Yes.

19 Q The Attorney General?

20 A Yes.

21 Q And you were retained to give an opinion as
22 to an ultimate issue --

23 A Yes.

24 Q -- of a medical nature?

25 A Yes.

1 Q In a malpractice case?

2 A Not malpractice.

3 Q What type of case was it?

4 A I believe it's Workers' Compensation.

5 Q It was an industrial case?

6 A Industrial case.

7 Q What area of medicine was that? Was that in

8 cardiology?

9 A I believe it was cardiology.

10 Q Doctor, where do you have -- what hospitals

11 do you have privileges with currently?

12 A Mt. Sinai Hospital at the present.

13 Q At the present. In August of 1995 where did

14 you have privileges?

15 A MetroHealth Medical Center and Mt. Sinai

16 Hospital.

17 Q Okay. You no longer have privileges at

18 Metro General Hospital?

19 A I left there two years ago to go to Sinai.

20 I'm back there for the last couple months

21 teaching electrocardiography on a part-time

22 basis. I don't know whether that includes

23 admitting privileges or not. I don't think

24 so.

25 Q And what was the reason you left Metro

1 H o s p i t a l ?

2 A W e g o t a n e w d i r e c t o r a n d I w a s o f f e r e d a
3 g o o d j o b a t S i n a i a n d I t h e n d e c i d e d i t w a s
4 t i m e t o l e a v e .

5 Q Y o u w e r e n ' t a s k e d t o l e a v e o r a n y t h i n g , w e r e
6 y o u ?

7
8 I l e f t . N o w I ' m b a c k .

9 Q H o w d o y o u c h a r a c t e r i z e t h e s i t u a t i o n t h e r e ;
10 w a s t h e r e a d o w n s i z i n g , w a s t h e r e a - -

11 A N o , t h e r e w a s j u s t a n e w d i r e c t o r , a n e w w a y
12 o f d o i n g t h i n g s a n d i t d i d n ' t s e e m t o b e
13 w o r k i n g o u t . I n t h e m e a n t i m e I w a s o f f e r e d

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23 d o i n g s i n c e 1 9 6 3 a n d c o n t i n u e d t o d o o n e
24 f u l l d a y a w e e k a t a n o t h e r l o c a t i o n o u t a t
25 M e t r o .

1 Q How is your health as we sit here today?

2 MR. KELLEY: Objection.

3 I think his health is
4 privileged.

5 Q It is?

6 MR. KELLEY: I don't:
7 think you have any -- he
8 doesn't waive any issues
9 regarding his health for
10 the purpose of this case.

11 Q Okay. How was your health in 1995? It
12 might be a relevant issue.

13 MR. KELLEY: As it
14 impacted his ability to
15 practice medicine, are you
16 asking?

17 MR. SWEENEY: Exactly.
18 Exactly.

19 A My health was good. I was found to have
20 cancer of the prostate.

21 Q Okay. I didn't mean to pry.

22 A I found I have cancer of the prostate and I
23 underwent surgery for it and I went back at
24 work within two weeks.

25 Q Okay. When was that?

1 A The surgery was done I think on August 30th
2 of 1995.

3 Q Everything's going well now?

4 A Well, it was an elective procedure. It
5 wasn't urgent or anything.

6 Q Doctor, you mentioned that you had a
7 subspecialty in cardiology, correct?

8 A Yes.

9 Q Would you say you have a subspecialty in
10 respiratory care?

11 A Yes.

12 Q Okay.

13 A I'm a fellow of the American College of
14 Chest Physicians.

15 Q And we've -- I asked you before whether or
16 not you had been a defendant in any
17 malpractice actions against yourself; has
18 that changed since the last time we met?

19 A No.

20 Q Doctor, what material have you reviewed
21 prior to either the last deposition or the
22 continuation today?

23 A The material that's right here that we
24 showed you last time, nothing's changed.

25 Q Can you please go over that just so we can

1 get on the record what material you
2 reviewed?
3 I have reviewed my letter to the Bureau of
4 Workers' Compensation regarding my
5 evaluation of Mr. Randolph of August 23rd.
6 I reviewed the written report of Dr.
7 Winkleman that he gave me from **August** 28th,
8 1995 and I've glanced at these various legal
9 papers, their correspondence with regard to
10 the case.
11 Okay.
12 MR. KELLEY: He's also
13 seen Stanton Hicks'
14 report .
15 I've seen Stan --
16 MR. KELLEY: And Jack
17 and Stanton Hicks, yeah.
18 -- and Jack -- I've seen them. I believe
19 they're in there.
20 Okay. That was to do for --
21 MR. KELLEY: Yeah,
22 those were given by me to
23 him, so they're not in
24 there but he has seen
25 them.

1 Q Okay.

2 THE NOTARY: Excuse me.
3 Can I ask that you go one
4 at a time so we can
5 transcribe it.

6 MR. KELLEY: Okay.

7 THE NOTARY: Sorry
8 about that.

9 MR. SWEENEY: That's
10 okay.

11 Q Doctor, have you spoken with anybody from
12 the Bureau of Workers' Compensation?

13 A About what?

14 Q Since August 23rd of 1995 regarding the
15 circumstances surrounding the reason we're
16 here today?

17 A When I received your letter I performed my
18 duty and informed them that you're planning
19 an action against me.

20 Q And who did you speak with, do you remember?

21 A I don't remember.

22 Q Do you know if it was a Mr. Jay Reel? Have
23 you ever spoken with --

24 A Sounds like --

25 Q Mr. Jay Reel?

1 A Maybe.

2 Q Have you ever spoken with Kevin

3 Firstenberg?

4 A Well, Kevin Firstenberg was the person

5 who --

6 Q Firstenberger of --

7 A -- Firstenberger who was the individual who

8 referred Mr. Randolph to me. That's who the

9 letter is addressed to.

10 Q Okay. Your report?

11 A Yes.

12 Q When's the last time you spoke with him?

13 A I don't remember.

14 Q Has it been awhile?

15 MR. RELLEY: You mean

16 about this case?

17 Q Yeah. Well, have you spoken with him since?

18 A I don't remember. I don't believe so.

19 Q I'm trying -- only reason is I'm trying to

20 locate him. I am and --

21 A He was changed to another unit there.

22 Q He's still in Columbus?

23 A I understand he was still in Columbus at

24 another duty there.

25 Q Okay. So he's still with the Bureau to your

1 know ledge?

2 A I --

3 Q Have you spoken with him in the past two
4 years?

5 A No.

6 Q Okay. Do you --

7 A I don't think in four years.

8 Q Do you know -- is there any correspondence
9 that you received from the Bureau discussing
10 this matter or relating to this matter?

11 A No.

12 Q Other than the report that you have, the
13 August 27th report to Mr. Firstenberger, is
14 there any other correspondence that you sent
15 to the Bureau of Workers' Compensation
16 regarding this matter?

17 A I think I reported to them when I -- except
18 the report that there was a suit or
19 something, that's all I can remember.

20 Q Was that incident report?

21 A I don't remember.

22 Q Okay.

23 A I don't --

24 MR. KELLEY: think --
25 I'll help you here. I

1 think what you sent to
2 them, didn't you noti -- I
3 think you notified them
4 after you got --

5 A I notified them --

6 MR. RELLEY: -- your
7 letter, sir.

8 A -- after I got your letter because I was
9 required to notify them and to notify my
10 insurance company,

11 Q What about before that?

12 A I don't remember.

13 Q Did you ever speak with a Tom
14 Siko?

15 A I don't know who he is.

16 Q Have you ever spoken with Deborah
17 Pancoast?

18 A I don't know who she is.

19 Q Have you ever spoken with Mark Mastrangelo,
20 the Attorney General?

21 A I know Mark Mastrangelo. I've done some
22 work for him.

23 Q Have you spoken with him about this matter
24 specifically?

25 A No.

1 Q Do you know a Dr. Coulter (phonetic)?
2 A No.
3 Q Doctor, how long have you been doing
4 examinations for the Bureau of Workers'
5 Compensation?
6 A I don't know, probably 20 years *or* so.
7 Q Did you have an opportunity to review the
8 deposition of Mr. Mobley?
9 A No.
10 Q Have you reviewed your prior deposition tha
11 you gave?
12 A No.
13 Q Have you reviewed a deposition from Dr.
14 Winkleman that was taken recently?
15 A No.
16 Q Have you spoken to Dr. Winkleman?
17 A Haven't spoken to Dr. Winkleman in over a
18 year --
19 Q Okay.
20 A -- and not about this.
21 Q Are you still professional colleagues?
22 A What do you mean by that?
23 Q Well, was the nature of your relationship
24 before on a professional basis or a persona
25 basis?

1 A It was on a professional basis.

2 Q Do you have to undergo a certification
3 process from the Bureau to be -- to do
4 examinations?

5 A Yes.

6 Q And is that review periodically?

7 A Yes.

8 Q When was the last review that you had?

9 A I think it's -- I know it's still timely, it
10 must be about a year ago. It's every two or
11 three years.

12 Q Explain that to me. How does that work?

13 A Well, you have to have -- first of all have
14 up-to-date medical insurance. They have I
15 think a curriculum vitae. There's a whole
16 long thing and you have to show that you
17 attended conferences which they discuss
18 their method of reporting the impairments
19 according to the disability determination
20 according to the AMA Fourth Edition and you
21 have to show that you've had so many hours
22 with them.

23 Q Is that like a sort of continuing medical
24 education?

25 A Yes, that's it.

1 Q Doctor, have you had an opportunity to
2 review the medical examination manual that
3 is distributed in the Bureau of Workers'
4 Compensation?
5 A Which one?
6 Q Any one.
7 A I have but there have been some new ones.
8 They didn't start sending many out, That's
9 subsequent to 1995.
10 Q Okay. When was the last one you can
11 remember reviewing or referencing or
12 reading or --
13 A Last year.
14 Q Last year. And was that sent to you?
15 A Yes.
16 Q Who sent that to you?
17 A I guess the Bureau.
18 Q Did they send it to you every year?
19 A I don't know how often they do it.
20 Q Do you recall receiving one approximately
21 every year or so?
22 A No. For many years there was absolutely
23 nothing.
24 Q And how do you know there was nothing?
25 A Because I didn't get anything.

1 Q Did you ever request anything?

2 A I believe they didn't -- I believe they

3 didn't start sending things out and said

4 there was some sort of a -- they will now

5 begin to send something on a regular basis

6 or to everybody. This is when they started

7 their entirely new credentialing system.

8 Q Okay.

9 A Which is only a couple years old.

10 Q Would that be the same as the certification?

11 A I don't remember.

12 Q Doctor, August 23rd of 1995, do you remember

13 that date?

14 A Yes.

15 Q Why don't you tell me what happened, in your

16 own words?

17 A I was working seeing patients for

18 cardiopulmonary disability that day.

19 Q Remember what day of the week that was?

20 A It's a Wednesday.

21 Q How do you remember what day of the week

22 that was?

23 A Because I do them on Wednesdays.

24 Q Tell me what else happened that day.

25 MR. RELLEY: You mean

1 in regard to this patient
2 obviously.

3 Q Yes.

4 A With regard to what?

5 Q We'd be here for awhile if it started 7:30
6 in the morning. I guess I'll just ask you a
7 question.

8 A Ask me the questions.

9 Q Doctor, on that day you were performing
10 examinations for the Bureau of Workers'
11 Compensation?

12 A I was performing examinations for several
13 different agencies. I believe I only had
14 one or two Workers' Compensation patients.
15 Didn't do more than that. That was only a
16 small percent of what I did.

17 Q On the average, how many patients would you
18 see on any given Wednesday?

19 A Some of them I didn't have to see because
20 they were only sent by an agency to have a
21 pulmonary function study done or maybe to
22 have an electrocardiogram done and then jus
23 (inaudible). We probably averaged around
24 20, 25 patients, including those. There
25 usually were six to eight of those, maybe

1 more. We generally started early in the
2 morning, seven, 7:30.

3 Q You mentioned that some of the patients come
4 for pulmonary function studies. Is that --
5 do they come to the lab?

6 A The lab was right in with the suite of
7 offices and they came just for that.

8 Q Are those these offices here?

9 A No.

10 Q Okay. Where are those offices?

11 A At that time I was working at the Brainard
12 Place Medical Building.

13 Q In the same capacity that you're working
14 here, correct?

15 A No. I had served my large private practice
16 to Associates of Internal Medicine who were
17 at that time at Brainard Place.

18 Q And who was that?

19 A It's a group of internists.

20 MR. KELLEY: That's the
21 name of the group,
22 Associates in Internal
23 Medicine?

24 Q Okay.

25 A And as part of the agreement they were

1 sponsored or run by Mt. Sinai Hospital that
2 I would be able one day a week to do -- to
3 use their facilities to do my
4 cardiopulmonary disability.

5 Q Okay.

6 A The 80 percent of the time I was at Metro
7 all the other days.

8 Q Before you sold it, did you have an interest
9 in the lab that did the pulmonary studies?

10 A Interest -- I have a technician who does the
11 studies.

12 Q Okay. In other words, do you receive income
13 from that lab?

14 A If we do a study we charge for it and we're
15 paid.

16 Q What I'm saying is that money comes to you,
17 before you sold it, that is?

18 A I did not sell the lab.

19 Q You still own the lab?

20 A I still own the cardiopulmonary disability
21 practice, yes.

22 Q Okay. And where is that located? At
23 Brainard Place?

24 A It was at Erainard Place.

25 Q Where is it now?

4 A Now it's at Park East.

2 Q Okay. And you're still conducting pulmonary
3 studies - -

4 A Cardiac and pulmonary studies.

5 Q -- and cardiac studies at that location.

6 A And internal medicine studies at that
7 location.

8 Q Okay. Do you remember what time of day Mr.
9 Randolph came on August 23rd, 1995?

10 A I do not. I believe it may have been in the
11 afternoon.

12 Q Okay. If I tell you it was a 3:30
13 appointment?

14 A That's probably right.

15 Q Would you dispute that? 3:30 appointment
16 would be the last appointment of the day,
17 correct?

18 A No.

19 Q When is the last appointment?

20 A Probably 4:30 or so.

21 Q And the appointments begin at 7:30 a.m.,
22 correct?

23 A Yes.

24 Q Now, Mr. Randolph was scheduled to have
25 pulmonary function studies done, correct?

1 A He was sent because of a pulmonary problem.
2 It was scheduled to have pulmonary function
3 studies.
4 Q Okay. Typically what would happen when a
5 patient is sent to your office from the
6 Eureau of Workess' Compensation for
7 pulmonary function studies?
8 A Well, first the patient would sign in and we
9 assign the number. We wanted to make sure
10 that people didn't feel that they were being
11 taken care of out of turn so every patient
12 as they came in was given a number. And
13 then if they were pulmonary they were given
14 another number so that the pulmonary
15 function study would also be done in order.
16 So that -- since there were people I hadn't
17 seen before, sometimes they would complain
18 that somebody was being taken ahead of them.
19 Q Okay. Well, after they sign in what
20 happens?
21 A Then under usual -- they would be -- the
22 history would be taken, an examination,
23 physical examination would be done. They
24 would then have whatever procedures had to
25 be done, an X-ray could he taken. There was

1 X-ray in that building --

2 Q Was an X-ray taken typically?

3 A If they had a pulmonary problem.

4 Q Where is that X-ray given?

5 A There were two places. Some of the X-rays
6 were taken in an X-ray office in that
7 building which was then I believe Kraus
8 Lubbert (phonetic) and **some** of the X-rays
9 were taken by Sachs & Ross if the Kraus
10 Lubbert was closed.

11 Q If I tell you that Mr. Randolph was sent for
12 an X-ray at Sachs Ross & Associates on that
13 day, would that make sense?

14 A Yes.

15 Q Okay.

16 A They had to go over to the Hillcrest Medical
17 Building for that.

18 Q And that assists you in doing your pulmonary
19 function studies, correct?

20 A Pardon?

21 Q The X-ray assists you in doing your
22 pulmonary function studies?

23 A If a person complains of a pulmonary
24 problem, you want to know if there's an
25 anatomical reason.

1 Q Do you remember finding one on Mr. Randolph
2 that day?

3 A It was a negative chest X-ray.

4 Q So Mr. Randolph signed in that day, he went
5 and got an X-ray according to the records.

6 A Either they go first or afterwards, you
7 know, depending upon if I'm backed up or
8 not.

9 Q There was a receptionist by the name if Ina,
10 I believe it was?

11 A Ina Svayg, S-v-a-y-g.

12 Q How long had she been with you in August of
13 '95?

14 A Probably 14 years, 15 years, maybe 16 years.

15 Q And she has since left, correct?

16 A She's in Florida.

17 Q When did she leave?

18 A 1998.

19 Q What was the reason for her leaving?

20 A Her husband at that time was given a big job
21 in Hallandale, Florida.

22 Q So she moved?

23 A Yes.

24 Q Okay. Doctor, where did you learn what it
25 is that the Bureau of Workers' Compensation

1 wants in regard to doing these exams as you
2 did on Mr. Randolph?

3 A When I was a resident Dr. David Gillespie
4 was chief of pulmonary at Metro. Did
5 considerable occupational medicine in
6 pulmonary disease and I rotated through
7 there.

8 When I finished the residency and
9 fellowship and went out in the practice, Dr.
10 George Wright who was professor of pulmonary
11 disease had a laboratory performing
12 pulmonary function studies for various
13 agencies, including Social Security
14 disability. He did not want to -- he did
15 not enjoy examining patients. He asked Dr.
16 Gillespie to ask me if I would do the
17 examinations for him and he would do the
18 pulmonary and we would discuss it.

19 Q What year was this?

20 A 1963.

21 Q So you learned how to do these over the
22 years, correct?

23 A And I learned and until he retired we did it
24 that way. When he retired, I was asked to
25 do the pulmonary function studies and talk

1 with Dr. Gillespie and I knew how to do
2 them. I obtained a technician and the
3 equipment and started to do it at that time
4 for Social Security disability and
5 subsequently for many other agencies.
6 Q And have been doing it since?
7 A And have been doing it since. I was made a
8 fellow of the American College of Chest
9 Physicians as a result.
10 Q Okay. Thank you, Now, let's get back to
11 August 23rd of 19 -- was it August 23rd?
12 A Yes.
13 Q August 23rd of 1995 you met with Mr.
14 Randolph?
15 A Mm-hm.
16 Q When was the first time that you saw **Mr.**
17 **Randolph**?
18 A That time.
19 Q And where did you see him when you first
20 laid eyes on him?
21 A I believe in the examining room, I believe.
22 Q Tell me what you remember about what
23 happened that day.
24 A I believe he was examined.
25 Q Ey you?

1 A Yes .

2 Q Okay .

3 A He had his X-ray. I don't know whether it

4 was first or last or, you know, I can't

5 remember.

6 And he went to Bill to do the

7 pulmonary function study which included a

8 blood gas .

9 Q Mr. Mobley?

10 A Yes .

11 Q Okay .

12 A And Mr. Mobley stated that Mr. Randolph did

13 not want him to do it. He asked me to do it

14 So I came to Mr. Randolph - -

15 Q Let me clarify that. %rho asked you to do

16 it?

17 A Mr. Mobley.

18 Q Okay, go ahead.

19 A He said that he did not want him to do it.

20 Q Okay, go ahead.

21 A And I went to do the blood gas .

22 Q So, you performed a blood gas on Mr.

23 Randolph?

24 A Yes .

25 Q After you had been informed that he did not

1 want it done, correct?

2 A No, he said he didn't want Mr. Mobley to do

3 it.

4 Q Well, I'm asking, I'm just asking you. You

5 performed a **blood** gas on Mr. Randolph after

6 you were made aware that he did not want it

7 done by whomever?

8 A He did not say this. I said that that was

9 part of the evaluation and that in the event

10 that it was abnormal it would help his

11 situation. You can't do a blood gas against

12 somebody's will. A person has to hold their

13 arm down, you have to palpate the vessels,

14 you have to hold the needle, you can't do

15 it.

16 Q Mr. Mobley came to you and said **Mr.** Randolph

17 doesn't want --

18 A He doesn't want -- he says he doesn't want

19 me, ~leaning~

20 Q Mr. Mobley?

21 A Yes.

22 Q Did he say why?

23 A He said he's frightened.

24 Q Of what?

25 **4** That's all he said.

1 Q Okay. So you performed the AEG on Mr.
2 Randolph knowing that he told Mr. Mobley
3 that he did not want Mr. Mobley to do it?
4 A Yes.
5 Q Okay.
6 A Now, that's not unusual because sometimes
7 Bill does them first and sometimes I do then
8 first and sometimes if people demur we ask
9 the other.
10 Q I believe Mr. Mobley testified that he
11 always does the blood gases, correct?
12 A He always -- he does the technical part of
13 it always. As it turns out most of the
14 blood gases are drawn by me.
15 Q How many blood gases have you drawn, Doctor,
16 since 1963?
17 A Thousands.
18 Q Okay,
19 A Couple thousand. I can't count.
20 Q Mr. Mobley testified I told him, meaning
21 you --
22 MR. KELLEY: What page
23 are you on?
24 Q Page 40.
25 MR. KELLEY: Just for

1 the record.

2 Q Yeah, I'm sorry. -- I told him, meaning
3 you, the patient refused to take the blood
4 gas and he said what was his response and
5 Mr. Mobley said his response, meaning you,
6 was do you want me to do it, okay? Do you
7 remember that?

8 A No.

9 Q And I asked Mr. Mobley, I said to him,
10 you -- and you told --

11 MR. KELLEY: What page
12 are you on now, on 41?

13 Q Still on Page 40.

14 -- and you, meaning you, told him --
15 no, and you meaning Mr. Mobley, excuse me,
16 told Dr. Katzman that the patient refused.
17 He said, that's correct. And he was still
18 intent on performing it, meaning the AEG, he
19 says yes.

20 MR. RELLEY: Wait,
21 there's not a question.

22 Q Doctor, what is your standard practice when
23 someone refuses to have a procedure done
24 upon them?

25 A I don't do it. But he did not refuse me.

1 Q

2 performed the ABG?

3 A

4 I think he was just outside the room by the door.

5 Q

6 Okay. What happened when you performed the ABG?

7 A

8 Well, we had a pad that we put the person's arm on, we have him stretch it out. I palpate the radial arteries, the brachial arteries and the ulnar arteries on both arms to find which is the best -- I don't ever use the ulnar artery but I palpate it anyway to find which is the best vessel. I then usually mark them with ink as to where to go.

16 Q

17 Okay.

18 A

19 Put my index finger on the vessel. I have a syringe with heparin. I palpate the vessel, always palpate it. The syringe and -- you know, it takes several minutes to check the vessels, you know, it -- so, if an individual doesn't want to have it done, they have ample time to refuse.

24 Q

25 Well, Doctor, you already stated that. I'm asking you what happened next.

1 A I then attempted to get the blood gas. I
2 took the syringe with my finger on the
3 vessel, carefully advanced from the top and
4 Mr. Randolph appeared to be somewhat upset
5 and on -- I believe I made two attempts. I
6 never make -- I made -- I think I did one
7 radial and he didn't -- he star -- he -- we
8 didn't get it right away so I went to the --
9 for the brachial and then he pushed his arm
10 like that, jerked --

11 MR. HELLEY: You're
12 going to have to describe
13 what you mean by like
14 that. 'Cause it won't --

15 A He lifted up his arm -- he suddenly lifted
16 up his arm almost hit me in the face with
17 his hand and I quickly pulled the syringe
18 out and went backward. I distinctly
19 remember that this has never happened to me
20 before or since.

21 Q Did he tell you why he lifted his arm up?

22 A He said --

23 Q Was there any talking during this period of
24 time?

25 A Yeah. He said it hurt.

1 Q What was he saying?

2 A He said it hurt.

3 Q Okay. Doctor, which is Mr. Randolph's
4 dominant arm, according to your records?

5 A I believe he's right-handed. This was the
6 left hand.

7 Q And where is that reflected in your records?

8 A I don't have it recorded. One goes ahead
9 and does a blood gas on what seems to be the
10 best vessel by palpation to obtain the
11 sample.

12 Q I know. I'm asking you where in your
13 records is it reflected --

14 MR. KELLEY: Look in
15 your record and see if
16 it's reflected in your
17 record.

18 Q -- which arm is Mr. Randolph's dominant arm?

19 OFF THE RECORD

20 BACK ON THE RECORD

21 Q Doctor, what were you saying when we
22 stopped?

23 A I don't know.

24 MR. KELLEY: I think
25 you had just walked

1 through the procedure.
2 The last thing I remember
3 was him describing the arm
4 going up and then you
5 asking him why, he said it
6 was pain.
7 Q Okay, okay. It was pain.
8 MR. KELLEY: That's the
9 last thing I remember.
10 Q Okay.
11 MR. KELLEY: You might
12 have asked him another
13 question.
14 Q Now, Doctor, after Mr. Randolph raised his
15 arm and said it was painful, what did he do
16 then?
17 A I stopped the procedure. Now, I was
18 somewhat surprised. I asked if he wanted to
19 proceed and he said no and then we of
20 course, we put five minutes' pressure on the
21 vessel, that's standard procedure.
22 Q Why were you surprised?
23 A I'd never had anybody do that before or
24 since.
25 Q Okay. Do you remember saying to Mr.

1 Randolph after this was done, well, that's
2 number six?

3 A No.

4 Q You don't ever remember saying that?

5 A No. He may have been the sixth blood gas of
6 the day or something, I don't -- but, no.

7 Q Okay. Doctor, what are the risks ~~ox~~ the
8 complications of performing an ABG?

9 A The risks? There's bleeding. Hematoma.
10 There's pain. Everybody has some pain with
11 it. It's more painful than doing a venous
12 stick. There may be some soreness and very
13 rarely reported there's nerve damage.

14 Q So nerve damage is one of the risks of the
15 procedure, correct?

16 A Very rarely.

17 Q But it does exist, correct?

18 A It does exist.

19 Q Did you tell Mr. Randolph of the risks of
20 this procedure?

21 A I did not tell him the risks,

22 Q Did Mr. Mobley tell him the risks?

23 MR. KELLEY: Let him
24 finish. I don't think he
25 was done.

1 A I did not tell him the risks because the
2 standard of care does not -- it occurs so
3 very rare --

4 Q Doctor, we're not talking about the standard
5 of care here.

6 MR. KELLEY: You got to
7 let him finish.

8 Q Okay.

9 A The standard of care, now it is so very rare
10 to have problems with it because it's --
11 that it's not necessary, the standard of
12 care doesn't require to list all the risks
13 because they're very, very rare and it does
14 not require a signature, an informed
15 consent.

16 Q Do you know if Mr. Mobley told Mr. Randolph
17 of any of the risks or complications of an
18 AEG?

19 A I don't know.

20 Q Okay. Is Mr. Mobley your employee?

21 A Yes.

22 Q Was he in 1995?

23 A Yes.

24 Q Is he still today?

25 A Yes.

1 Doctor, is it true that you can cause
2 paresthesia or nerve injury by introducing a
3 foreign object as a needle close to the
4 nerve, not necessarily touching it; isn't
5 that true?

6 Has to touch some of the pal- -- some of --
7 yes.

8 Doctor, what is the antecubital fossa?
9 The antecubital fossa is the area on the
10 opposite side of the elbow where the arm
11 bends.

12 Is it true that the median nerve is in close
13 proximity to the brachial artery?

14 Yes.

15 Doctor, in your practice, what
16 authoritative text do you rely on for
17 cardiology or pulmonary medicine?

18 Braunwald.

19 I'm sorry?

20 Eraunwald for cardiology.

21 One word?

22 Braunwald --

23 Braunwald is his name?

24 Yes.

25 MR. KELLEY: It's a-u.

1 E-r-a-u - -

2 A B-r-a-u-n-w-a-I-d .

3 Q Braunwald, and that's cardiology?

4 A Yes .

5 Q How about pulmonary medicine?

6 A I think Baum, Jerry Baum and Wolinsky.

7 Q That's Eaum?

8 A E-a-u-m. It's either Baum and Wolinsky or

9 Wolinsky and Baum. I forget which.

10 Q And Alinsky?

11 A Wolinsky, W-o - -

12 Q Wo l i n s k y .

13 A W-o-l-i-n-s-k-y .

14 Q Wolinsky and Eaum pulmonary medicine,

15 correct?

16 A Yes .

17 Q Doctor, what periodicals do you refer to in

18 your practice to assist you in cardiology

19 and pulmonary medicine?

20 A Circulation, chest. (Inaudible) in

21 (inaudible) medicine.

22 Q Journal of American Medical Association?

23 A Yes .

24 Q Any others?

25 A Archives of Internal Medicine and then the

1 American College of Cardiology every three
2 months has a summary of the literature that
3 is published.

4 Q Are you familiar with the periodical known
5 as Respiratory Care?

6 A I am familiar with it.

7 Q I'm sorry.

8 A I know of it, I don't read it.

9 Q Do you subscribe to it?

10 A No.

11 Q Doctor, was the AEG necessary to render an
12 opinion to the Bureau of Workers'
13 Compensation?

14 A The pulmonary function studies were
15 necessary to determine in event of
16 obstructive lung disease. The ABG is
17 usually done before the spirometry because
18 once they've done the heavy breathing for
19 the spirometry, it may artificially raise
20 the arterial blood gas and give a falsely
21 normal reading. It's part of -- it's
22 considered part of a pulmonary workup.

23 Q I know, but that's not my question. My
24 question was, was it necessary?

25 A Not having tested him before and I was

1 trying to be as complete as possible.

2 THE NOTARY: Let's go
3 off a second to flip
4 tapes.

5 OFF THE RECORD

6 BACK ON THE RECORD

7 Q Okay, Doctor, I've been asking you if the
8 ABG was necessary for you to render the
9 opinion.

10 A Part of the standard of care of doing a
11 complete pulmonary workup.

12 Q Okay. In referencing your report to the
13 Bureau of Workers' Compensation of August
14 27th of 1995, you did not reference the need
15 for the ABG in order to meet that standard
16 of care, is that correct?

17 A It was considered part of the complete
18 pulmonary workup.

19 Q But it was not completed, correct?

20 A I didn't complete it. I indicated we didn't
21 get the -- we did not get it.

22 Q Nevertheless you gave an opinion, a four-
23 page report, which resulted in the opinion
24 that there was no impairment of Mr.
25 Randolph, correct?

1 A I didn't have the results of the spirometry.
2 Those are looked at later.

3 MR. KELLEY: His
4 question -- listen to his
5 question.

6 A According to what I got, there was no
7 impairment. I can only go ahead --

8 Q Okay.

9 A -- and I did indicate that he did have the
10 problem that he was claiming and that I
11 indicate the probable causality.

12 Q Okay.

13 A I'm talking about with regard to the
14 original reason for referral but that the
15 objective information that I had, I had not
16 found any impairment up to that point.

17 Q This is the report. Would you mark this?

18 THE NOTARY: Yes,
19 certainly. What are we
20 going to mark this as?

21 MR. SWEENEY: Plain-
22 tiff's 3. I used 1 and 2,
23 right? I used 1 on the CV
24 and 2 on the patient list.

25 MR. KELLEY: Okay. So

1 this is Plaintiff's 3.

2 THE NOTARY: Exhibit 3

3 is so marked.

4 Q Doctor, I want you to take a look at

5 Plaintiff's Exhibit No. 3. Take a look at

6 that. Tell me if you recognize that.

7 A That's my report.

8 Q Okay, If you want to hand that back. And

9 you have a copy?

10 A Yes.

11 Q In front of you also? Doctor, did you state

12 anywhere in this report that Mr. Randolph

13 did not want the blood gas to be done?

14 A I beg your pardon?

15 Q Did you state anywhere in your report that

16 Mr. Randolph expressed a desire not to have

17 the blood gas performed?

18 A He did not tell me not to do it.

19 Q I understand that, but he told Mr. Mobley

20 that he didn't want it done.

21 A It's not unusual for patients or claimants

22 to say they don't want the technician to do

23 it, they want the doctor to do it. That's

24 very common.

25 Q I understand that. Knowing what you knew

1 though you did not include that information
2 in this report, correct?

3 A I saw no need to.

4 Q Okay. Would the ABG have assisted you
5 further in evaluating Mr. Randolph's
6 impairment?

7 a There are some people who have asthma which
8 he had a variant of asthma who are
9 hyperventilating and their PC02, their
10 carbon dioxide can be deduced. It's very
11 hard sometimes to pick this up and sometimes
12 their oxygen saturation may even be down.
13 If that was true, he would have had a much
14 more severe case and would be entitled to a
15 more severe degree of --

16 Q Doctor, I don't mean to cut you off, I'm
17 just asking would the ABG have been
18 benefi --

19 MR. KELLEY: I think
20 he's explaining how it
21 would have benefited --

22 Q I'm just asking yes or no, would it have
23 been beneficial?

24 A It would have been beneficial --

25 Q Tell me yes or no and then you can explain.

1 A Yes .

2 Q Okay. It would have been beneficial. Go
3 ahead, I'm sorry.

4 A Had his PC02 been down, in other words, he
5 had been hyperventilating to raise his P02
6 it would have indicated a more severe
7 degree, Sometimes it's hard to find and --
8 or had his P02 been down suddenly, it would
9 have meant that he had much more severe
10 disease than maybe even he thought he had.

11 Q And you didn't state that in your report
12 either, did you?

13 A I didn't have a sample to go on.

14 Q Okay. But you did not express to the Bureau
15 of Workers' Compensation that it would have
16 been beneficial for you to receive the ABG,
17 correct?

18 A No.

19 Q Okay. Doctor, on the last page of your
20 report, there is a form -- you may or may
21 not have it -- it was part of my report that
22 I got -- that you filled out.

23 A Yes, this is the **form** in which you go back
24 to the AMA Guide for permanent impairment
25 Fourth Edition.

1 Q And you see on the bottom there it says, you
2 checked off the box that says I've
3 treated -- I have seen this patient one time
4 for examination purposes only and I'm not
5 rendering any other care or treatment for
6 the patient, correct?

7 A This was filled out on the very day -- or I
8 assume it's before or the very next day I
9 saw him, yes,

10 Q What's the date on that?

11 A The date of injury is --

12 Q Is there a date other than date of injury on
13 that?

14 A No, this was sent in at the exact time.

15 Q As the report, correct?

16 A Yes, It's required.

17 Q And the report was sent in on I assume
18 August 27th, at least that's when it was
19 dictated?

20 A Yes.

21 Q And it was received --

22 A No, no, if -- August 27th was the date it
23 was given to me to sign and send.

24 Q Okay.

25 A I dictated it immediately,

1 Q SO -- but you in fact spoke to Mr. Randolph
2 after his examination, correct?
3 A Yes. He called me.
4 Q As a matter of fact you saw him on August
5 25th, two days later?
6 A I did, yes.
7 Q But on August 27th when this report was sent
8 out -- when was this report dictated?
9 A It was dictated August 23rd.
10 Q Okay. And you made no attempt to correct
11 this information that says that you only saw
12 him one time? Well, it's not changed, is
13 it?
14 A No, I wouldn't change it.
15 Q Doc, did you receive prior authorization
16 from the Bureau of Workers' Compensation to
perform the ABG test?
A There was no prior authorizations needed.
Q Okay. And what are you basing that on?
A That was their rules at the time. I had
done a number of cases for them and there
were no prior authorizations required.
Q If I tell you in 1995 that prior
authorization was needed for an AEG test,
would that surprise you?

1 A I can only tell you that I'd done a number
2 of cases for them and at that time they
3 didn't require it. I did some cases later
4 and that it was **assumed** that if the person
5 had pulmonary disease that -- and they were
6 sent to you for that, that you could do the
7 pulmonary workup.

8 Q Doctor, how much do you charge for an ABG?

9 A I don't know at that time. Probably --

10 Q How much do you charge today?

11 A Anywhere between 60 to \$75, I think. I
12 don't remember exactly what.

13 Q Did you charge for this one that **was**
14 performed?

15 A No.

16 Q Why not?

17 A We didn't do it.

18 Q Okay. How many times have you seen this
19 patient?

20 A I saw him when he called and stated that
21 there was a problem. I saw him August 25th.

22 Q Did you see him at any other time?

23 A **And** then August 28th with Dr. Winkleman.

24 Q Did you pay Dr. Winkleman for his consult of
25 Mr. Randolph?

1 A No.

2 Q Are there any other records of your
3 treatment of Mr. Randolph other than the
4 ones that we have here?

5 A No.

6 Q Did you ever contact Mr. Randolph at home --

7 A Yes.

8 Q -- after the examination?

9 A September 6th, 1995.

10 Q Okay.

11 A I called him because he is -- he had -- Mr.
12 Winkleman, Dr. Winkleman asked him to
13 contact him and make an appointment to come
14 in for an evaluation.

15 Q Okay.

16 A And I ran into Dr. Winkleman in the hall and
17 I said have you seen him. We said no and I
18 believe you have a copy of that encounter.

19 Q Doc, what is an Allen's test?

20 A An Allen's test is a test to determine
21 whether or not the circulation of the ulnar
22 artery is intact.

23 Q Did you perform that on Mr. Randolph that
24 day?

25 A I don't recall.

1 Q Would you typically perform that on a
2 patient prior to an ABG?
3 A I usu -- I always check the radial, the
4 brachial and the ulnar artery and I believe
5 I usually perform. I don't remember.
6 Q You attempted to obtain the ABG from Mr.
7 Randolph's radial artery of his --
8 A Left.
9 Q -- left arm, correct?
10 A Left. Yes, left wrist.
11 Q And why did you not obtain it from the left
12 wrist?
13 A Eecause I think the -- I put the needle in
14 the skin and there was no sample and so I
15 withdrew it.
16 Q So you inserted the needle into his left
17 wrist area and you did not hit a vein or
18 artery, excuse me?
19 A I thought I hit the artery but there wasn't
20 any blood and I decided that I would take
21 the radial -- sorry, the --
22 Q But where did --
23 A -- brachial.
24 Q I want to stick with the radial first.
25 We'll yet rip there.

1 Where -- if the needle was inserted,
2 where did it go if it didn't go into the
3 artery?

4 A It may have been in the vessel wall. It may
5 have -- there may have been a little clot in
6 the needle. There are --

7 Q But you're not sure what happened, are you?
8 You're just sure that there wasn't blood
9 coming out?

10 A One doesn't always get a sample.

11 Q Sure.

12 A So one takes another attempt --

13 Q Okay. Is that -- I'm sorry.

14 A -- often at another site.

15 Q Well, let's stick with the radial area
16 first. When you insert a needle into the
17 wrist area --

18 A Mm-hm.

19 Q -- there are tendons and nerves in that
20 area, correct?

21 A I have my index finger on the artery so I
22 can feel the pulsation. I have the needle
23 at an angle not far from there so I can feel
24 where it's going. If it doesn't go and I
25 don't get blood where I think it should be,

1 I stop.

2 Q And then -- so you could not obtain the
3 blood from the radial area of the wrist --

4 A It didn't come.

5 Q -- in the radial artery, excuse me?

6 A It didn't come. I stopped.

7 Q And then what did you do?

8 A I asked him if I could do the brachial.

9 Q Oh, you asked him if you could move up to
10 the brachial?

11 A Yes.

12 Q What did he say?

13 A I don't remember but he didn't demur. He
14 kept his arm there.

15 Q He didn't what?

16 A He didn't say no.

17 Q What was his disposition like; what was
18 that -- was he fearful, was he nervous?

19 A He was nervous through the whole thing
20 including the physical examination and the
21 whole -- the whole thing. I believe this
22 may be his nature. I'd never seen him
23 before.

24 Q Okay. But you were aware enough to know
25 that he was nervous throughout the entire

1 time he was there, correct?

2 A He seemed to be tense but that's not unusual

3 in patients who come to the doctor.

4 Q So you went up to the brachial artery?

5 A I went ahead and I felt it and put alcohol

6 over it.

7 Q Why do you start at the radial at-ear and then

8 go to the brachial next? Why don't you

9 start at the brachial?

10 A Usually easier to get it at the radial I

11 think but sometimes I have to go with the

12 brachial. I probably miss one blood gas per

13 year.

14 Q What do you mean by miss?

15 A Not get a sample completely after two tries.

16 Q Now you tried the radial. Why didn't you go

17 to the other arm and try that radial area?

18 A I think because I had felt that and I didn't

19 feel that the vessels on the other arm were

20 as good.

21 Q Is that reflected anywhere in your records?

22 A That's not ordinarily written down.

23 Q I'm just asking because all we know is --

24 A Right.

25 Q -- what's in the records --

1 A No.

2 Q -- and your testimony here.

3 A No. I check -- I go where I think I can feel

4 it, where I think there's the best chance of

5 getting it. If there's a --

6 Q Doctor, isn't it true that Mr. Mobley's

7 duties include taking ABG's, correct?

8 A Yes.

9 Q As a matter of fact that's one of the

10 reasons why he works for you, to perform

11 ABG's, right?

12 A He works for me to perform pulmonary

13 function studies, yes.

14 Q Are you still performing ABG's?

15 A Yes.

16 Q When was the last one you performed?

17 A Yesterday.

18 Q And from which area of the arm did you

19 obtain that one? Do you remember?

20 A I don't remember.

21 Q Is it more likely, Doctor, that you would

22 strike or get close to a nerve in the

23 brachial area as opposed to the radial area?

24 A No. At one time -- no.

25 Q Okay. So it really doesn't matter where you

1 do?

2 A You have to be able to feel the vessel and
3 you have to have a decent pulse. It's
4 senseless to go ahead and to try and get a
5 sample when you can't feel the pulse.

6 Q Okay. Doctor, are you aware of the
7 requirements and the medical examination
8 manual which is issued by the Bureau of
9 Workers' Compensation which mandates that
10 if a patient refuses a test that you are to
11 honor that refusal and note that in your
12 report, are you aware of that?

13 MR. KELLEY: I'm just
14 going to make one -- I'm
15 going to object. Answer
16 the question then I'll put
17 my basis on the record.

18 A I am aware but he did not refuse me.

19 MR. KELLEY: If you
20 intend to use the Bureau
21 of Workers' Compensation
22 manuals as part of the
23 prosecution of this case,
24 you've got to advise me
25 because I'm going to file

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a motion to remove it to
the Court of Claims. If
you're claiming that we
violated one of the EWC
policies, that's not -- I
don't believe that's a
straight medical
negligence issue. That
belongs in the Court of
Claims.

MR. SWEENEY: Okay.

MR. KELLEY: So let me
know if that's something
you intend to do along the
way. I want to say it now
so I don't forget.

MR. SWEENEY: That's
fine.

MR. KELLEY: But that's
a Court of Claims issue.
I don't think that's going
to be -- that would be a
Common Pleas issue.

MR. SWEENEY: I disagree
with you, but that's okay.

1 I'll let you know.

2 Q Doctor, when -- I just want to make this
3 clear. You attempted to perform an ABG on
4 Mr. Randolph after being informed that he
5 did not want the test done, is that correct?

6 MR. KELLEY: Objection.
7 Asked and answered. He
8 can answer.

9 A I already answered the question.

10 MR. KELLEY: You can
11 answer it again.

12 Q Go ahead.

13 A I was -- Mr. Mobley told me he didn't want
14 him to do it. You can't do an arterial
15 blood gas --

16 Q But that's not what Mr. Mobley testified to.

17 MR. KELLEY: Objection.
18 I only read one page of
19 Mr. Mobley's testimony.

20 MR. SWEENEY: Well, that
21 was after you provided an
22 answer for him.

23 A I did not see this testimony. I can only
24 tell you what I know when I was there and
25 you can't draw a blood gas on an

1 uncooperative person. You have to put your
2 arm out, you got to gut alcohol on it,
3 you've got to feel the vessels. This take5
4 several minutes.

5 Q Did you hold Mr. Randolph's arm down?

6 A No.

7 Q Okay.

8 A How can one put a finger on the
9 pulse --

10 MR. KELLEY: There's
11 not a question,

12 A Okay.

13 Q Were you ever asked to leave the employment
14 of Metro Hospital?

15 A No, I got another job. I'm back there
16 again.

17 Q Doctor, why did you refer Mr. Randolph to
18 Dr. Winkleman?

19 A Eecause lie was a neurologist that was not on
20 vacation. He was at Metro. Mr. Randolph
21 indicated to me that lie didn't have funds
22 but he was a registered patient at Metro and
23 was -- under those circumstances would be
24 eligible for --

25 Q I'm not talking about in terms of insurance

1 or payment. What was your concern when you
2 wanted Mr. --
3 A He's a good neurologist.
4 Q What does that mean?
5 A Well, Mr. Randolph was complaining of pain
6 and discomfort. I'm not a neurologist. I
7 referred him for -- to see --
8 Q I guess what I'm trying to say is you were
9 concerned that Mr. Randolph had suffered a
10 nerve injury, correct?
11 A See if there was a possibility.
12 Q Okay, Doctor, isn't it true that there is a
13 risk of median nerve injury as a result of a
14 brachial artery puncture in ABG?
15 MR. KELLEY: Objection.
16 Asked and answered. You
17 can answer it again.
18 A Yes.
19 Q Did you ever consider anticoagulant
20 therapy?
21 A Under what circumstances?
22 Q Well, let's define that term first.
23 A What do you mean?
24 Q What is anticoagulant therapy?
25 A Anticoagulant therapy --

1 MR. KELLEY: I'm just
2 going to object.
3 A I don't understand.
4 MR. KELLEY: For what
5 disease process because it
6 varies all over the place
7 Q I don't know. You can tell me generally.
8 A An anticoagulant prevents the clotting of
9 blood.
10 Q Okay.
11 MR. KELLEY: And he did
12 say earlier that he
13 heparinized the needle.
14 Q Is that the only anticoagulant therapy you
15 utilized?
16 A Every time an arterial blood gas is obtained
17 one has to have -- the needle has to be
18 heparinized.
19 Q Okay. Do you know what caused Mr.
20 Randolph's arm to move or jerk as you say?
21 A No. I said he had pain.
22 Q Doctor, do you take it upon **yourself** to
23 familiarize yourself or keep current with
24 medical trends such as complications of
25 ABG's?

1 A Yes .

2 Q How do you do that?

3 A In chest they frequently report the -- they
4 reported complications and there have been
5 articles in chest .

6 Q Okay. Is it true that you would not have
7 performed the ABG that day if Mr. Randolph
8 did not refuse Mr. Mobley?

9 A Yes ,

10 Q To your knowledge, Mr. Randolph was never
11 made aware of the risks of the ABG?

12 A It's not standard practice .

13 Q But nevertheless, he was never made aware of
14 any risks that are associated with the
15 procedure?

16 A It's not done with this .

17 Q Because you are sticking a needle in the
18 skin, correct?

19 A One sticks a needle also for venal puncture .
20 It's not standard practice to do that .

21 Q Okay .

22 A IF he asks I would have told him .

23 MR. RELLEY: Wait for
24 questions .

25 Q Do you consider yourself a specialist in

1 r e s p i r a t o r y m e d i c i n e ?

2 A I'm c o n s i d e r e d a s p e c i a l i s t b y t h e A m e r i c a n
3 C o l l e g e o f C h e s t P h y s i c i a n s i n
4 c a r d i o p u l m o n a r y m e d i c i n e .

5 Q W o u l d y o u s a y y o u r p r a c t i c e i s m o r e t o w a r d s
6 c a r d i o l o g y t h a n i t i s r e s p i r a t o r y ?

7 M R . K E L L E Y : T h e n o r
8 n o w ?

9 Q F o r p u l m o n a r y . L e t ' s d o b o t h . F i v e y e a r s
10 a g o .

11 A A t t h i s t i m e i t ' s m o r e c a r d i o l o g y , A t t h a t
12 t i m e I w o u l d s a y **t h a t** o n e - t h i r d o f t h e
13 p a t i e n t s h a d o n l y p u l m o n a r y d i s e a s e , o n e -
14 t h i r d o f t h e p a t i e n t s h a d o n l y c a r d i a c
15 d i s e a s e a n d o n e - t h i r d o f t h e p a t i e n t s h a d
16 b o t h .

17 Q A n d b y p u l m o n a r y w e t a l k a b o u t t h e l u n g s ,
18 c o r r e c t ?

19 A Y e s .

20 Q A n d b y c a r d i o l o g y w e ' r e t a l k i n g a b o u t t h e
21 h e a r t ?

22 A Y e s .

23 Q A r e y o u - - y o u ' r e n o t a s u r g e o n , a r e y o u ,
24 D o c t o r ?

25 A N o .

1 | Q I see you have your notes.

2 | A Yes.

3 | Q I'll just refer to those. I guess we can
4 mark these later.

5 MR. KELLEY: However
6 you want to do it.

7 | Q Doctor, can you go through your notes and I
8 typed down what I thought you were saying
9 but can you go through your notes and read
10 those to me? On the notes, Doctor.

11 A Yeah, I see them.

12 MR. KELLEY: On the
13 notes.

14 Q Those two legal pages?

15 MR. RELLEY: Read a
16 little slower than you
17 think you need to to make
18 sure that it goes through
19 clearly.

20 Q Okay. I'll guide you a little bit, It says
21 on the top Edward Randolph and then his
22 claim number, 93330663 and then --

23 A That's 6663. There's not an 0 there.

24 Q Okay. Whatever that is. And then it says
25 the date, August 25th of 1995 seen at 2:45

1 p.m., is that correct?

2 A Yes.

3 Q Could you read from there, very slowly.

4 A "Patient had arterial blood gas attempt, the
5 left radial, left brachial on August 23rd,
6 1995. A small show of blood was obtained
7 but he jerked --"

8 Q Okay. Let me stop you right there. The
9 right radial is not mentioned in **there**,
10 correct?

11 A The left, left, left.

12 Q But there's no right that is mentioned in
13 there?

14 A No.

15 Q All right, go on.

16 A "A small show of blood was obtained but he
17 jerked and moved arm and syringe was
18 withdrawn" period. "He noted a twinge of
19 pain at the brachial stick. The --"

20 Q What does it say after that arrow?

21 MR. KELLEY: "Forearm".

22 A " -- the forearms on -- a brachial stick at
23 the forearm. The syringe was immediately
24 withdrawn -- " that's just --

25 Q Okay.

1 A "-- and pressure applied to both areas. He
2 noted pain and paresthesia in his hands and
3 numbness in the fingertips."

4 Q Okay. Does that make sense if you've
5 contacted the nerve, the median nerve?

6 A It's possible.

7 Q Okay. Go ahead.

8 A I can't read -- it says here. "No hematoma
9 was noted."

10 Q Okay.

11 A "When he left my office strength in the left
12 hand was normal. He was told to call me in
13 one day. Yesterday he stated he had pain
14 and numbness in the forearm. Today the
15 strength and coordination when I saw him", I
16 had him come in. He had transportation
17 problems and I don't know whether I talked
18 to him the day before or I talked to him
19 that day and told him I would look at it.

20 Q Okay.

21 A "The patient's strength and coordination
22 were normal in both hands and forearm.
23 Tender at, yet slight at the left brachial
24 puncture site."

25 Q Okay.

1 A Question to -- "Questionable decreased pain
2 over the ventral surface of the left
3 forearm."

4 Q What do you mean by that?

5 A Well, I checked him to see and I wrote it
6 down. I must have felt that he had maybe a
7 little decrease in pain in the forearm.

8 Q Okay.

9 A Finger sensation intact. Discussed with
10 patient, told him there may have been some
11 internal bleeding or nerve may have been
12 touched by the needle and I told him it
13 would slowly improve, to call me in three
14 days and I noted that --- I fell; the exam
15 there was better in August, two days
16 previously when his left hand was weaker.

17 And the following day -- correction,
18 please. Then he called me again and stated
19 he still had difficulty but he would have
20 trouble coming to see me. I told him that I
21 would wait and --

22 Q Wait, where are you?

23 A Next page.

24 Q Start at "Patient" -- read the words exactly
25 as they're written, Doctor.

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MR. KELLEY: Read the
words that are on the
page.

A This page. " Patient seen at 5 p.m. States
he has pain in the left forearm and some
numbness on the palmar side of the forearm
and tingling in Fingers, left 2 and 3, exam,
left shoulder, full range of motion, left
wrist full range of motion, left elbow
uncomfortable but full range of motion,
strength normal. He holds arm flexed close
to side." I took him to Dr. Winkleman a
neurologist who saw him and examined him.

Q Who else was present?

A I believe there was a resident there.
It may be a student. This was -- Dr.
Winkleman was rounding at the time and he
agreed that he would --

Q Okay, go ahead.

A We saw him discomfort is a median nerve
distribution. He noted normal strength, no
atrophy. Re explained this is what Dr.
Winkleman said that most likely this will
recede in a few weeks. He recommended using
the left upper extremity to prevent

1 stiffness. He asked Mr. Randolph to come to
2 MetroHealth Neurology Clinic. He took his
3 phone number and the Metro -- he has a Metro
4 number -- and will call to tell him when to
5 come in because it was after 5:00 o'clock.
6 By then his secretary wasn't available.

7 The next is September 6, 1995.

8 Patient called. I called him. Stated he
9 had not been contacted by neurology at
10 Metro. Stated he had appointment with
11 neurologist in Parma, doesn't know the name
12 of M.D. States he received a letter about
13 the appointment. I called neuro at Metro.
14 That was I did. They stated when they
15 called him, called reappointment. He stated
16 he already had an appointment with
17 neurologist in Parnia. That's the last I
18 have recorded.

19 Q Doctor, you stated earlier that you saw Mr.
20 Randolph on October 25th, you saw him again
21 on October 28th?

22 MR. KELLEY: I think
23 it's August.

24 Q I'm sorry.

25 A In August.

1 | Q August 28th and August 25th?

2 | A Yes .

3 | Q And you had prostate surgery on August 30th
4 | correct?

5 | A Yes .

6 | Q Okay. I have nothing further, thanks.

7 | MR. KELLEY: I just
8 | want to make sure in
9 | regards to the exhibit th
10 | one that you want from me
 is the one that listed th
 appointments from that da
 and I'll find that and
 I'll redact the names .

MR. SWEENEY: Okay.

MR. ICELEY: We're
going to do the depo of
the plaintiff at some
point and then we will
also get a schedule. And
what I told you about he
has someone who's helping
him, an attorney
personally --

MR. SWEENEY: Wait. Do

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you want to waive your
signature? And then we
can go off the record and
talk about this stuff.

MR. KELLEY: Oh, I put
it on. I just didn't know
if you wanted it on for
any reason because you had
asked him a question about
it.

MR. SWEENEY: No, that's
okay, that's all right. I
just want it.

MR. KELLEY: I don't
know if that guy wants to
be known or not, but the
exhibit is yours. You
have the right to read the
deposition transcript. I
recommend you read the
transcript to make sure
everything's been taken
down accurately.

THE WITNESS: I will do
that.

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MR . SWEENEY:: T h a n k s ,
D o c t o r .
THE NOTARY: W e ' r e o f f
t h e r e c o r d .

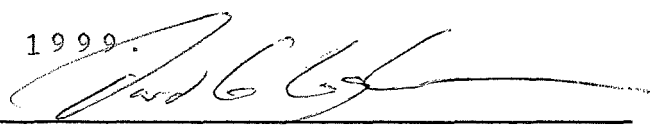
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CERTIFICATE

STATE OF OHIO)
COUNTY OF CUYAHOGA)

I, Dave Lightman, a Notary Public within and
for the State of Ohio, duly commissioned and
qualified, do hereby certify that DR. RICHARD A.
KATZMAN, was by me, before the giving of his
deposition, first duly sworn to testify the
truth; that the deposition as above set forth was
reduced to writing by means of tape recording and
was subsequently transcribed into typewriting
under my direction; that said deposition was
taken at the time and place aforesaid by
agreement of counsel; and that I am not a
relative or attorney of either party or otherwise
interested in the event of this action.

IN WITNESS WHEREOF, I hereunto set my hand
and seal of office at Cleveland, Ohio, this 30th
day of December, 1999.



Dave Lightman
14245 Cedar Road
Cleveland, Ohio 44121
(216) 382-1043

My Commission Expires: _____
David G. Lightman, Notary Public
Ohio, My Commission
Expires Apr. 25, 2004