ORIGINAL

DOC. 232

STATE OF OHIO )
) SS.
COUNTY OF SUMMIT )

IN THE COURT OF COMMON PLEAS

LINDA L. DROGELL,
Administratrix of the
Estate of LEONARD DROGELL,

Plaintiff,

vs. No. CV 87-05-1640

AKRON CITY HOSPITAL, et al.,

Defendants.

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Deposition of W. BRUCE KEIEL, M.D.
Saturday, June 23, 1990

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STATE OF ILLINOIS )
) SS.
COUNTY OF C O O K )

Telephonic discovery deposition of W. BRUCE KEIEL, M.D., a Witness herein, taken by the Plaintiff for oral examination, pursuant to the Ohio Rules of Civil Procedure, before BARBARA J. NICK, Certified Shorthand Reporter, Registered Professional Reporter and Notary Public within and for the State of Illinois, Witness being present at Suite 201, 9301 Golf Road, Des Plaines, Illinois, on the day and date above set forth, commencing at 1:10 o'clock p.m., pursuant to Notice and/or Agreement.

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APPEARANCES:

On behalf of the Plaintiff:

(Present in Cleveland, Ohio)
Don C. Iler, Co., LPA, by
MR. DON C. ILER
MS. NANCY ILER
1640 The Standard Building
Cleveland, OH 44113

On behalf of the Defendants Seville Family Practice, Drs. Goldman, Burdette, Canilang, McRoberts and Apgar:

(Present in Cleveland, Ohio)
Jacobson, Maynard, Tuschman & Kalur, by
MR. TOBY HIRSHMAN
1001 Lakeside Avenue, Suite 1600
Cleveland, OH 44114-1192

On behalf of the Defendants Drs. Avery and Wolf:

(Present in Des Plaines, Illinois)
MR. THOMAS A. TREADON
4571 Stephen Circle, N.W.
Canton, OH 44718

On behalf of Defendants Edwin Shaw Hospital and Medina Community Hospital:

(Present in Cleveland, Ohio)
Amerman, Burt & Jones Co., LPA, by
MS. PATRICIA P. MINKLER
624 Market Avenue
North Canton, OH 44702

On behalf of the Defendant Akron City Hospital:

(Present in Cleveland, Ohio)
Roetzel & Andress, by
MS. SUSAN SWIFT
75 East Market Street
Akron, OH 44702

MR. HIRSHMAN: We have here Don Iler and Nancy Iler on behalf of the Plaintiff. Why don't we each identify ourselves?

I'm Toby Hirshman, H-i-r-s-h-m-a-n, and I'm here on behalf of Seville Family Practice and Dr. David Apgar, A-p-g-a-r.

Does the court reporter have a list of parties here in this case?

MR. TREADON: Yes, she does.

MR. HIRSHMAN: I'm here on behalf of those two. I will then tell you, also, who I'm here on behalf of after everyone else introduces themselves.

MS. MINKLER: I'm Pat Minkler, M-i-n-k-l-e-r. I'm here on behalf of Edwin Shaw Hospital and Medina Community Hospital.

MS. SWIFT: I'm Susan Swift, S-w-i-f-t. I'm here on behalf of Akron City Hospital.

MR. HIRSHMAN: Not here is Gary Banas, who may or may not be sending somebody, and he has -- who are the parties he represents?

MR. TREADON: Dr. Weingart, I believe.

MR. HIRSHMAN: Weingart, Miller and Shapiro.

MR. TREADON: They were dismissed --

The corporation of them,

Neuro-something, Inc., has not, which means that the rest of the people who haven't yet had anybody identify themselves on behalf of other people are represented by Bill Bonezzi (phonetic).

MR. IRELAND: Okay. For her benefit, Toby, you're here for Dr. Apgar?

MR. HIRSHMAN: And Seville Family Practice.

MR. IRELAND: S-e-v-i-l-l-e Family Practice and Apgar is A-p-g-a-r.

MR. HIRSHMAN: In addition, I represent Dr. Canilang, C-a-n-i-l-a-n-g, Dr. McRoberts, M-c-R-o-b-e-r-t-s, Dr. Burdette, B-u-r-d-e-t-t-e, Dr. Goldman and their respective professional corporations.

Could we have the name and phone number and court reporting firm of the court reporter, please?

THE REPORTER: My name is Barbara Nick, N-i-c-k, firm of Moran, M-o-r-a-n, and Messina, M-e-s-s-i-n-a. Do you want the address or phone number?

MR. HIRSHMAN: Both, please.

THE REPORTER: 79 West Monroe, Suite 1107, Phone number is area code 312, 782-8704.

MR. HIRSHMAN: Is that Chicago?

THE REPORTER: Yes, I'm sorry.

MR. HIRSHMAN: What's the zip?

THE REPORTER: 60603.

MR. TREADON: This is the first time that she's ever testified during a deposition, so she's nervous.

MR. HIRSHMAN: Barbara, this is the last you're going to hear of me.

MR. TREADON: For everybody's benefit, if, indeed, there are any objections, I would appreciate it if when you make your objection, that you identify who you are for the court reporter, of course.

And if everybody's ready, we'll have the court reporter swear the witness.

MR. TLER: Okay.

(Witness duly sworn by the court reporter.)

MR. TLER: Let the record reflect that all the parties to this litigation have been notified about the deposition and that the deposition Dr. Kitel -- is that correct, h-i-t-*e*-l?

MR. TREADON: hetel, h-e-t-e-l.

MR. TLER: Okay, Dr. Ketel. All the attorneys have been notified about Dr. hetei's deposition and we're prepared to go ahead.

W. BRUCE KETEL, M.D.,

called as a witness herein, having been first duly sworn, was examined upon oral interrogatories, and testified as follows:

EXAMINATION

BY MR. ILER:

Q Doctor, would you please spell your full name for the record?

A W. Bruce, B-r-u-c-e, Ketel, K-e-t-e-l, M.D.

Q What is your residence, Doctor, address?

A 2040 Valley Lo Lane, Glenview, Illinois 60025.

Q And where is Glenville in relationship to Chicago?

A Glenview is about 20 miles north of downtown Chicago.

Q And you are a physician, and I'm looking at your curriculum vitae. Do you happen to have that with you?

A Yes, I do.

Q Look at it and see if there's anything you want to add or delete from the curriculum vitae which we all have.

A It's dated 11/89, and it's current.

MR. TREADON: Don, the one you have may be dated 5/89 in the lower right-hand corner, and that's the one I had. The first page, lower right-hand corner, there's a date, 5/89. Or do you have an 11/89?

MR. ILER: I have an 11/89. We're okay, Doctor.

MR. TREADON: Okay.

BY MR. ILER:

Q I'm not going to take the time to go over your medical background and your training, except to ask you are board certified, according to your curriculum vitae, and it indicates you are board certified in the field of neurology; is that correct, Doctor?

A Correct.

Q And you're also certified in electromyography; correct?

A Correct.

Q What is electromyography?

A Electromyography is the electrical tests performed to analyze nerve and muscle abnormalities.

Q Is that like an E.M.G. test?

A Electromyography is an E.M.G. test; correct.

Q Then you're also certified in electrodiagnostic medicine. Can you tell us what that's

about, Dr. hetel?

A All right. The American Board of Electrodiagnostic Medicine is a board organization which formed in 1989. Basically, that's defining my board certification in electromyography that is now by an official board.

Previous to that, the only organization that certified electromyographers was listed before the American Association of Electromyography and Electrodiagnosis.

Q So, when we look at electromyography, that has now been changed to a certification in the same area by the American Board of Electrodiagnostic Medicine; right?

A Yes

Q There's no additional certification that you're proposing to us, other than the certification in electromyography; is that correct?

A And neurology, correct.

Q Of course, neurology.

Doctor, wnat do you do from day to day insofar as seeing patients?

A I'm a ciinicai neuroiogist. I have a private practice in neurology. North Suburban Neuro

Care, S.C. is the corporation for which I work.

There are four neurologists in my group. We basically cover several hospitals and have a large office practice in clinical neurology.

Q What hospitals do you have privileges at, can you tell me?

A Lutheran General Hospital in Park Ridge.

Q I'm sorry, Doctor. Was that Lutheran?

A Right.

Q Thank you.

A Lake Forest Hospital in Lake Forest, and Forest Hospital in Des Plaines. Those are our current three hospitals.

Q And your office address is in Des Plaines?

A Correct.

Q And where is that from Chicago?

A About 25 miles northwest of downtown Chicago. We're just north of O'Hare Airport just off the Tri-state.

Q Okay. So, then, Doctor, you see patients from day to day in your practice in the field of neurology.

A Correct.

Q And associated with the group, are there

any vascular surgeons?

A No vascular surgeons. We're all board certified neurologists.

Q And the hospitals that you enumerated for us, those are the hospitals where you admit patients?

A Correct. Basically, we admit patients to Lutheran General Hospital and Lake Forest Hospital.

Our work at Forest Hospital -- it's a psychiatric hospital. We're a consultant there. We don't actually admit patients there.

Q Okay. And do you serve on any boards of any of the hospitals?

A No.

Q Doctor, for purposes of the record, you are not a vascular surgeon.

A I am not a vascular surgeon.

Q And you do not practice in that field of medicine?

A I do not do vascular surgery, correct.

Q And you do not treat problems of patients who have serious vascular disease?

A No, that's not correct. You know, part of neurology is the care and treatment of patients that have strokes, which would be considered a vascular

disease.

Q You do not perform endarterectomies?

A No, I do not.

Q Do you refer any of your patients to vascular surgeons who do perform endarterectomies?

A At times, yes, I do.

Q And at what hospitals do those doctors see your patients to perform endarterectomies?

A Basically, Lutheran General Hospital. My associates have had some patients who had endarterectomies up at Lake Forest Hospital, as well. The majority of my patients are at Lutheran General Hospital.

Q I assume in this case of Leonard urogeii, Doctor, you are not going to give an opinion in this case as an expert insofar as whether or not a carotia endarterectomy shouid have been performed on Leonard Drogell.

A No, I have opinions concerning his vascular disease, its origin, the degree that it was present throughout the multiple hospitalizations ana what care could have been rendered to him during any of the time that we're talking about in this case.

Q Okay. But insofar as giving a medical

whether or not an endarterectomy should have been performed by a vascular surgeon on Leonard Drogell?

A Yes, I did.

Q Doctor, can you tell us, how did you get ready -- prepare yourself for this deposition? What records did you go over?

A I had originally reviewed a great many records that were referred to me. Subsequent to that, I believe there was one or two more depositions that were referred in preparing for this deposition.

I re-reviewed all of the material. I also analyzed and reviewed the angiograms that were performed on this patient in 1987.

Q Did you review the Medina Hospital records?

A Yes, I did.

Q And did you review the Akron City Emergency Room records of 5/25/86?

A Yes, I did.

Q The medical admission of May 25, 1986 through June the 4th of '86.

A Yes, I did.

Q The Edwin Shaw Hospital records from June 4th through July 8th of '86?

A Yes, I did.

Q Seville family records?

A Pardon?

Q The Seville family records?

A I don't think I saw Seville family records.

Q Okay. And did you see the Akron General Hospital records for the admission of February, 1987?

A Yes, I did.

Q Okay. Now, did you read the deposition of Dr. Goldman?

A Dr. Avery, Dr. Burdette --

Q Okay.

A -- Dr. Mundinger and Dr. Vanna. I did not read a deposition of Dr. Goldman.

Q You did not read the deposition of Dr. Apgar?

A No

Q Did not read the deposition of Drs. Canilang, McRoberts and Weingart?

A No.

Q Did not read the deposition of Dr. Shapiro?

A No.

Q Did not read the deposition of Dr. Bergan or Dr. Morganstern-Clarren?

And did not review the testimony of Dr. Arson?

A

Q Insofar as preparing for your opinion today, did you look at the arteriogram films that were done on Leonard Drogell?

A Yes, I did.

Q And did you look at the original films?

A I looked at the films that were sent to me. I'm assuming that those were copies.

Q How many films did you look at, and do you have their dates?

MR. BREADON: Well, Don, I can represent to you that I provided the films that you provided to me.

There's three different sets. Left carotid angiogram, right carotid angiogram, left vertebrae, and A/P and laterals in each.

Q And the dates of those left and right angiograms and the laterals, do they bear one particular date, Doctor?

February 13th of '87?

A Yes, 2/13/87.

Q I think they're all that same date, aren't

they?

A As fat- as I am aware, yes.

Q And you reviewed those films.

A Yes, I did.

Q Were those films important or part of the opinion you're going to render today?

A Yes, they are.

Q In what way?

A Basically, they confirm my opinion that I arrived at from reviewing the medical records and helped substantiate the etiology of the bilateral internal carotid abnormality and disease that he had.

Q Okay. Did you review the -- Strike that.

Doctor, the arteriograms which were performed on Leonard that you reviewed, are those arteriograms and interpretations of those, are they found in the hospital records for Akron General?

A There is an interpretation of those angiograms in the Akron General record, yes.

Q Do you disagree with the written interpretation of the arteriograms that you have reviewed and the interpretation which was made by the physician in the Akron General records?

Do you disagree with that

radiologist's interpretation of Leonard Drogell's arteriograms?

A I don't disagree with his interpretation that bilateral internal carotid occlusions were present right and left and that a great, significant amount of collateral circulation was present from the external carotid system through the brain and into the vertebral system through the posterior vessels going to the brain.

Q Okay. May I have just a moment, Doctor?

You have that written report in front of you that is dated, Doctor, February 13, '87, signed by I.J. Gordon, M.D.?

MR. FREADON: We're looking for it.

A Okay. I have it.

Q You see where it says bilateral carotid -- The very first paragraph in capitals talks about bilateral carotid cerebral and left vertebrae arteriograms and consultation.

A That's correct.

Q And who is Dr. I.J. Gordon, M.D. that authored this report?

A I am assuming that he is a radiologist in the department of radiology of Akron General Medical Center and the physician that interpreted these studies

and may weii have been the physician that performed them, because usually the person that does the test interprets the test.

Q You do not perform these tests on your patients, do you?

A No, I don't. I order them frequently. They are performed at my hospitals by the radiology department.

Q Okay. And the interpretation of the arteriograms, when they are done at your hospitals for your patients, you leave the interpretation to the radiologist who did it or reviewed the arteriograms?

A The typewritten interpretation that becomes a part of the medical records is one provided by the radiologist that performs and interprets the study.

I frequently review these studies almost always with the radiologist, and if I disagree fully with their interpretation, then I write in further analysis based on my clinical interpretation of the angiograms, as weli as a part of that record.

Q You're not board certified in radiology?

A no, I'm not.

Q Hold on a second. I'm going to ask you to hold on a second. I think somebody from Banas' office

may have just arrived. Hold on for just a minute.

Sorry, Tom; I was wrong. Nobody's here from Gary's office.

MR. TREADON: Okay.

BY MR. TERR:

Q Okay, Doctor; we will proceed.

Is there any variance in your interpretation of Dr. T.J. Gordon's arteriogram written report of February the 13th, 1987?

A Basically, I agree that bilateral internal carotid artery occlusions were present and that significant collateral circulation was present throughout the angiograms.

So, I basically agree with his interpretation; correct.

Q And did you take his interpretation to mean that there was complete internal carotid blockage of Mr. Drogell's left and right carotid arteries when the film was taken February 13th, '87?

A That is what the angiogram shows and that is what I interpret him to mean when he says, "bilateral internal carotid artery occlusions are present."

Q And do you interpret that report of February the 13th, 1987 and your review of the

arteriogram films themselves to mean that there was no blood flow -- n-o, blood flow going through Leonard Drogell's right and left carotid arteries February 13th, 1987?

A Left and right internal carotid arteries; correct.

Q And there was no blood flow going through the left and right internal carotid arteries; that's your opinion?

A I agree with that, yes.

Q And that for every day that Leonard lived after February the 13th, 1987, what was supplying blood to Leonard's brain?

A The right and left vertebral arteries, which come up through the back of the neck into the back part of the brain.

Also, the very significant large collateral blood flow system which he had de\-eloped over many years supplied by the right and left external carotid arteries, which was patent and flowing off of the right and left common carotid artery.

Q When you say, "patent," you mean open?

A Correct.

Q Okay. Are there any other arteries which

you believe supplied oxygen to Leonard Drogell's brain after February the 13th of 1987?

A There were many collaterals coming off of the external carotid arteries, but the four main vessels are the right and left external carotid arteries and the right and left vertebral arteries.

Q And how long, Doctor, in your opinion, did the collateral arterial flow of blood from the collateral sources that you have described supply life to Leonard's brain?

A It's my opinion, based on the review of all the medical records and the review of the angiograms, that Mr. Drogell had a congenital -- meaning born with -- absence of the right and left internal carotid arteries; that throughout his life, he developed very large, significant collateral circulation from the external carotid arteries and had healthy right and left vertebral arteries supplying the brain.

it's my opinion that the absence of the carotid arteries, tile absence of the internal right ana left carotid arteries, was present throughout his life.

Q So, Leonard, then, was born, according to your opinion, without internal right and left arterial

arteries; right?

A Right and left internal carotid arteries.

Q Okay. And how did you come to that conclusion?

A Basically, after reviewing the medical records, it was my impression that he had complete occlusion of his internai carotid arteries from prior to the stroke of 5/26/86.

All of the carotid esaminations performed during the physical exams of Dr. Burdette on 5/27/86 or 5/26/86 and the subsequent carotid exams at the rehab hospital, Edwin Shaw Hospital, and in the E.R. on admission at Akron General Hospital, whenever the carotid arteries were reported -- examined throughout these medical records, these \.esse]s here palpable but never showed carotid bruits.

Ihe fact that no carotid bruits were ever evidenced is consistent kith the finding on the angiogram of 2/13/87 *of* bilateral absence or occlusion -- occlusion meaning there's no opening into that vessel -- found on the angiogram.

When I reviewed tine angiograms, it was ciear that the origin of where the internal carotid arteries should be were -- there was a small nubbin of

an arterial pocket there, that this nubbin was very smooth in appearance, not ragged as is usually seen when there is a hardening of the arteries or artherosclerotic occlusion causing closure of the vessel.

Also, when reviewing the angiogram, the very large, very significant collateral circulation present meant that the carotid occlusions had to be evident -- had to exist for many years. One does not develop that degree of arterial collaterals supplying a person's brain in a very short period of time.

Also, in reviewing the carotid Doppler study, the carotid Doppler study done on 2/11/87, couple of days before the angiogram, they also confirmed the presence of complete occlusions. They comment on calcifications being present where the origin of the internal carotid arteries should be.

When one is looking at studies, Doppler studies, angiograms of somebody 38 years old, vascular calcifications should not be present at all. When a calcification is present in a blood vessel, that means that an abnormality must have existed in that area for many years.

calcification in a blood vessel, be it from a vascular anomaly, congenital anomaly -- as in

absence of a vessel -- or a disease such as arthrosclerotic occlusion, calcification means it had to be there for years and years.

Putting all of this together -- And reviewing the angiogram, several other vessels appeared smaller than they normally should. Putting together the analysis thar a iongstanding abnormality of the vessels was present, and in view of the smoothness of the nubbin at the base of the origin of the internal carotid arteries, I reached the final conclusion that the long-existing absence of these vessels was congenital in origin. That's a long answer.

Q Can I go back over portions of tnat answer with you?

A Yes, you can.

Q In arriving at your conclusion that Leonard did nor have internal carotid arteries, you relied on the diagnostic finding of some physicians of no bruits.

A Correct.

Q And it's your opinion that since there were no bruits, that added to the congenital absence of internal caroti'd arteries.

A No. Again, taking this, as I found it -- my original review was of the medical records. When I

reviewed the medical records, and in looking at the question of status, clinical findings relevant to the carotid arteries, aii of the physical exam findings when the carotid arteries were mentioned in 1986 and 1987, no carotid bruite were ever evident.

Q If there were carotic bruits, would that take away from your opinion?

A if there were carotid bruits, it would raise the question of whether there was a stenosis in the external carotid artery or whether tnere was only a partiai stenosis of the internal carotid arteries.

Q Would the presence of bruits work against your opinion that Leonard was born without internal carotid arteries?

A Ihe presence of bruits in and of themselves wouid raise some question but wouldn't totally negate tne opinion, because a bruit can come from the external carotid arteries, as well as the internai carotid arteries.

Q You consider the absence of bruits to be supportive of your opinion of no internal carotid arteries in Leonard?

MR. IREADON: You're going to have to repeat that question, Don.

BY MR. ILER:

right. I'm trying to get the importance you're placing on the absence of what you say are no bruits into your opinion that Leonard was born without I.C.A.s. Okay?

And I'm asking you, then, did the absence of bruits play a part in your opinion that Leonard was born without internal carotid arteries?

A The absence of carotid bruits means to me that we have had a complete occlusion throughout the entire period bilaterally from 6/26 -- 5/26/86 through 1987.

Q The answer "yes"?

MR. IRELAN: No, his answer is what he just gave.

MR. ILER: Your answer is "what he just gave." I'm asking the doctor for his answer.

MR. IRELAN: He just gave it to you.

THE WITNESS: A My answer relevant to the carotid bruits is that the -- there was a chronic longstanding lack -- total lack of blood flow through the carotid arteries throughout the time period we're talking about here.

BY MR. ILER:

Q 5/26/86 to 1987.

A Correct. The angiogram, and in analyzing the Doppler study, gives credence and relevance to the opinion that these here congenitally absent throughout his life leading up to 1986.

Q You talked about these nubbins. You recall your testimony?

A Yes.

Q Is that n-u-b-i-n-s?

A Yes.

Q And where did you find the nubbins and where did you -- which side or both of the carotids?

A What I mean by that — since I don't think that's a medical term -- is in the cerebral angiograms, the right and left carotid, at the carotid siphon -- carotid bifurcation, not carotid siphon -- the carotid bifurcation where the internal and esternai carotid arteries separate from the common carotid artery at the base of where the internal carotid artery should have been in the right and left side is a very tiny pocket or base of a blood vessel.

That nubbin or small area was smooth in configuration. That is where that's located at.

Q Doctor, when we finish the deposition

today, will you take a piece of paper and pencil and draw out for us the area as large as you can where this nubbin is?

Give it to the attorney to mark as an exhibit for us and then give it to the court reporter so that when your deposition is transcribed and gets back to us, we will have your diagram of wnere tnis nubbin is, where the surrounding structures are, so that we are absolutely sure, ail of us, and can rely on the location of the nubbin. Can you do that for LIS?

MR. TREADON: Don, how about -- we have the angiograms here in the office. khat I'm going to suggest is that we take one of those, whatever one the doctor chooses, and have him, in grease pencil or something, circle what he's referring to -- not clinically, but what he's referring to as a nubbin.

MR. ILER: 1 wouid appreciate that, but do this also, Doctor, in case, for whatever reason, the film gets misplaced. Make a little diagram. he know it's not going to be to scale, unless you draw over the arteriogram itself. But at least in case the one x-ray is misplaced, it's marked or becomes smudged in any way, we can at least look at the diagram and refresh your memory sometime later.

So, I accept your offer, Tom, but if you will still have the doctor make a diagram at his leisure before we leave today, we'll be in good shape.

MR. TREADON: Fine.

BY MR. TILER:

Q The last thing I recall that led you to the conclusion that Leonard had no internal carotid arteries is this calcification.

A The calcification mentioned on the Doppler study is evidence that a very longstanding, many-year process was present at the base or origin of where the internal carotid arteries should have been.

Q Okay. Can you do this for me, Doctor? Draw a diagram for us of the area of calcification.

A I do not have drawings of the Doppler study. All we have there is the Doppler study report.

Q From the Doppler study report, then, is how you arrived at the conclusion of the location of the calcification?

A We can underline in the report where they mention calcifications. And calcifications in a 38-year-old gentleman means that this vascular -- or 39-year-old gentleman when he had the Doppler done -- means that this process had TIP going on for many-

years.

Q What I want to ask you to do, Doctor, is please -- strike that.

So what you're telling me is you have no radiographic film to locate this calcification, but you have the report which speaks to calcification; is that correct?

A That's true.

Q Would you draw a diagram and -- make a diagram for us, Doctor, have it marked as an exhibit for us, of where you believe the report locates the calcification you're talking about?

MR. TREADON: Can you do that?

I can do that.

Q Very good. Thank you, Doctor.

Then, Doctor, can I conclude -- Strike that.

Doctor, can we then believe that your review of the arteriograms that were made of Leonard in February of 1987 and all the other medical reports of Leonard which you have reviewed do not show internal carotid arteries for Leonard? Am I right?

MR. TREADON: Did you hear all that?

THE WITNESS: I'm going to have the court

reporter read that back to me.

(Whereupon, the pending question was read back by the court reporter,)

THE WITNESS: A That is correct.

BY MR. ILER:

Q Thank you. Did you review the O.P.G. of Leonard that was made at Akron City Hospital on 5/27, 1986?

A Yes, I did.

Q And do you have an opinion that you're going to render on that O.P.G.?

A All that O.P.G. showed was a reduction of blood flow in the right O.P.G. system. That, in and of itself, does not say anything definite regarding the vascular supply through the right internal carotid artery.

Q Is it your opinion, Doctor, based upon reasonable medical certainty, that the O.P.G. examination of Leonard Drogell on 5/27/87 at Akron City Hospital does not refer to internal carotid arteries for Leonard?

A What it shows is that there is an abnormality in the blond flow -- of the right-sided

blood flow to the brain. Does not say anything specific, because an O.P.G. test is a very inaccurate, nonspecific, by itself, test of the circulatory supply to the right side of Mr. Drogell's brain.

Q Doctor, is it your medicai opinion in this case that the O.P.G. study of 5/27/86 does not show or refer to existing internal carotid arteries for Leonard Drogell?

A It's my opinion that the O.P.G. showed blood flow going into his brain through the external carotid arteries and the coilaterais; that those vessels supplied blood flow through the ophthalmic artery to the brain.

Q Is it your opinion tnat the O.P.G. studies of 5/27/80 for Leonard Drogell do not show internal carotid arteries for Leonard Drogell?

MR. IREADON: I'ii object. Are you asking whether or not tnat supports his position that there was a congenital absence of internal carotids?

MR. ILER: No. I'm asking the doctor if he is telling us that the O.P.G. study of 5/27/86 does not show and did not show internal carotid arteries for Leonard Drogeli. Is that Khat he is telling us?

MR. IREADON: hell, I'm going to object. 1 don't

really -- if you understand the question, Doctor, you can answer it, but I don't understand it.

THE WITNESS: A The basics of the test, O.P.G. is looking at blood flow to or from the eye. This blood flow can come from the internal carotid artery or the external carotid artery.

All that a reduction of blood flow on the right O.P.G. of that date meant was that there was a reduction of overall blood flow to the right side of his orbit, eye, on that date.

BY MR. DEER:

Q Then can we conclude, Doctor, that the O.P.G. study of 5/27/86, in fact, visualized and did show that Leonard had internal carotid arteries?

A One cannot make that interpretation. The O.P.G. is not that specific.. it is not that accurate.

And in my opinion, the O.P.G. on that date is only showing blood flow through the ophthalmic artery coming from the external carotid arteries, the collaterals that were verified to be present on the later angiogram of 2/13/87.

Q And do you have an opinion, based upon reasonable medical certainty, that the O.P.G.s of 5/27/86 made at Akron City Hospital for Leonard Drogell

indicate to you that there were no internal carotid arteries?

MR. JREADON: I'ii. object. That's already been answered, Don. He Just answered that for you. I don't thinE -- if he can answer It for you again a different way

BY MR. ILER:

Q Iry, Doctor.

A Ihe O.P.G. does not -- you're going to have to ask me the question again.

Q Have the court reporter read it back for you, Doctor.

A Okay.

(Whereupon, the pending question was read back by the court reporter.)

IHE WIIAESS: A One cannot say that yes or no, accurately either way. But based upon the lack of reliability and accuracy and khat affects the O.P.G. results based upon the subsequent Doppler studies and the subsequent angiograms. Predominantly, the angingrams.

Q Okay. Are you stili there, Doctor?

A Yeah, I'm stili here.

Q So, then, can we conclude your opinion of the O.P.G.s insofar as them showing internal carotid arteries for Leonard Drogell on 5/27/86, you cannot tell one way or the other? Is that true?

A What I am saying is that test is not accurate enough to make a yes or no answer. If I am forced to say do I think that it showed that there were any internal carotid arteries blood flow, my answer is I do not think the O.P.G. showed any right carotid artery blood flow.

It's my opinion that that O.P.G. was showing blood flow coming from the carotid -- from the right external carotid artery, as verified in the subsequent angiogram of 1987.

Q How about the left carotid blood flow on the O.P.G. of 5/27/86, does it show blood flow from the left internal carotid artery?

A There is blood flow on the ieft side in the O.P.G. Again, we have very significant collateral circulation from the ieft external carotid artery verified on the angiogram of 1987.

And again, an O.P.G. is only talking about blood flow to a very specific area. It is affected by more than just the internal carotid artery

or the external carotid artery.

One cannot say when one has O.P.G. blood flow that is all from the internal carotid artery or that there is any carotid artery blood flow internally present.

Q Doctor, have you written any medical articles concerning I.I.A.s or strokes or any of the subject matter of your opinions today, arteriograms?

A No.

Q Okay. Is there any medical textbook or articles that you consider authoritative in the field of the opinion you have rendered?

MR. IREADON: I'll ohject. You mean -- are you asking is he basing his opinions on some authoritative textbook?

MR. ILEK: No. Read the question back for Mr. Ireadon.

MR. IREADON: Thank you, Don.

(Whereupon, the pending question was read back by the court reporter.)

MR. IREADON: I'll object.

BY MK. ILEK:

Q Go ahead, Doctor. You have to answer.

A My opinion is based upon 18 years of practice, multiple courses, multiple articles, multiple journals, multiple books.

I don't think I could say that there is one specific book that I consider -- or article that I consider authoritative. It's a compendium of knowledge, working with cerebrovascular disease over many, many years.

Stroke is one of the predominant -- if not number one -- disorders that a medical neurologist treats. It certainly is the number one in my practice.

Q Do you know of any medical authorities from any source whatsoever that you have come across in your 18 years of medicine that supports the opinion that you talked about today concerning Leonard Drogell?

MR. TREADON: I'm going to object. That's a ridiculous question.

MR. ILER: Q You have to answer the ridiculous question, Doctor.

MR. TREADON: Wait a minute. Are you asking him is he aware of a case study identical to Leonard Drogell's?

MR. ILER: Read the question back.

MR. TREADON: I'm not going to iet him answer that, as he has -- if you have an answer to that, Doctor, go ahead and answer it.

!HE WIINESS: A A name or an article does not pop in my mind concerning that question.

BY MR. ILER:

Q Have you ever read in any medical journal in the 18 years you have practiced where someone was born without internal carotid arteries?

A Yes.

MR. HIRSHMAN: Toby Hirshman objects.

Q What was your answer, Uoctor?

A My answer is yes.

Q And where will I find that literature or case study?

A I don't know about a case study, in particuiar, but in Taveras' textbook on neuroradiology, there is mentioned the congenital absence of the internal carotid arteries as an anomaly which can occur. It is definitely rare, hut it is a known entity.

Q Can I have the spelling of that author, please?

A First name is Juan, Taveras, T-a-v-e-r-a-s.

Q That's J-u-a-n?

A Right.

Q And the name of his work, sir?

A Diagnostic Neuroradiology, and the textbook that I am referring to is Williams and Wilkins, 1964. I'm sure there may well have been more recent editions.

Q Okay. And what company publishes the book, Doctor?

A Williams and Wilkins.

Q Okay. Thank you.

Q Doctor, you review medical negligence cases; do you not?

A I have over the years, yes.

Q How many cases have you reviewed over the years?

A I would say in the realm of -- not just medical negligence, but personal injury cases -- maybe 160, 170.

Q How many medical negligence cases have you reviewed?

A Maybe 80 --

Q And --

A -- 90.

Q And for whom have you reviewed them, for doctors or insurance companies?

A Basically, I've reviewed them for attorneys' offices that have called and asked that I review them. I'm assuming that they represent various insurance companies.

Q And have you testified in court on medical negligence cases?

A I've testified, yes, in trial. I think maybe seven or eight times.

Q And have any of those trials been in Chicago?

A They've all been in Chicago or the collar counties, you know, the counties right around chicago.

Q And have you ever done a medical negligence review for a plaintiff's attorney?

A Yes, I have.

Q And who would that be'!

A Mr. Jerry Salzberg; Fishman, Fishman and Salzberg. I've reviewed several for himself and people in his firm. .

Q He's in Chicago?

A He's in Chicago.

Q And who else, Doctor?

A There's a Mr. Carr, C-a-r-r. I don't remember his first name. I reviewed two cases for him.

there have been a couple of others over the years.

Q Are you associated with any medical firm that refers attorneys to you for reviewing medical cases?

A No.

Q Have you done any cases for Mr. Treadon or his firm before?

A No, I have not.

Q How did Mr. Treadon come in contact with you?

A I believe that he told me that he had been referred to me by somebody in Medical Protective. I'm not sure who.

Q The insurance company.

A Yes.

Q Do you know Dr. Barson (phonetic) or Dr. Leavy (phonetic) at the University of Cincinnati Medical School?

A No, I do not.

Q Have you ever reviewed a case for the firm of Jacobson, Maynard, Tuschman and Kalur in Cleveland, Ohio?

MR. HIRSHMAN: Objection, Toby Hirshman.

BY MR. TILLER:

Q Go ahead, Doctor.

A No, I have not.

Q Have you reviewed any cases for the insurance company called Physician's Insurance Exchange, Cleveland, Ohio?

MR. HIRSHMAN: objection, again. Toby Hirshman.

A No, I have not.

Q Have you made any written reports of your review of Leonard Drogell's case?

A Yes, I did.

Q Give me the date of it, piease.

A March i5th, 1990.

Q And who was it sent to?

A Susan Collins Berger.

Q And who is she?

A Had been at Herbert, lreadon and Benson.

Q I'd like to have a copy of that report. What is it, two pages, Doctor?

A Seven pages.

MR. ILER: Would you please have that marked, Mrs. Court Reporter, for me?

MR. TREADON: hell, I'm going to object.

MR. ILER: You can object. Just mark it and --

MR. TREADON: I'm going to retain this. he have

not exchanged any reports, and I don't intend to provide one to you, unless you have the Court order me to do that.

MR. ILER: I will have the Court order it, but I want it identified.

BY MR. ILER:

Q How many pages is it, Doc?

A Seven pages.

Q And the date you gave me is 3/15/90?

A Correct.

Q And It's your review of the case of Leonard Drogell; right?

A Up through that date, but not inciuding the review of the angiogram, which was foilowing that date.

Q Okay. Did you use your report in giving your testimony here today?

A Basically, my opinions are in that report, yeah; correct.

Q Okay. We'll make a demand for it, Tom. We'll do it on the record now and we'll take it up with the Judge at a later time. I hereby make a demand of it on the record.

MR. TREADON: I'll take that under advisement. We'll mark it right now. khat are going to mark it as?

What do you want to mark it?

MR. TLER: Mark that Uoctor Depo Exhibit No. 3.

(Exhibit marked for identification by the court reporter as requested.)

MR. TLER: Thank you.

BY MR. TLER:

Q Uoctor, insofar as your report is -- I mean your medical opinion is in this particular case, I'm going to ask you whether or not you are going to offer an opinion at trial in this case for the foilowing people; okay?

A All right.

Q It is my understanding that you have been retained to give a medicai opinion on behalf of Dr. Avery; am I correct?

A That's correct.

Q Are you going to give an opinion as to Dr. Goldman, the emergency room physician, Akron City Hospital?

A no.

Q Dr. Burdette?

A no.

Q Dr. Apgar?

A No.
Q Dr. caniiang?
A No.
Q Dr. McKoberts?
A No.
Q Dr. Weingart?
A No.
Q Drs. Millers and Shapiro?
A No.
Q Akron City Hospitai?
A No.
Q Akron General Hospital?
A No.
Q Medina Hospital?
A No.
Q Edwin Shaw?
A No.
Q Okay. lhat cuts down -- may I just have a minute? lhat cuts down a lot of questions here, and if I could just have a second, I'll take those out of here.
MR. TREADON: Don, I'm going to clarify something here. I don't intend to ask him questions about the care provided by any of those other physicians.
If someone asks him a question about

that, he may have an opinion. So, I'm not sure exactly what your question encompassed.

MR. ILER: The question is, I've got to get ready for a trial.

MR. TREADON: I understand that.

MR. ILER: And I must know what the man is going to testify and on whose behalf he's going to testify.

MR. TREADON: He's testifying on behalf of Dr. Avery.

MR. ILER: I understand that perfectly.

MR. TREADON: But if he's asked by someone a question concerning someone else, he may have an opinion.

MR. ILER: Well --

MR. TREADON: So, you know, I'm not --

MR. ILER: Well, are you offering your opinion here for other people or just for Dr. Avery?

MR. TREADON: He's here to answer questions today, Don. What I'm representing to you is he's been retained by me on behalf of Dr. Avery.

MR. ILER: Yeah, okay.

MR. TREADON: He may have opinions concerning other doctors.

MR. ILER: Okay. Before I leave this telephone

deposition, I must know if he's going to exert any other opinions. In fairness to everybody, you've got to let me know that. If you're not, just tell me no and I can cut off a lot of questions. All right?

MR. BRADON: I'll object to that. I'm not sure --

MR. ILLER: Yeah, okay.

BY MR. ILLER:

Q Doctor you've treated patients with T.I.A.s before?

A Yes, I have, many.

Q And do you consider a I.I.A. to be a prestroke symptom?

A It can be, yes.

Q And do you consider it to be a dangerous symptom to have?

A it can be, yes.

Q And why is that so?

A Again, we're talking about it being a possible prestroke symptom. Not all T.I.A.s, however, you know, go on to strokes. some remain I.I.A.s, some resolve. All that mimics a I.I.A. is not a I.I.A.

It may be a hemipiegic migraine, which, in a young person, can be dramatic.

Q Have you ever given a medical opinion in a case where the issues of carotid artery occlusion were similar to ieonard's case?

A I have not given opinions in a case quite similar to this, no.

Q Have you ever given an opinion in a medical negligence case where Leonard is supposed to ha\-e had 1.1.A.s, such as you have read in the records?

MR. TREADON: I'ii object. Are you asking him has he ever reviewed a case where the patient had 1.1.A. involved?

MR. ILER: Yeah, such as Leonard's.

IHE WIINESS: A As far as T.I.A.s, yes, I have.

BY MR. ILER:

Q Okay. But insofar as a patient such as Leonard, from the initial treatment that he received in Medina Hospitai May 25, '86 until his death, have you reviewed a case such as Leonard's?

The answer is no, 1 assume.

A ihat's correct.

Q All right. Do you believe that T.I.A.s lead to strokes?

A They can.

Q Do you have a percentage of that happening?

A Roughly, a third of patients that have T.I.A.s continue to have I.I.A.s, a third go on to have strokes, and a third resolve without further neurological problems.

Q Do you base the opinion of a T.I.A. on a history? Does that help you in your diagnosis of I.I.A.?

A I.I.A. diagnosis is based on the clinical history, correct, and/or physical findings.

Q Okay. Have you ever made a diagnosis of a I.I.A. just on clinical evidence alone; that is, the way the patient presents to you?

A You mean just the physical examination?

Q Yes.

A No, you'd need the history with it.

Q Between the history and the physical examination of a patient, without having x-ray films and arteriograms and such, have you made a diagnosis of I.I.A. with simply a history and a physical examination of a patient?

A Yes, you can.

Q And how do you arrive at that with just a history and a physical exam?

MR. TREADON: Well, I'll object. You want to tell him what history and what physical exam, or do you want him to give you classical signs and symptoms?

MR. ILER: Whatever he wants to do.

MR. TREADON: Well, I'll object.

You can answer that question. I'm not sure I understand it, but I'm not giving testimony.

THE WITNESS: I'm not sure that I fully understand the question.

BY MR. ILER:

Q All right. Let's take a patient's history such as Leonard's. Let's get specific and ask, can you make a diagnosis of Leonard's having a T.I.A. with his history and physical examination alone?

MR. TREADON: Objection. When?

MR. ILER: When he presented at Akron City Hospital on 5/25/86.

THE WITNESS: A I think that the physicians that were there evaluated him. He came in with a history of transient weakness of his left side. There was an element of hypertension also present.

He had been transferred to that hospital from the referring hospital, Medina Hospital. And he was referred for apparent evaluation and CAT

scan. (A) scan was performed and was normal. The symptom:: melted away and he returned to normal.

He -- with this history, the physicians arrived at the potential diagnosis -- basically, a differentiai diagnosis -- at that time, of hemiplegic migraines, though they mentioned they could not rule out I.I.A.

Q When you say, "they," was it your understanding more than one doctor examined Leonard Drogell at Akron City Hospital on 5/25/86?

A My understanding is that only Dr. Goldman, the E.R. physician, saw the patient during that visit to the E.R.

And insofar as the diagnosis, do you agree with Dr. Goldman's diagnosis of hemiplegic migraines?

A That is a differential diagnosis that was reasonable, based on the patient's presenting findings on that date.

Q And you agree with that diagnosis by Dr. Goldman, then; true?

A I think agreeing, you know, may be the wrong word. Is that a reasonable differential, based on the patient's age, physical findings, history, normal

CAT scan? These were reasonable differentials on that date.

Q Will you testify that you agree or disagree with Dr. Goldman's diagnosis of hemiplegic migraines? I'm asking if you agree or disagree. I'm not asking you if it's reasonable. I'm asking if you agree.

MR. TREADON: Objection. It's already been answered.

MR. HIRSHMAN: Note my objection, too, Miss Court Reporter.

THE WITNESS: A If you agree with their differential diagnosis, you're agreeing with their diagnosis.

MR. HIRSHMAN: You're opening the door, Don.

BY MR. TIER:

Q Okay. Are you also in agreement that Leonard Drogell should have been further examined to rule out T.I.A.s?

MR. HIRSHMAN: Objection. Joby Hirshman.

A I'm not sure what you mean by that.

Q After Dr. Goldman's examination of Leonard Drogell on 5/25, he made a diagnosis; am I correct?

A Differential diagnosis, yes.

Q Says, "number one, probable hemiplegic

migraines." Correct?

A correct.

Q We've talked about those. And he wrote, "cannot rule out I.J.A." He wrote that down; correct?

A Yes.

be further testing of Leonard to ruie out I.I.A.?

MR. HIRSHMAN: Objection.

MS. MANLER: Objection.

A It was my opinion that as of that time and that emergency room visit, the proper thing would have been to arrange a neurological consultation. This had been arranged with Dr. Weingart for the next office date. An outpatient neuro consultation was appropriate at that time.

Q If Dr. Goldman did not ask for a consultation with another physician, such as Dr. Weingart, would Dr. Goldman have fallen below the standard of care, in your opinion, or don't you have any opinion on that point?

MR. TREADON: objection.

YK. HIRSHMAN: objection.

A As far as 1 am aware, he did, so 1 don't know -- is this a hypothetical?

Q Yes.

A If he had, in this hypothetical situation, planned to return the patient to his primary attending physician with the data involved ana letting that primary attending physician arrange for a neuro consultation, that would he proper, also.

Q Would you answer my question?

A 1 did.

Q Then, if Dr. Goldman was not going to send Leonard back to his primary treating physician with this information, should he then have asked for a consultation with a doctor such as Dr. Weingart?

MR. HIRSHMAN: Objection.

A Do you mean right then and there in the emergency room?

Q Yes, sir.

A What I've already said is I thought it was appropriate that he arrange for that consultation in the neurologist's office, would he quite appropriate. The neurologist was not required, based on the data available on that exact date, to come in and see the patient.

Q okay. And tnat's your opinion; right?

A Correct.

Q Okedoke. When Leonard was discharged from Akron City Hospital on 5/25/86, what treatment had he received by Dr. Goldman?

MR. HIRSHMAN: Objection.

MR. IRELAND: Well, I'm going to object.

MR. ILER: Okay.

MR. IRELAND: You want him to review the chart on that and tell you what you already know, Don? That what we're going to do here?

MR. ILER: I don't want to do that. I withdraw the question. I don't want to repeat a lot that's already in there. I'll withdraw the question, okay?

MR. IRELAND: Okay.

BY MR. ILER:

Q Okay. Doctor, what do you understand the facts in this case to be that you are testifying on?

A Concerning --

MR. IRELAND: I'll object. Can you be a little more specific?

MR. ILER: You asked Dr. Vanna and Dr. Mundinger what facts they relied on or what facts they understood that were involved in the case, and we're just asking the same question of your expert, what facts does he understand to be involved in this case. Same question

thar was asked of Dr. Vanna and Dr. Mundinger.

MR. TREADON: That, doesn't presuppose that that was an appropriate question. I don't believe you objected to my question.

But are you asking what salient points or to summarize the facts as he understands them?

MR. TLER: I've got to know what he's basing his opinion on.

THE WITNESS: A Okay. And this is pretty well outlined in my letter, also.

Mr. Drogell was 38 when he initially presented at the Medina Community Hospital emergency room on 5/25/86. He presented there at about 10:00 a.m. on that date. He reported experiencing a left-sided flaccid weakness.

BY MR. TLER:

Q Doctor, you're reading from your letter of report?

A Yes, and this is my understanding as I have it in my head from the material.

Q Yeah.

A He was seen in the emergency room by the emergency room physician. Blood pressure at that time was 153/100. Dr. Avery apparently was called.

The patient was then transferred to Akron City Hospital for an emergency C.T. scan and apparently -- and I don't know all the ruies, but my understanding ~ a the patient was then also seen in the emergency room at Akron City Hospital, you know, for reevaluation as a part of their normai procedures.

He was transferred in a stable condition with the ieft-sided weakness present. The patient's blood pressure at the time of that emergency room evaluation was only modestly elevated, 153/100, not uncommonly seen at the time of an acute hemiplegic migraine or acute I.I.A.

At Akron City Hospital the CAI scan was performed on 5/25/86 and was normal. During the period of time at that hospital, the symptoms resolved ani he was asymptomatic, according to the note by Dr. Goldman.

Dr. heingart apparently had been contacted by Dr. Goldman, discussing what Dr. Goldman had told him, and had arranged for the outpatient neurological evaluation.

The patient then returned home, and on the evening of 5/26/86 became unwell, compiaining of abdominal pain, took some Pepto-Bismol, you know.

Apparently, the abdominal pain got better, but subsequently, after that, redeveloped the left-sided weakness.

He was again taken back to the Medina Community Hospital emergency room. The time of the emergency room evaluation was about 1:00 a.m. on 5/26/86. At tnat time, his blood pressure was higher, 206/113, and a ieft hemiplegia and positive Babinski sign was present.

Dr. Avery was then contacted and the patient was admitted. Patient's blood pressure was. rapidly treated with his being given a sublingual tablet of Nitroglycerin and intravenous Lasix. And shortly after admission, the blood pressure was down to around 160, 170/100.

He then was treated at Medina Community Hospital and stabilized for the stroke Which occurred. He then was transferred to Edwin Shaw Hospital 6/4/86 for a rehabilitation period to regain as much function as possible.

During the Medina Community Hospital evaluation of 5/26/86, Dr. Burdette saw the patient in neurological consultation. Ireatment during that time was management -- appropriate management of the

patient's blood pressure.

And in view of his hypertension, he was also placed on antiplatelet medications, aspirin.

How far do we want to take it?

Q Is there more in your report there?

A I take him through the entire -- you know, through Akron General Medical Center's evaluation.

Q Go ahead.

A You want me just to read the report?

MR. ILLER: If you want to, sure.

MR. TREADON: No, we're not going to read the report. We're going to summarize the facts.

MR. ILLER: Whatever your lawyer wants, Doctor.

MR. TREADON: I'm not his lawyer, but you asked that we summarize the facts as he understood them.

MR. ILLER: That's right.

MR. TREADON: All right.

THE WITNESS: A It was my opinion -- again, this is -- well, that is not a fact. We'll go back to facts.

BY MR. ILLER:

Q Yeah.

A Completed stroke occurred at the time -- a completed stroke occurred at the time of the 5/26/86

evaluation with a left hemiplegia being present.

Q Okay.

A Retrospectively, in view of the fact that a stroke occurred, the episodes of numbness and tingling that had gone on in the month previous to the stroke and the episodes of weakness were T.I.A.S.

Q Okay.

A The intermittent T.I.A.s can cuiminate in a completed stroke, which was later verified to be due to bilateral carotid occlusions --

Q Yeah.

A -- and are a natural part of the history of carotid occlusions, be it due to cerebrovascular disease or absence, congenitally, of the carotid arteries, which is my opinion as to the itiology of the carotid occlusions, based upon what we've talked about so far today. The stuttering onset of symptoms is most frequently seen in thrombosis and consists --

MR. HIRSHMAN: I seem to recall the question as being a request for a summary of the facts underlying your opinion, rather than for a recitation of opinions. I'm going to object.

BY MR. TLER:

Q Go ahead, Doctor.

A findings of Dr. Burdette in his neurological examination of 5/26, which, I guess, he dictated on 5/27, was that he had i to 2- carotid pulsation bilaterally with no bruits present.

Q Go ahead.

A Following his evaluation at Medina Hospital, he was transferred to Edwin Shaw Hospital.

Q Yes?

A He received approximately five weeks of therapy there, regaining his ability to walk with a brace and cane. He then was stable until his admission at Akron General Hospital of 2/7/87.

At that time, he experienced while watching television a partial complex or focal epileptic seizure. He was hospitalized. A Doppler study, which we've already talked about, was then performed.

A cerebral angiogram was performed, revealing a bilateral carotid -- internai carotid artery occlusions.

He went into a second period of epilepsy called status epilepticus on 2/14 -- really was about 11:20 p.m. on 2/13, but the predominant period of seizures was on 2/14.

following many hours of seizures

which were treated appropriately with Dilantin and Phenobarb, medications to bring the seizures under control, the seizures came under control but he remained in a comatose and subsequent neurovegetative state.

C.T. brain scans on 2/7 and 2/14 revealed the presence of bilateral cerebrovascular accidents with a new one occurring the left side of the brain, showing up predominantly on the CAT scan of 2/14/87.

He subsequently had a number of infections and subsequently died.

Q Okay. Doctor, I'm going to turn to Dr. Avery's care and treatment of Leonard Drogell.

A All right.

Q We'll run through Dr. Avery's examinations, his findings and his treatment; and at the close of it, we'll get some opinions from you, if you have any, about his care. Okay?

A Go ahead.

Q Are you there, Doctor?

A I'm here.

Q Is it true from your reading of the record that Dr. Avery knew that Dr. Burdette had ordered ultrasounds of Leonard's carotid that were to be done at

Akron City Hospital on 5/27/86?

A As far as I'm aware, he did know that they were ordered. They here ordered on 5/26/86 by Dr. Burdette, yes.

Q And what kind of a physician is Dr. Avery?

A Dr. Avery is a family practitioner.

Q And Dr. Burdette?

A A neuroiogist.

Q Okay. has it a breach of the standard of care for Dr. Avery not to see that the uitrasounds that wore ordered for his patient of the carotids be completed?

A No.

Q Whose duty was it to see that the carotid studies which were ordered for 5/25/86 at Akron Hospital -- City Hospital be done?

MR. HIRSHMAN: objection,

MS. MANLER: Objection.

MR. TREADON: I'll object, also.

BY MR. ILER:

Q Okay.

A In the situation that that occured, the study had been ordered by the neurologist. The patient had to be transferred from his primary treating hospital

to another hospital to get it done.

Obviously, the equipment wasn't working, so a partial study was attempted and reported, the report apparently not getting back to the hospital record until after the patient was transferred for rehabilitation.

The primary modes of treatment that make a significant change in a patient that has had a stroke is, one, treatment of their hypertension, if hypertension is present; aspirin as an anticoagulant in the hypertensive patient that has had a stroke; and rehabilitation.

All those three therapeutic modalities were accomplished appropriately during this hospital! stay. The laboratory studies, which are nice to have in an attempt to define why the stroke occurred or to define the anatomy of the stroke are, again, as I said, nice to have; but they are not medical requirements in establishing the diagnosis of stroke or in establishing the proper treatment of the stroke.

I'm not sure I answered your question, but I think I did.

Q Well, whose duty was it, then -- Do you have an opinion as to whose duty it was to see that the

carotid ultrasounds ordered by Dr. Burdette on 5/27/86 at Akron City were to be done?

A I don't know that it was a duty of either Dr. Avery or Dr. Burdette to make sure that they had to be done. An attempt was made to accomplish this. It could not be accomplished, as the studies could not be completed. They were the treating physician and treating neurologist, and their opinion apparently was that they were not required, that it was not relevant to send the patient somewhere else for these studies.

Q You agree with that decision?

A I agree, based on the total picture, with those decisions; correct.

Q There was no responsibility for anybody else that you are prepared to give an opinion on to see that the carotids were done, such as nurses, supervisors, nursing supervisors of any of the hospitals; right?

A They would have no bearing on any of that.

Q Let me ask you, Doctor, if the carotid studies were done on 5/27/86, would they have shown the absence of internal carotid arteries in Leonard Drogell?

A They would have shown a picture consistent with that -- similar to the Doppler studies performed in

1987, correct.

Q Ihen, if the ultrasounds were done on 5/27/86, they would have shown that there were no internal carotid arteries in Leonard; true?

A Ihat there was a complete occlusion; correct. Ihat there was no blood flow through the internai carotid arteries bilaterally; correct.

Q heii, my question was, then, if the ultrasounds were done on 5/27/86, they would ha\-e shown that Leonard had no internai carotid arteries; is that true?

MR. IREADON: Ihe Doppler or -- I'm sorry. Maybe you better read that question hack.

MR. ILER: Ihe ultrasounds.

MR. IREADON: Just the ultrasounds,' okay.

IHE WITNESS: A They would have shown the same lack of blood flow in the carotid arteries that was seen on the Doppler study in 1987, so I think --

MR. ILER: What you are saying, Doctor, is that the ultrasounds that were done as ordered by Dr. Burdette on 5/27/86, those ultrasounds would have shown that Leonard had no internal carotid arteries.

A Correct.

Q Was it a breach of the standard of care for

Dr. Avery not to have followed up after iearning that the carotid studies ordered by Dr. Burdette were not done?

MR. IREADON: Objection, he's answered that.

But you may answer it again.

A My answer is that obtaining Doppler studies was not -- or not obtaining them was not a breach of the standard of care.

Q Do you recall a letter from Dr. Sweet at the Edwin Shaw Hospital to Dr. Avery, and it was dated on June the 6th of 1986?

Perhaps Mr. Ireadon can find that for you, if you need to look at it.

A I've seen the letter.

Q What was Dr. Sweet asking Dr. Avery about concerning Leonard?

A My understanding was he was asking for any test results that had been obtained.

Q I'm looking at the second paragraph of his letter, and it sal-s -- this is Dr. Sweet's letter of June 6th of '86. He says, of note, "we did not receive a copy of an!: results of carotid studies or echo carciiogram." Do you see that?

A 1 see it.

Q When Dr. Avery got that letter, do you think it was below the standard of care for Dr. Avery not to have gotten those studies done or reordered them?

MR. BRADON: Objection. First of all, that presupposes that Dr. Avery got that letter. I think he testified, Don, he did not see it until the time you took his deposition. If you're asking that typically --

MR. HER: No. The facts in the case -- do you see Dr. Avery's letter to Dr. Sweet concerning Dr. Sweet's letter, Doctor?

A Yes, I have.

Q Doesn't he acknowledge Dr. Sweet's letter, saying that the ultrasounds, the results, were not done?

A Yeah. It was ordered, but it was not performed.

Q Well, do you think it was below the standard of care for Dr. Avery, once learning that the ultrasounds were not done for his patient, to see that they were done by somebody?

A No.

Q And what's your reason for that?

A My reason for that is quite simple. Based upon all that we know as neurologists and physicians that care for people with strokes, there basically have

been very few real certifiable treatments for stroke.

In the hypertensive patient, meaning the patient with high blood pressure, reducing and treating the high blood pressure reduces the risk of further strokes. That's been verified in many national studies over the last 30 years.

Q Do you agree with the course —

A Let me finish with what I'm saying,

The other treatment for stroke is rehabilitation. That helps return function. The other treatments are all noncertifiable, hopeful treatments, hopeful things that help people with strokes but have not been verified in complete studies or they are attempting to be verified or ruled out by ongoing studies.

And these include aspirin's effect in reducing the effect of stroke. That's probably coming close to being verified as being a significant reducer of future strokes.

The use or treatment of Heparin or Coumadin, the risks of potential hemorrhage about equal the benefits of these treatments, canceling out the use of these medications in the majority of patients.

The carotid surgery, the risk of

stroke in most centers during surgery are greater than the risk without the surgery.

So, many arterial endarterectomies, although many, many are done throughout the country, is a nonverified, nonreliable treatment for strokes.

The tests which we do, carotid screens, carotid Dopplers, carotid duplexes, cerebral angiograms, are basically tests to identify the anatomy of the stroke; and then these are used, at times, to identify one of these potential hopeful treatments that may affect the future risk of stroke.

Q Where did you find in your review of the records the mechanism for Leonard's stroke?

A I think the mechanism of Leonard's stroke is based upon the history of what happened. I don't think in the records there is aril-thing that says that this is exactly Khat happened.

Now, how one analyzes the mechanisms of his stroke --

Q Doctor --

A You've asked a question. Let me answer it.

The C.T. scans show that he had ischemic strokes -- that means thrombosis versus embolism. .\cot hemorrhage. There has never ani' e\-idence

of a hemorrhagic stroke.

The episodes of T.I.A. leading up to the stroke point to a plugging up or thrombosis of an artery causing that stroke, rather than an embolic origin.

When one has emboli causing strokes, one would never have different emboli affecting the same blood vessel all of the time causing recurrent T.I.A.s that were very close to mimicking each other before the onset of a stroke.

So, a clinical history leading up to a stroke, CAT scans, his clinical presentation, all point to a thrombosis of a blood vessel as the cause of his stroke.

Q Which --

A The leading contributor to why this occurred was the bilateral absence of the carotid arteries, which meant that the only blood flow to both the right and left side of his brain was not fully normal, though it was asymptomatic until he started to have his T.I.A. and eventual stroke and, going on as a natural part of the history, disease and disorder, the subsequent strokes. I'm done.

Q What artery was the emboli in that caused

Leonard's stroke?

MR. TREADON: Objection. He just testified it wasn't emboli.

MR. TILER: Pardon me?

MR. TREADON: He just testified, in his opinion, it was not embolic, that it was thrombotic.

BY MR. TILER:

Q Where was the thrombus, Doctor, in Leonard's stroke, what artery?

A Clinically, based on where the area of damage was seen on his second C.T. scan during his May, '86 admission, the area of the right cerebral cortex supplied predominantly by the right middle cerebrovascular artery, predominantly the anterior portion.

What we're seeing is a plugging up or thrombosis of an endartery. These would be the most distant portions of these arteries. The middle cerebral artery, one can't rule out total involvement of the right cerebral artery.

What happens when there is an overreduction of blood supply in the brain, what we call the watershed area of the brain, where minimal changes in blood flow causes stagnation of the blood flow in the

vessels and a plugging up of the blood vessels and eventual damage to the brain tissue.

Q Doctor, I want to tell Dr. Mundinger and Dr. Vanna -- you know the plaintiff's experts in the case?

A Yes.

Q I want to tell them exactly where you say the thrombus occurred. Have you explained that for me so I could explain it to Dr. Vanna?

A I think I just answered that.

Q Thank you very much, Doctor.

A That's the first stroke.

Q How about the second stroke, Doctor, where -- in which artery did that occur?

A I have not seen his CAT scans, but my understanding is that on the first -- the third CAT scan taken when he was admitted with his seizures in February of 1987, was that a new lesion was seen in the left frontal part of the brain.

Now, that could be an endartery occlusion of the anterior portion of the left middle cerebral artery or part of the left anterior cerebral artery. Without seeing the C.T. scan, I don't think I could actually say which of those two.

Subsequent to that, five days -- four days later, he had his fourth C.T. scan. And at the time of that scan, a much larger area of infarction on the distribution of the left middle cerebrovascular artery was evident.

MR. TREADON: You still there?

MR. TIER: Yeah. We're just trying to go through some questions. We'll take a minute recess, if you would.

MR. TREADON: Sure.

MR. TIER: Be just a minute or so.

(Whereupon, a short break was taken, after which the deposition was resumed as follows:)

BY MR. TIER:

Q Doctor, when will I know whether you're going to give any opinions for any of the other defendants in this case?

MR. HIRSHMAN: You've asked him, Tom.

MR. TREADON: I'm going to object. Again, he's been retained by me on behalf of Dr. Avery. I intend to ask him questions concerning Dr. Avery's care and treatment.

If, however, another attorney ventures a question with regard to any other defendants, he may have some opinions.

MR. ILER: Well, he can't do that, because I can't prepare for that testimony before trial, and I'm going to ask the Judge, and I'm asking you now if he's going to give opinions or this man is going to limit his opinion to Dr. Avery or not, and I don't want to find out at trial.

MR. TREADON: I can assure you that my questions will relate to Dr. Avery's care and treatment.

MR. ILER: I don't need that answer, Tom. I need to know right now --

MR. TREADON: I can't speak for any other lawyers in this case. If any other lawyers have a question for him, they can ask him.

MR. ILER: Then we're going to have to retake his deposition. We're prepared only from your letter to us, and your indication to us was Dr. Kutel was going to testify to Dr. Avery alone.

Now you're telling us that if other attorneys ask him opinion questions that he could be an expert for Dr. Weingart, Miller, Shapiro and everybody else in the case.

MR. TREADON: What I'm suggesting to you, Don, there probably isn't an expert in this case that doesn't have opinions concerning other people other than those by whom they've been retained.

MR. ILER: That's not true. Dr. Bergan was limited. And the other doctors' testimony was limited to emergency room medicine. Every doctor has limited his testimony.

MR. TREADON: I can assure you that my questions to Dr. --

MR. ILER: I don't care about your questions to this doctor. I'm worried about this doctor giving opinions about other physicians, and I want to know right now, is he going to testify --

BY MR. ILER:

Q Doctor, are you going to testify on behalf of any other defendants, other than Dr. Avery, in this case:'

MR. TREADON: Objection. If your question is has he been asked to by anyone, that's one question. is that what your question is?

MR. ILER: I'll continue the deposition and you go ahead. I'm not going to fool around anymore. We'll leave the deposition open in case you decide you're

going to testify for other doctors here.

BY MR. ILER:

Q Doctor, do you agree with the statement that it is true that 70 percent of strokes that occur are preceded by one or more T.I.A.s?

A I think 70 percent is a high number. I think in national statistic analysis, about 50 percent of strokes occur without any T.I.A.s whatsoever.

Q So, then, would you say that, in your opinion, 50 percent of strokes occur after one or more T.I.A. has taken place?

A I think that's accurate.

Q And can you -- do you agree that a T.I.A. can last from several minutes to several hours?

A Yes, it can.

Q Is it true that the T.I.A. of a left hemiplegic migraine, it is typical that these symptoms come and go?

A T.I.A. symptoms do come and go; that's correct.

Q And can you rely that a T.I.A. has not taken place because the symptoms have disappeared?

A Could you repeat that?

Q sure. Repeat it for me, Miss Court

Reporter.

(Whereupon, the pending question was read back by the court reporter.)

THE WITNESS: A I think your question is: Can you rely on a T.I.A. being diagnosed based on that the symptoms disappear? Is that the question? She read it back, but I don't think you're saying it right.

BY MR. ILER:

Q Well, okay. Yes, the way you phrased it is fine. What's your opinion?

Q Doctor, let me help you out here. Do you agree that so far as T.I.A.s are concerned, that they are transitory in nature; they come and they go? Do you agree with that?

A Yes.

Q And do you agree that about 20 percent of stroke patients that have T.I.A.s have those strokes after the T.I.A. has occurred within a month of the attack?

A it might even be hire than 20 percent. within that time period.

Q You agree there is good evidence that a T.I.A. can he abolished and eliminated by anticoagulant drugs?

A I.I.A.s, at times, can be reduced in number or stopped by antiplatelet medication, including aspirin, Persantine and, at times, by Heparin or Coumadin. One accepts the risks of Heparin and Coumadin of hemorrhage.

Q But as far as the aspirin or the other drug -- I've forgotten its name.

A ~ ~ : ; ' ~ i a n t

Q Have you used those?

A Yes, I have.

Q Have they been useful to your patients?

A I believe so.

Q Have they eliminated 1.1.A.s for your patients?

A I believe so, yes.

concerned, have you used those for your patients?

A Yes, I have.

Q Have they been successful in the treatment of 1.l.A.?

A Again, Heparin is debated. Treatment in

the sense of is it successful in reducing T.I.A.s for progressing on to strokes --

Q Yes.

A -- and/or is it worth of risk of hemorrhage?

Q Your opinion.

A At times, I use Heparin, I don't use Heparin as much as WE used many years ago. Aspirin and Persantine has replaced perhaps 80 percent of the use of Heparin in our area.

Q Okay. Doctor, in your opinion, once a diagnosis of T.I.A. has been made, should the patient go on to an arteriogram?

A All patients that have T.I.A.s do not need arteriograms.

Q What diagnostic test should be done on a patient, in your opinion, who has had a T.I.A.?

A Predominant testing is one, taking their blood pressure so that one can reduce the hypertensive blood pressure arid bring it dohn to normal or high normal in that group of patients; the clinical examination performed by a family practitioner or a neurologist.

Q hell, should the patient --

A Those are the bottom line. Everything else is extra.

Q When you say, "everything else is extra," do you include in that ultrasound studies:'

A Ultrasound studies, again, are looking at the anatomical reasons why did a T.I.A. occur. It is thought to be, you know, benign and noninvasive, as a prelim of deciding whether one wants to do an angiogram or not.

Examining the carotids and whether the presence -- bruits are present or not are also veri-important.

Q Well, I'm trying to get from you whether or not, in your opinion, a patient should be taken in for diagnostic studies, such as ultrasound, O.P.G., Doppler studies, after a T.I.A. has occurred,

Do you have an opinion-on that?

A Sometimes yes and sometimes no.

Q What determines the yes part?

A The yes part depends on the overall clinical picture. if one is evaluating a younger patient and one considers the symptoms which look like a T.I.A. but which, based on the clinical situation one finds themselves, and they think it is a hemiplagia, one

does not have to admit that patient for Doppler studies, angiograms and the like.

One can evaluate the patient as an outpatient neurologically and decide whether any studies are necessary then or start whatever form of therapy is required with or without these tests.

Q 'lhen, you would disagree with the recommendation of once a diagnosis of a I.I.A. is made, that the patient should be sent in for an arteriogram?

A I would say that the majority of patients that have 1.1.A.s in this day and age do not have arteriograms.

Ihe only reason one would do an arteriogram is if ~)!':is highly suspicious about the presence of a positive carotid bruit and, also, a positive abnormal Doppler study and one is thinking of surgery.

An angiogram is a dangerous test. It has mortality and morbidity and one does not do it to evaluate every stroke patient or one would precipitate many more strokes than we already have.

It is a test as a preiim to other forms of treatment.

Q Is an arteriogram a necessary prelimination

to do a surgery?

A I do not know of any vascular surgeon that would do a cardioendarterectomy without a carotid angiogram.

Q Do you agree that the more recent a T.I.A. is in its occurrence, the more urgent it is for angiography to be done for that patient?

A I don't know if that's true. I don't know if you've got more information for that question.

I think we talked about anticoagulant therapy, Doctor. You mentioned the aspirin and the other drug, Persantine, and then the use of Heparin.

Are there any other anticoagulant therapies that you approve of or use that we have not discussed?

A Aspirin and Persantine are the predominant antiplatelet medications. Coumadin and Heparin, that we've already talked about, are others.

Q Okay. Does Persantine help to prevent further strokes?

A Persantine can help prevent T.I.A.s. It's, again, a debated treatment, whether or not it may help prevent further strokes. It has the efficacy similar to that of aspirin.

it's basically used in the patient who cannot take aspirin because aspirin upsets their stomach, which is maybe one aspirin a day, which may be ten percent of the aspirin-taking treatment.

Q Then, you would give aspirin to such a parient?

A Yes.

Q How many aspirin would it take, usually, to prevent that stroke'? One aspirin a day, two aspirin?

A It tends to be debated. They started with four aspirins a day a number of years ago. it's gradually come down to one aspirin a day or even one baby aspirin or one aspirin every other day. The exact amount is not decided as yet.

Q What do you use for your patients?

Q One aspirin a day.

Q Do you use anticoagulant therapy when somebody has already had a stroke and has a disease of a carotid?

A kes, I do.

Q Why do you use that?

A On the outside chance that it may help, and I don't think taking one aspirin a day is going to hurt, as long as it doesn't upset their stomach.

If it upsets their stomach, I change them to Persantine.

Q As far as Persantine is concerned, what's the usual dosage?

A 75 milligrams twice a day or 50 milligrams three times a day, and it can go way up to 400 milligrams a day.

Q In reviewing your records of Leonard Drogell, did you find that his heart was in good condition for his age?

A My understanding was his heart was in good condition, yes

Q So far as Leonard's lungs were concerned, did you find that his lungs were in good condition?

A Yes.

Q Doctor, do you have any opinion as to whether or not there was any medical or surgical treatment that could have been rendered to Leonard urogeii to prevent his first stroke, which occurred on May 26, 1986?

A I don't think that anything that would have been done between the emergency room visit of 5/25/86 and the stroke of 5/26/86 would have made a difference in stopping the stroke that occurred.

I think that the stroke that occurred was the initial clinical presentation of the congenital absence of the bilateral internal carotid arteries and that the stroke would -- was an inevitability.

Q Okay. Because of the carotid anomaly of not having an internal carotid artery.

A Correct.

Q If Leonard would have had internal carotid arteries, could there have been any treatment rendered to him prior to his first stroke on May 26, 1987?

A Would you repeat that question?

Q Sure. If Leonard had had the internal carotid arteries that you say he did not have -- assume that he had them, okay?

A All right.

Q Was there any treatment that could have been rendered Leonard Drogell from 5/25, when he went to Medina Hospital and over to Akron City Hospital, and before his stroke of May 26, '86?

A What is the hypothetical condition of these carotid arteries that are supposed to exist?

Q One was highly stenosed on the right side, and the left carotid artery was open and patent.

A In that hypothetical situation, in the

hours that occurred between his initial evaluation and subsequent stroke, I don't believe that any therapy would have made a significant difference in preventing this hypothetical stroke.

Q Would there be any -- you said, "significant." Are you qualifying that and saying there would be nothing that could be done to prevent the first stroke, or there was something that could have been done?

A In a patient with hypertension, the only anticoagulant that could be used would be aspirin. It takes a period of time for aspirin to become fully effective, usually greater than 24 hours.

The considerations of rapid analysis and rapid surgery, I don't think these are things that could have occurred that would have made a difference.

Q Okay. Doctor, have we explored all the opinions that you are giving on behalf of Dr. Avery?

We have talked about whether or not, in your judgment, he should have followed up to see that the ultrasounds on Leonard here performed.

We've spoken about that, and you've given your opinion; correct?

A Right.

Q You've spoken about the opinion whether Dr. Avery should have followed up after receiving a letter from Dr. Sweet at the Edwin Shaw Hospital, and I think you've given an opinion on that, that he was not required to comport with the standard of care by seeing they were done; right?

MR. TREADON: Objection to the question. You asked him if he was not required to comport with the standard of care.

MR. ILER: Oh, what I mean is -- Okay.

THE WITNESS: I did answer the question.

MR. ILER: You understand what I'm talking about?

THE WITNESS: Yes. I answered it.

BY MR. ILER:

Q Then, are there any other opinions you're going to give on behalf of Dr. Avery in this case that we have not discussed?

MR. TREADON: I'll object. There are questions that I may ask him that you haven't asked him, Don.

MR. ILER: Then I have to ask what those questions are. I am not going to conclude with the deposition until I hear the questions you're going to ask him, so I can get some examination of him.

Otherwise, I have no other questions,

except the last two.

BY MR. ILER:

Q Doctor, you read Dr. Vanna's deposition; haven't you?

A Yes, I did.

Q Do you have any criticism of Dr. Vanna's opinion?

A I think there's a number of things I don't particularly agree with.

Q Can you tell me what chose are?

A One, you know, he was, you know, critical of a number of things I've already said I'm not critical of, which you've alread!. asked me questions about, which you just elaborated. Let's see what else.

Q Dr. Vanna spoke to Dr. Avery and his negligence. Do you recall that?

A I recall that.

Q And I assume you disagree with Dr. Vanna's testimony and his opinion against Dr. Avery; am I correct in that point?

A correct. I also significantiy disagree with Dr. Vanna's assessment that the vessels would have been open, you know, if they had been studied on 5/26/86. And that's -- you know, I definitely disagree

with that, as we've already talked about.

Q You're sal-ing there were no vessels there --

A I'm sal-ing there were no vessels there.

Q -- aren't you?

A Correct.

Q How about fir. Mundinger, did you have any criticism of fir. Mundinger as it applies to Dr. Avery, tile person you're testifying on behaif of?

A Basically, as we've already talked about, I significantly disagree with Dr. Mundinger's consideration of O.P.G.s being a significant diagnostic test. We've already gone through that.

Again, he talks about partial stenosis being present in the carotid arteries and that carotid surgery would be indicated.

It's my opinion that carotid occlusion or absence of the carotid arteries was present throughout the diagnostic period of time we're talking about in this patient.

Q Okay.

A He talks about using Heparin even in the hypertensive patient. ihat's the group of patients that cerebrohemorrhage occure most often in. And

hypertension is a contraindication for Heparin and Coumadin.

Dr. Mundinger's opinion that the patient had embolic strokes rather than thrombotic strokes, which we've already talked about.

I think those are the big ones.

Q I'm sorry. Do you have more opinions,

A No.

Q Okay. You have privileges at the two hospitals that you mentioned to us; right, Doctor?

A Three.

Q Lutheran Hospital --

A Lutheran General Hospital, Lake Forest Hospital and Forest Hospital. Three hospitals.

Q That's what I meant, Forest Hospital. Okay. I think I'm completed with questions.

Doctor, I think. I may have asked you this, but I'm not sure. Did I ask you whether or not there would have been any medical or surgical treatment that could have prevented Leonard from having his second stroke? Did I ask you that?

A I don't believe you asked me that. My opinion is everything that could have been done for this

patient was done for this patient.

Q From the time frame you're speaking about?

A 5/25/86 through his strokes in 1987 and eventual vegetative state.

MR. ILER: Okay. Thank you, Doctor. I have no other questions.

MR. TREADON: Does anyone else present have a question for Dr. Ketel?

MR. HIRSHMAN: Toby Hirshman, Doctor. I don't have any questions for you.

MS. MINKLER: Pat Minkler. No questions.

MS. SWIFT: No questions. Susan Swift.

MR. ILER: Mrs. Court Reporter --

THE REPORTER: Can we go off the record?

MR. ILER: Yes. Let me know when you're ready.

(Whereupon, a discussion was had off the record, after which the deposition was resumed as follows:)

MR. TREADON: That statement you made isn't on the record. You want that on the record?

MR. ILER: Yeah.

MR. TREADON: Let's say it again, because she wasn't typing when you were saying that.

MR. ILER: Okay. Let me know when the reporter is ready to type.

MR. TREADON: She's ready.

MR. ILER: Mrs. Court Reporter, would you please type up this deposition as quickly as you can on an expedited basis?

I'm going to continue the deposition and take it to the Judge for a ruling on how many doctors this physician is going to give an expert opinion upon, because we were led to believe that Dr. Ketel's opinions were going to be only on behalf of Dr. Avery, and Mr. Treadon is leading me to believe that other attorneys in the case will ask Dr. Ketel opinion questions at his videotape deposition or his presence at trial and that the doctor would render an opinion for any one of the other doctors in this case, if asked the appropriate questions.

That's what I'm led to believe, and I'm going to get a ruling from the Court limiting this man's testimony to Dr. Avery only.

So, if you would please get the two diagrams from the doctor, one showing the calcification and one showing the nubbin; and then, also, the third request was for --

MR. TREADON: The report.

MR. ILER: -- the report. With that, I will ask for a continuance of this deposition.

MR. TREADON: Let me respond.

MR. ILER: If I get some assurance in writing or from the doctor that there will be no other opinions rendered for any other person, any other defendant in the case, then, of course, I would not go to the Judge.

MR. TREADON: I'm going to again state more accurately what I stated to you earlier.

And that is that I retained Dr. Ketel to act as an expert witness on behalf of Dr. Avery and Dr. Wolf, for that matter; that I intend to ask him questions solely with regard to the issues concerning Dr. Avery's care and treatment of the plaintiff's decedent and the issue, of course, as it relates -- and any testimony he may have with relation to the issue of proximate cause.

What I indicated to you, Don, was that I will restrict my questions to those issues. If, indeed, any of the other lawyers in this case pose questions to Dr. Ketel, certainly he has the opportunity to answer those questions, if he has an opinion.

I did not tell you that other

attorneys may ask Dr. hetel questions concerning the care and treatment provided by their clients. That was not what I said.

We will mark -- We have marked Dr. ketel's report of March 15, 1990 as Exhibit No. 3. We will make the two -- Dr. ketel has consented to make sketches, as requested, and we will mark those as Exhibits 1 and 2.

I guess that concludes the deposition. Dr. ketel would like to read, as I understand, his testimony.

THE WITNESS: Reserve signature.

MR. ILER: Mrs. Court Reporter, if -- whatever Doctor wants, but I want that copy with or without his reviewing of it at the earliest possible time to take to the Court. Okay?

THE REPORTER: Yes.

MR. ILER: Thank you very much.

THE WITNESS: Thank you.

THE REPORTER: Copies?

MR. HIRSHMAN: I don't think I'm going to need one.

MR. BREADON: Does anybody want one other than Mr. Iler? Let's put it that way.

MS. MINKLER: he'll let you know.

MR. ILEK: Off the record.

(hhereupon, a discussion was had off the record, during which the deposition was continued sine die.)

AND FURTHER DEPONENT SAITH NOT THIS DAY

STATE OF ILLINOIS )
) SS.
COUNTY OF C O O K )

I, BARBARA J. NICK, C.S.R., R.P.R. and Notary Public in and for the County of Cook and state of Illinois, do hereby certify that W. BRUCE KEIEL, M.D., was by me first duly sworn to tell the truth, the whole truth, and nothing but the truth in the cause aforesaid; and that the above telephonic deposition, pages 1 through 95, was recorded stenographically by me and was thereafter reduced to typewritten form under my general supervision.

The foregoing transcript of the said deposition, to the best of my knowledge and ability, is a true and correct transcript of the testimony given by the said witness at the time and place hereinabove referred to.

I am not interested in the within case, nor of kin nor counsel to any of the parties.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office this 26th day of June, A.D. 1990.

" OFFICIAL SEAL "
BARBARA J. NICK
NOTARY PUBLIC, STATE OF ILLINOIS
MY COMMISSION EXPIRES 6/8/91

Barbara J. Nick
Certified Shorthand Reporter
NOTARY PUBLIC

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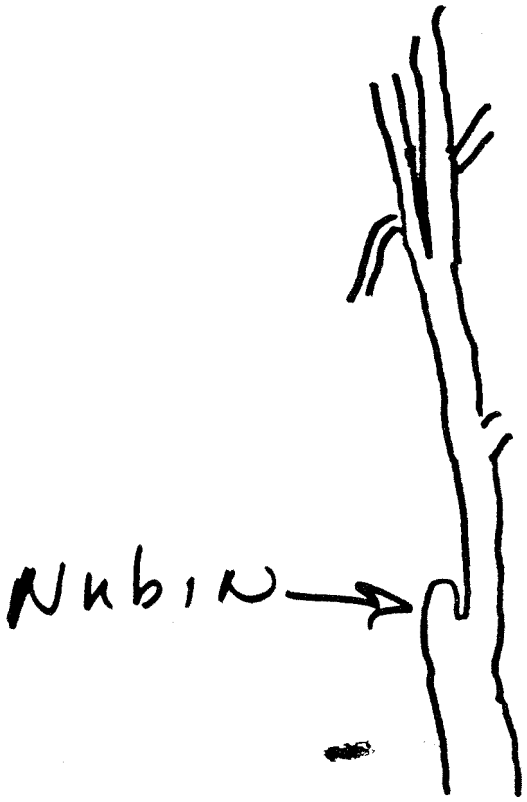

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