

Doc. 241

IN THE COURT OF COMMON PLEAS

CUYAHOGA COUNTY, OHIO

ROSE AGNES BASTIAN, et al.,)

Plaintiffs,)

vs.)

KEITH R. KOEPRE, M.D.,)

Defendant.)

Case No. 202353

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Deposition of KEITH ROBERT KOEPKE, M.D.

the Defendant, taken as if under cross-examination
before Deborah M. Reiter, a Notary Public within and
for the State of Ohio, at the offices of Keith R.
Koepke, M.D., 6363 York Road, Suite 302, Parma
Heights, Ohio, at 2:00 p.m., Wednesday, the 30th day
of October, 1991, pursuant to notice and stipulations
of counsel, on behalf of the Plaintiffs.

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on behalf of the Plaintiffs;

on behalf of the Defendant.

MS . MOORE CARULAS: Okay .

KEITH ROBERT KOEPKE, M.D., of
lawful **age**, the Defendant herein,
called by the Plaintiffs for the
purpose of cross-examination, **as**
provided by the Ohio Rules of Civil
Procedure, being by me first duly
sworn, as hereinafter **certified**,
deposed and said **as** follows:

CROSS-EXAMINATION OF KEITH ROBERT KOEPKE, M.D.

BY MR. NEWMAN:

Q Would you state your full name, please?

A Keith Robert Koepke.

Q What's your date of birth?

A November 24, 1943.

Q Have you ever had your deposition taken before?

A Yes.

Q **So**, you know I'm going to ask you some questions?

A **Yes.**

Q If you have any questions on **how** my question is asked or whatever, you can go ahead and ask me to clarify that,

A **Yes.**

Q And I'll try to do that. But if you answer a question I've asked, I will assume **it** is in response to my question.

A Yes.

Q Are you married?

A Yes.

Q How long have you been married?

A Twenty-four years.

Q Children?

A Yes.

Q How many?

- 1 A. Four.
- 2 Q. Where did you grow up at?
- 3 A. In Cuyahoga Falls.
- 4 Q. Are any of your family members doctors?
- 5 A. No.
- 6 Q. Where did you go to high school?
- 7 A. Cuyahoga Falls Senior High.
- 8 Q. When did you graduate from there?
- 9 A. 1961.
- 10 Q. Did you go to college after that?
- 11 A. Yes.
- 12 Q. Where at?
- 13 A. Western Reserve University.
- 14 Q. Before it merged with Case?
- 15 A. Yes.
- 16 Q. When did you graduate from there?
- 17 A. 1965.
- 18 Q. What was your degree in?
- 19 A. It was a BA.
- 20 Q. In what, biology?
- 21 A. My major was in chemistry.
- 22 Q. Did you have a minor?
- 23 A. Biology.
- 24 Q. You went to medical school?
- 25 A. Yes.

1 Q Immediately after that?

2 A Yes ,

3 Q Where at?

4 A University of Cincinnati.

5 Q Did you graduate from there?

6 A Yes.

7 Q When?

8 A 1969.

9 Q Did you then go on to have a residency somewhere
10 and internship?

11 A Yes, I did,

12 Q Which , where?

13 A At St. Luke's Hospital.

14 Q In Cleveland?

15 A Yes.

16 Q That's your internship?

17 A A year of internship and two years of residency.

18 Q Same place?

19 A Yes.

20 Q Anything in particular that you were focusing on
21 for your residency?

22 A No .

23 Q Are you Board certified by any Boards?

24 A No .

25 Q Do you have any specialties?

1 A. No.

2 Q. Are you then what, just a general practitioner?

3 A. General internist"

4 Q. When you say internist, do you limit your
5 practice then to what, internal medicine?

6 A. Yes.

7 Q. Could you define for me what that means?

8 A. To me **it** means any body system in, as my
9 practice goes, **from** adolescence to geriatric
10 age groups to my level of comfort as far as
11 my ability to handle diseases, as **it** approaches
12 subspecialty requirement,

13 Q. Which means, you refer things out when **it** gets
14 a little bit more difficult than you can handle?

15 A. Correct.

16 Q. Do you then act as a family practitioner for
17 certain families or for persons?

18 A. Yes. I have many patients that come **as** a family.

19 Q. After you finished your residency at **St.** Luke's,
20 what did you then go on to do?

21 A. I entered practice.

22 Q. By yourself?

23 A. NO.

24 Q. With a group?

25 A. With two assistants, yes.

1 Q Where was that at?

2 A In Parma Heights.

3 Q That would have been what, in 1972?

4 A '73"

5 Q Who were the associates?

6 A Bolivar Albainy.

7 Q Could you spell that?

8 A B-o-l-i-v-a-r, Albainy, A-l-b-a-i-n-y. And
9 Mario Leguizamon.

10 Q Could you spell that?

11 A L-e-g-u-i, I believe it is z-a-m-o-n.

12 Q Are you practicing with **these** persons **any** longer?

13 A One of them,

14 Q That would be Bolivar Albainy?

15 A Yes.

16 P And Dr. Mario Leguizamon has left?

17 A Yes.

18 Q Where is he now? Do you know?

19 A He's in Parma, In the area.

20 Q Is he with a group or by himself?

21 A I believe several.

22 P Do you recall when he left your group?

23 A Approximately **six** years ago.

24 P Did he have any focus in practice?

25 A He was interested in cardiology.

1 Q How about Dr. Albainy, what's his focus?

2 A As mine *is*.

3 Q Pretty much internal medicine?

4 A General internal medicine.

5 Q Have you ever taken the Boards to become certified?

6 A I have.

7 Q Did you pass them?

8 A No.

9 Q Did you take Boards -- isn't there another **step**
10 where you can become Board eligible?

11 A That is not a step. It is satisfied by
12 completing the residency.

13 Q That makes you Board eligible?

14 A Yes.

15 P How many times did you attempt to take the
16 Board certification test?

17 A I think **it** was three.

18 Q When **was** the **last** time?

19 A I think that's **been six** or seven **years ago**.

20 Q The location of your practice when you started
21 with Dr. Albainy and Dr. Leguizamon, **where was**
22 that located?

23 A At that time that was Parma. I think there's
24 a line crossing Ridge Road. It was on **Ridge**
25 Road near Parma Hospital. I think **it** is in the

1 City of Parma.

2 Q When did you move **from** those premises?

3 A That has been approximately 15 years ago.

4 Q **How** long have you been here?

5 A Fifteen years.

6 Q You moved from there to here?

7 A Yes.

8 Q You practice with a group of people right now?

9 A Correct.

10 Q Who are the other people in your group?

11 A Charles Williams and **Daniel** Meges.

12 P **How** do you spell that?

13 A M-e-g-e-s. And Bruce Resnik.

14 P Do they have any particular focus?

15 A Only Dr. Resnik. He is a nephrologist,

16 Q Certified?

17 A Yes.

18 Q Do the other two have a focus such **as** internal
19 medicine?

20 A No. **They** focus **as** Dr. Albainy and I do, general
21 internal medicine.

22 Q When we **say** focus, you're not certified, That
23 is the **area** that you **focus** your practice on?

24 A **Yes**.

25 Q **So**, you don't hold yourself out as an expert in

1 that particular field?

2 **A.** **Correct.**

3 **Q** But you do hold yourself **out** as **a** practitioner
4 in that **field**?

5 **A.** **Yos.**

6 **Q** Subsequent to your residency, have you **been**
7 involved in any kind of' courses to supplement
8 your medical training?

9 **A.** **Yes.**

10 **Q** Such **as** what?

11 **A.** Requirements of our relicensure calls for us to
12 complete CME, continuing medical education
13 hours of certification.

14 **Q** How many **hours** are required **per year**?

15 **A.** Per year, 75. I think it's 150, two year
16 licensure **renewal**.

17 MR. BLAKELY: **a lot more**
18 than us.

19 THE WITNESS: **It is not**
20 that they have to be.

21 **Q** Within two years, you have to have 150 hours
22 of **it**?

23 **A.** **Yes.**

24 **Q** You are current on **those**?

25 **A.** **Yes.**

1 Q When was that requirement instituted? How
2 long has that been going on?

3 A CME, I don't recall, I don't know honestly,
4 It has probably been 12 years, 11 years,
5 perhaps.

6 Q Who monitors that?

7 A The Ohio State Board,

8 Q Have you exceeded any appreciable amount of the
9 hours for CME?

10 A By that, do you mean, do I get 2001

11 Q Yes, I mean, do you --

12 A And the required is 150?

13 Q In comparison, in the legal field, they have
14 separate organizations if you complete so many
15 hours over and above the minimum requirements,
16 you can get a certain award,

17 A NO.

18 Q You are not familiar with the Ohio Bar College.
19 Through the Ohio State Bar Association.

20 MS. REINKER: I don't know
21 it offhand.

22 A We don't have incremental awards from the state
23 level based on the number of hours. There is an
24 American Medical Association physicians'
25 recognition award for having completed the

required hours in that time frame.

Q Have you received those?

A Yes, I've gotten those regularly. The time intervals on those are a little different. They run at three year intervals instead of two.

Q Have you authored any articles?

A I did one,

Q When was that?

A 19 -- it was during my residency. 1973, perhaps,

Q Was it published?

A Yes, it was.

Q Where was it published?

A Archives of Internal Medicine.

Q Is that still a viable publication?

A Yes.

Q Do you recall the title of your article?

A I don't recall the title.

Q Do you recall the nature of it?

A Yes. It had to do with conditioning in the workplace, benefits of exercise with regards to cardiovascular systems. It was in conjunction with one of my cardiology mentors at the time, Myron Luria.

Q How many occasions have you had your deposition

1 taken?

2 A. To my best recollection, two other times,

3 Q. Were you a party during those actions or just
4 a witness?

5 A. As a witness,

6 F. Have you ever be-n involved in a malpractice
7 case before?

8 MS. MOORE CARULAS: Objection.

9 A. As a -- yes, I have.

10 Q. As a Defendant?

11 h. Yes.

12 Q. How many occasions?

13 MS. MOORE CARULAS: Objection.

14 A. Two to my recollection.

15 Q. Mere any of those tried?

16 A. No.

17 P. Were any of them within the last five years?

18 A. Yes.

19 Q. Most of them?

20 A. NO.

21 Q. Was it a filed case, I mean somebody filed a
22 complaint in court?

23 A. Yes.

24 Q. What was the name of the Plaintiff?

25 A. In which case?

1 Q The most recent one, within the last five years.

2 A The Plaintiff's name was Peter Molnar.

3 Q N - a - r?

4 A **Yes.**

5 Q What was the person's name in the previous
6 one?

7 A I honestly forget.

8 Q Do you remember approximately what time **it** was?

9 A That was during my residency. The early 1970s.

10 Q Did you do anything to prepare for **this**
11 deposition today?

12 A Yes.

13 Q Did you review your notes?

14 A Yes.

15 Q You discussed the matter with your attorneys?

16 A Correct.

17 Q What **notes** did you review? Just your office
18 **notes?**

19 A **Yes.**

20 Q Any other summaries that you reviewed?

21 A No. The Interrogatories, which **you** requested.

22 Q Did you bring your office notes with you today?

23 A **Yes, I** have them.

24 Q **I have a** copy. I would just **ask** you to **look**
25 through **it** so that we can mark the copy and don't

1 have to mark the original, but let me take a
2 look at the original at the same time if I may.
3 Look through these to make sure that they compare,
4 If you need to go back, go ahead.

5 A You want me to see if all these compare page for
6 page with these?

7 Q Go through all of these and make sure they are you
8 notes.

9 A I can identify my record.

10 Q You've had an opportunity to look through those?

11 A Yes.

12 Q I've looked through your originals. I see only
13 a couple of things, I see something from St.
14 John's Hospital. Is that something recent?
15 I mean, I don't think we have that in there.
16 Was it?

17 A This is not recent. I don't see it in that.

18 P I'm curious as to why this would be in your file.
19 Did you do something with that?

20 A Did I do anything with it?

21 P Yes.

22 A No.

23 Q Why would you obtain that?

24 A Why would I obtain that?

25 Q Yes.

1 A. I probably filed it in here at the time I
2 requested that information from another
3 hospital. Most probably the patient had
4 said she was at another institution and I was
5 seeking outside records.

6 Q. Okay, Likewise with these records? See the
7 date on them is '83.

8 A. The reason for obtaining them would be that I
9 had requested information from other
10 institutions that the patient said she had been
11 studied at.

12 Q. You wanted her history?

13 A. Yes.

14 Q. It gave you some credibility for what she told
15 you?

16 A. Uh-huh.

17 Q. I'm just trying to make sure.

18 Likewise with the 15th, September, '87
19 document from Southwest General.

20 A. Correct.

21 Q. Now, what I tried to do was arrange these things
22 in chronological order as they were presented me.

23 MR. NEWMAN: Why don't
24 we mark this packet. Let me just number
25 the pages.

- - - -

Plaintiff's Exhibit No. 1 was
marked for purposes of identification,

- - - -

Q Dr. Koepke, I've marked the pages which I think
we have as Plaintiff's Exhibit 1, which consists
of 48 pages. We will eventually be referring to
that.

Do you belong to any kind of
organizations related to your field?

A. Yes.

Q. Such as?

h Cleveland Academy of Medicine, Ohio State
Medical Association.

Q. Do **you** have to pay any dues to the Ohio State
Board on an annual basis?

A. To the State Board on an annual basis, no.

Q. Are you an officer or are you on any committees
of the Ohio State Medical Association?

A. No, I'm not.

Q. **Are** you on any committees with the Cleveland
Academy of Medicine?

A. No, I'm not.

Q. **So**, you are kind of **just** a member **and** you receive
their publications?

1 A. Correct.

2 Q. Are they monthly?

3 A. I think the state publications are monthly.

4 Q. Aside from the one recent paper that you did
5 with the cardiovascular activity in the workplace,
6 have you done any other research projects?

7 h. No.

8 Q. Now, you're aware of the subject of this lawsuit?

9 A. Yes.

10 Q. Where Mrs. Bastian is suing you for malpractice?

11 A. Yes.

12 Q. In looking through your **notes**, I had a hard time
13 figuring out some of the language or how they
14 were prepared, When you first have a patient
15 **come** in to see you, is there **a** chart set up **for**
16 billing purposes **for** a client?

17 A. Yes.

18 Q. How is that set up?

19 h. Besides, the record for the billing purposes,
20 **that's** the responsibility of my administrative
21 staff. But usually **it is** a -- at that time,
22 **it** would have been, I believe, just done on
23 an account card with a line entry for date
24 and space for charge or service provided.

25 Q. Wow does the -- suppose **a** patient comes in to *see*

1 you and you do something with him, whether
2 **it is just** give them advice or prescribe a
3 prescription **for** them, how does that information
4 get conveyed over to the billing card?

5 A. Transcribed by the girl in charge of that
6 function at my direction.

7 Q. Would you dictate that?

8 A. It is not dictated.

9 Q. Would you write **it** down someplace?

10 A. Sometimes.

11 Q. Would **you** tell her on other occasions?

12 A. Would tell **her**.

13 Q. The patient would leave and you'd say that
14 would be -- this is what I did. It would be
15 a \$20 bill or something like that?

16 A. It would initially be known to the office **why**
17 the patient was here, Patients for an office
18 visit would be known to be visiting for an
19 **office** call, **for** which there is a particular
20 charge. Additional things that perhaps would
21 be done at that time would be relayed to the
22 billing girl via me or via my assistant.

23 Q. NOW, I see you **don't** have your account card
24 in your file?

25 A. CORRECT.

1 Q But that **is** available, isn't it?

2 A Yes.

3 Q Can you provide that **for** your attorney so I can see
4 that?

5 A I can provide that,

6 Q When the patient is told that they have to do
7 certain things by you, say get **some** other tests
8 done, how are the test arrangements made?

9 **Does** your administrative staff arrange that
10 kind of testing?

11 A Ordinarily not.

12 Q The person **would** do **it** themselves?

13 A Ordinarily **it** is the responsibility of the
14 individual to **follow** through with the test,

15 Q Say, they needed blood workup or something like,
16 would you take the blood?

17 A No.

18 Q You would send them out to a **lab** to have their
19 blood taken and analyzed?

20 A That depends on the test being done. There are
21 some in-office blood tests that we do.

22 Q Now, I notice that you have in your **records** --
23 there were some blood tests of Mrs. Bastian where
24 you **would** have different percentages of
25 cholesterol and triglycerides. You would send

1 that out, wouldn't you?

2 **K** If you show me what you're referring to. If
3 you're referring to percentages, my thought
4 would be that that's not in-house. In-house
5 we do pure total cholesterol.

6 **P** Page 15 of the exhibit I'm talking about.

7 **A** That's an outside blood test.

8 **Q** Who would have taken this blood test?

9 **A.** The laboratory.

10 **Q** You don't take the blood and farm **it** out to the
11 laboratory?

12 **A.** Correct.

13 **P** Would she then have made arrangements with the
14 laboratory to have the blood test taken?

15 **A** **Yes.**

16 **P** Would your **staff**, or would you then give her a
17 card as to who to call to make those arrangements?

18 **A** They would be given a requisition to have the
19 blood test done.

20 **Q** I'm not sure I understand.

21 **A.** We have little packets **of** lab slips. Labs
22 are identified on the **slip**. Chemical screen,
23 chemical profile, that particular test is
24 identified. The patient is asked to have
25 this test done, She does **it**.

1 Q Is there a number that she calls then for that
2 particular test?

3 A There can be. There are different labs. She
4 can go to any lab she wants. But on that slip
5 there would be locations identified for whatever
6 particular lab we happen to have slips for at the
7 time.

8 F Could you give me a copy of those slips also?

9 A Yes.

10 Q Now, would the one slip have a number of different
11 tests available for it?

12 A Yes.

13 F So that the patient would then know --

14 A Oh, yes,

15 Q What would they do with that slip? They would
16 take it to the lab?

17 A If they got the test done, yes, they would take
18 it to the lab. That would identify to the lab
19 what test was requested and analysis should be
20 done.

21 Q Do you sign the slips?

22 A My slips I ordinarily do sign, yes.

23 Q Similar to a prescription. I mean, you're
24 prescribing something for them to do?

25 A It is not a requirement of the procedure that the

1 slip be signed.

2 Q I understand, Now, in looking -- let's go through
3 this. I think those are in the same format as
4 mine. At the bottom of the first page on 2-8-88,
5 I can't -- what are the first two items?

6 A PC .

7 Q What **does** that mean?

8 A Phone call.

9 Q From or to?

10 A TO.

11 Q **So**, you would have called?

12 A Or from,

13 Q Oh, **it goes** either way?

14 A It can go either way.

15 Q What would the **NA** stand for?

16 A Not available.

17 Q Meaning **it** was busy?

18 A Busy.

19 Q Or not answered?

20 A Ordinarily, NA means didn't answer.

21 Q "Note to call." **Is** that a note to call them?

22 A That is **a** direction to my staff to send **a** note;
23 to the patient to have her **call** me.

24 Q Would they then **write** her a letter?

25 A It would be **a** letter or a form.

1 Q Would you keep **some** kind of copy of **it**?

2 A Not to my knowledge,

3 Q Now, in looking **at** the **very** first -- apparently,
4 **it** is my understanding that 2-1-88 was when
5 you **first met** with her?

6 A That's right.

7 Q And **this** would have been **what**, as far as you're
8 concerned, out of the blue? I mean, this is the
9 **first** time you have seen the patient?

10 A Exactly.

11 Q So, you would do **what**, an examination?

12 A In this particular situation?

13 Q Yes.

14 A What I did was list her complaints, examine
15 her pertinent to **what** her complaints were,
16 recommend a course of action and follow-up.

17 Q **She** had a sick feeling in an old area?

18 A Abdominal area,

19 P For months?

20 A For months,

21 Q She's been -- I can't --

22 A "She's had hemorrhoids. Surgeries in the past,
23 She's had an EGD."

24 P What is an EGD?

25 A Esophagogastroduodenoscopy, epigastric pain,

1 sometimes with swallowing, without nausea and
2 vomiting, diarrhea, but occasionally diarrhea,
3 No bleeding, She **was** on high **blood** pressure
4 pills. **She was** not using aspirin or non-
5 steroidal anti-inflammatory drugs. She gave
6 a history of peptic ulcer disease in the 1960s.

7 Additional historical information, she
8 fell **a** month ago on the way to work. She was
9 not seen at that time, **It seems** as though her
10 bowel **pain** has increased since **then**."

11 **MS. MOORE CARULAS:** Do **you** want

12 him to read **all** of the rest of it?

13 **Q.** Yes, go ahead, What's immediately underneath
14 that?

15 **A.** Request **there** is for some investigative studies,
16 K.U.B. It is an x-ray. **Upper GI, ehem** screen
17 **26, CBC. Then, CP** which stands for complete
18 physical.

19 **Q.** Okay. You gave her a complete physical, **right?**

20 **A.** Yes. Well, at this time?

21 **Q.** Yes,

22 **A.** No.

23 **P** aid you do it at **a** later time?

24 **a** Yes.

25 **Q.** When did you do the complete physical?

1 A Her initial complete physical was March 7th,
2 1988.

3 Q Because when they first come in, you don't
4 know what their problems are, so, you're not
5 going to give them a complete physical, or
6 is that --

7 A Usually, at that time, my initial encounter may
8 be a problem related visit, a complaint related
9 visit, and if I institute the ongoing care of
10 the patient, then I ask that they have a
11 thorough exam, or if their symptoms or my
12 findings suggest that they should have a
13 thorough exam, then, I recommend that we
14 proceed with that.

15 Q What triggered the note to call the patient
16 seven days later?

17 A The most probable reason for my call was to
18 report to her the results of the tests.

19 Q At this time, you would have given her one of
20 those slips, telling her -- checking off the
21 various tests that she had to obtain?

22 A At which time?

23 Q On the February 1st, '88 visit?

24 A Yes.

25 Q When you went through the list of tests?

1 A Correct.

2 Q Looking at Page 2, on 2-25-88, you can read
3 your copy, It is much cleaner at the top.
4 You have No. 2, is that for the page?

5 A Page 2.

6 Q Something about test results. I take it that's
7 the telephone call?

8 A A phone call again, correct.

9 Q You don't know if it is for or from?

10 A My usual custom, if I just leave it as PC and
11 don't identify it, it is a call to the patient.

12 P Okay. So, you called her with the test results
13 and you gave her which results, do you know?

14 A Which results?

15 Q Yes.

16 A At that time, I would have indicated to her the
17 results of the x-rays and blood work which I
18 had requested,

19 Q Do you know which x-rays we're talking about?

20 A As previously identified, she was requested
21 to have K.U.B. and upper GX.

22 Q What is the K.U.B.?

23 A It stands for kidney, ureter and bladder, It
24 is a flat plate of the abdomen.

25 9 You did not have a chest x-ray at this time?

1 A. Correct.

2 Q. Are chest x-rays part of a complete physical
3 exam?

4 A. Yes, they are.

5 Q. Now, the next x-ray that I see in your chart---
6 and in doing this chart it is my understanding
7 that the chart chronicles the activity of the
8 patient?

9 A. That's right.

10 Q. So, if it is not in the chart, there's generally
11 no activity of the patient. If the patient calls,
12 you put it down?

13 A. Yes.

14 Q. If you call the patient, you put it down?

15 A. Correct.

16 Q. That's so you know what's going on with that
17 particular patient throughout the patient's
18 care?

19 A. To the best of my ability I document everything
20 I can.

21 Q. On 3-7-88, you have CP, is that --

22 A. Complete physical.

23 Q. WT, would that be weight?

24 A. Weight,

25 Q. Blood pressure, what's that, an R?

1 A. T.

2 Q. BPR, right, L, left.

3 A. Right arm, left arm.

4 Q. It says, "See white sheet", what does that
5 signify?

6 A. It signifies that my complete exams are recorded
7 on a separate form.

8 Q. Could you show me which form we're talking about?

9 A. Yes.

10 Q. So, we're talking Pages 9, 10, 11 and 12 of
11 Exhibit 1. Now, in looking through the complete
12 physical, she did or did not have a hemorrhoid
13 problem? I see something under rectum it says,
14 "Hemorrhoid."

15 A. On this page here (indicating)?

16 Q. Right.

17 A. She gave a history for hemorrhoid problems.

18 Q. That's the NX, that means history?

19 A. Yes.

20 Q. This information that you're taking down on these
21 four pages, is this historical information that
22 you're asking her?

23 A. The patient -- you're looking for --
24 historical information that I'm asking her about.

25 Q. It is not your findings?

1 A. Correct.

2 Q. So, when it came down to breasts and you put a
3 zero with a line on it, that means she had no
4 history of a breast problem?

5 A. On that page, not that I wrote down.

6 Q. So, on Page 11, we're talking, that there were
7 no breast problems that you found?

8 A. I did not find any abnormality on her breast
9 exam, correct.

10 Q. What would you do in order to determine that?
11 Would you palpate?

12 A. Yes.

13 Q. Could you tell me how you would do a breast
14 examination?

15 A. Yes. How much in detail do you like?

16 Q. Fairly detailed, if you please.

17 A. The patient initially is in the **supine** position.

18 Q. That's on her chest?

19 A. On her back.

20 Q. On her back.

21 A. And I ask the patient to extend her arms above
22 her head, and I palpate in a circular fashion
23 from the nipple outward, circumventionally
24 in a **spiral** manner to the outer margins of the
25 breasts. One side and then the other. I observe

1 **for** nipple discharge, skin change, dimpling,
2 I ask the patient to **sit**, reexamine **by**
3 palpation in the same manner with the patient
4 holding their hands on the top of their head
5 again making the **same** observations.

6 **Q** So, if you have negative findings, you write
7 a zero with **a** line across?

8 **A.** Without.

9 **P** Meaning, you do not find **any** nodules or lumps?

10 **A.** That's right, I did not,

11 **Q** There was no nipple discharge or skin change,
12 When you **say** skin change, you mean texture **of**
13 the skin?

14 **A.** There **can** be change in texture or there may
15 be dimpling, I did not **find** any abnormalities
16 of the skin over the breasts or evidence of
17 disease because of changes in the nipples or
18 discharge from the nipple.

19 **Q** On these sheets that we're Looking at here,
20 **is** that your handwriting on **a13 of** those?

21 **A.** Yes, that is.

22 **Q** **Also on these pages, 3, 4, 5, 6 and 7, is that**
23 **all your handwriting too?**

24 **A.** NO.

25 **Q** Could you indicate what **is** your handwriting, say,

on Page 3?

A. This is, this is, and this is (indicating).

Q. So, when we're looking at the entry on 3-7-88, where it says, "See white sheet" that's not your handwriting?

A. Correct.

Q. But above it, the date and the blood pressure, right, is your handwriting?

A. These, no, This is not my handwriting.

Q. The next time that you had any contact with her, do you know when that would have been?

A. After the physical?

Q. Yes.

A. Yes. It is 4-18-88.

Q. What was the contact at that point?

A. She came back for an office visit,

Q. What would have occurred at that occasion?

A. Why did she come back?

Q. Yes.

A. She felt tired.

MS. MOORE CARULAS: I just want to, if I can, make an interjection, when you say "contact," when was the next physical contact? I want to make sure that we're completely clear here as far

1 as whether there was any --

2 Q Well, in your records, do you have any phone
3 calls to her?

4 A You're talking in these sheets?

5 Q These **are** the **sheets** that show your contact
6 with your client, **isn't it?**

7 A Right. Other than entries that I may make on
8 reports.

9 Q Do you do that as a general practice?

10 A **As** a general practice, I do **that**, or I indicate
11 my notification of patients in *my* record.

12 Q In looking at these particular --

13 A In looking at these particular records, my next
14 contact with the patient subsequent to her
15 physical was to report her findings of her
16 examination.

17 Q Now, I note that your attorney has just placed
18 **some** document in front of you which apparently
19 appears to be your medical x-ray?

20 A Uh-huh.

21 Q In order to refresh your memory that maybe you
22 did have some contact with her.

23 A Well, we were referring to office and progress
24 notes.

25 Q Yes, we were.

1 A. You know, in contrast to the previous request
2 to identify, what I did as a result of my first
3 encounter with the patient, you asked about
4 what my proceedings were after this visit.

5 MS. MOORE CARULAS: That is
6 why I interjected that I thought there
7 was some confusion.

8 bet me just say as far as contact,
9 my interpretation was physical contact.

10 So, that's why I interjected that,

11 Q In looking at this, the York Medical
12 x-ray document that your attorney has provided
13 you dated 3-15-88, that apparently has some
14 handwriting of yours on the bottom of it.

15 A. Yes.

16 Q. What does that handwriting read?

17 A. The handwriting reads, "Advise patient follow-up
18 six months."

19 Q. On that particular date, how would you get
20 this York Medical X-Ray information to you?

21 A. My office girl would put it on my desk.

22 Q. And you would read it?

23 A. Yes.

24 Q. What would you do with it then?

25 A. With the report?

1 Q. Yes.

2 A. Or with the information in the report?

3 Q. Either.

4 A. I would notify the patient of the findings and
5 recommendation. The physical **report** would be
6 filed in her charts,

7 Q. Well, did **you** have a Rolodex **or** something with
8 her phone number **on it**?

9 A. Pardon?

10 Q. How did you get a hold of her?

11 A. In all likelihood I --

12 MR. NEWMAN: Now, Anna,
13 I don't mind **you** trying to **spoon** feed
14 the doctor to a certain extent, **but** let
15 him answer his own questions.

16 MS. MOORE CARULAS: And I believe
17 he is answering. I am allowed to point
18 out records to him at any point. He is
19 entitled to look at his records.

20 MR. NEWMAN: What I'm sayin
21 is, let's let the doctor handle his own
22 deposition. **You** don't **need** to give him
23 answers.

24 MS. MOORE CARULAS: I'm not
25 giving him answers. **A t** any point I'm

1 entitled to help him and point out
2 certain things in the records.

3 MR. NEWMAN: I object
4 to what you're doing there.

5 BY MR. NEWMAN:

6 Q With respect to -- let's get the right one.
7 This report comes to your desk apparently
8 in the mail, right?

9 A NO.

10 Q And you read it. Do you recall this particular
11 report?

12 A Yes.

13 Q She had previously been at your direction to
14 York Medical X-ray on February 4th of '88?

15 A Correct.

16 Q They gave a report on the K.U.B.?

17 A Correct.

18 Q Did they also give a report on the upper GI?

19 A Yes.

20 Q Do you have that?

21 A It is right there.

22 Q You called her with respect to those?

23 A Yes.

24 Q In fact, you called her on 2-15 of '88. "Phone
25 call, patient test results."

1 A That was one of the calls.

2 Q Okay. Now, would that have been with respect
3 to the York Medical X-ray on the upper GI?

4 A Yes. I think I stated that earlier, that. that
5 call in all likelihood would have been the
6 response to tests previously ordered on patient,

7 Q Now, on this particular document, you did not
8 write anything on this report?

9 A Right.

10 Q In fact, you apparently went back and got her
11 file and somebody entered it on the file that
12 there was a telephone call?

13 A Somebody, I did,

14 Q Is that your handwriting?

15 A Yes.

16 Q Did you call her personally?

17 A Yes.

18 Q And then, on 3-15 of '88 you're telling us that:
19 you wrote it right on the report?

20 A Correct.

21 Q Did you go and secure her file?

22 A Probably not,

23 Q Okay. What did you do?

24 A I called her and reported the results to her.

25 Q How did you obtain her number?

1 A I often ask **the** girls to get a patient **for** me,

2 Q Do you recall doing that on this occasion?

3 A That **is** the only way I could have made that
4 phone call, **or have** asked for her number to
5 **call.**

6 Q This entry that you **are** testifying, was that
7 put on at a later date?

8 A Correct.

9 Q You're saying **it was** put on on or about 3-15
10 of '88?

11 A Correct.

12 Q Obviously you didn't put anything in the regular
13 **lag** chart **for** her?

14 A Right.

15 Q Do you have any other documentation to show that
16 you **did** call her on that day?

17 A No.

18 MS. MOORE CARULAS: Well, take
19 your **time**, Why don't you take time and
20 **look** through **all** of the records to see
21 **if** there was anything else that indicates
22 that you called her on that date. If
23 **there is,**

24 P Do you know if **it** is a long distance **call**?

25 A Long distance, 676-5826, I don't **believe** that's

1 a long distance call. I **have** two other test
2 results on **Mrs.** Bastian which were performed
3 at that time. One of which is a halter monitor rep **rt**
4 The second **of which is** a bone density report
5 that was done. At this time I have
6 notifications of a telephone number on **the**
7 bone density scan, and a notation on the halter
8 monitor report that I have signed on the report
9 that indicates that I have entered information
10 on reports at that time.

11 Q Okay. Show me **those** two documents.

12 This **says, as** above, "**Koepke, M.D.**"

13 A. Correct.

14 Q. What does that mean?

15 A. It means I accept or agree with the
16 interpretation which was given by your computer.

17 Q. Okay. **What's** entered on the bone density **test?**

18 A. I haven't entered anything. I have her phone
19 number on the top of that report.

20 Q. With her phone number above, indicates to you
21 that you may have called her or **tried** to call
22 her?

23 A. To me **it** indicates that I had access to her
24 phone number, other than what I would have
25 found in her chart.

1 Q What was the date of the bone density?

2 A 3-8-1988.

3 F What **was** the date of the monitor report?

4 A The report date **is** 3-9-88.

5 F Do you recall talking to her about any of these
6 three reports?

7 A **Yes**, I do.

8 Q Tell me what you talked to her about?

9 A In the **case** of her mammogram, I would have
10 indicated to her the interpretation and the
11 recommendation for a follow-up in six months.

12 F Did **she** question you about **it**?

13 A How do you mean?

14 Q Well, when you told her the interpretation, did
15 you tell her that the **doctor** had found an
16 **asymmetric** dense mammary parenchyma?

17 A My usual habit **is** to read to the patient the
18 report.

19 F In total?

20 A In total. In **as** an alarming fashion as I can,
21 because this creates a great deal of emotion
22 in the ladies, and yet with the emphasis that
23 the importance of follow-up **is there**.

24 Q Now, at this point, she's your patient, correct?

25 A **Yes**.

1 Q Do you do anything to diary the information
2 so that you can again recommend that she
3 follow up in six months?

4 A In what way do you mean?

5 Q Well, do you maintain a list of appointments
6 in your office?

7 A We maintain a list of appointments, yes,

8 P So, you know next month whether you may have
9 an appointment with so and so on the 14th of the
10 month?

11 A Yes.

12 Q What do you do in order to have a follow-up for
13 your own procedures to make sure that your
14 clients are going to, or your patients are
15 going to attend to your recommendations?

16 A In situations of this, the usual practice for
17 me is to notify the patient of the findings
18 and ask that the patient be responsible for
19 their following through.

20 Q Did you say that to her?

21 A No, I don't specifically say that.

22 Q Did you talk to her with respect to all three
23 of these reports on the same day?

24 A On the same day?

25 Q Yes. Do you recall that?

1 A. I don't honestly remember,

2 Q. Did she **get, as** you say, emotional with respect
3 to your reading of this report to her?

4 A. I don't remember that she did.

5 Q. Did she question you?

6 A. Patients always question. They like **to** know
7 what **it** means and --

8 Q. Did she?

9 A. well, yes, **she** questioned me. I can't remember
10 specific questions.

11 Q. Either at this time or prior to this time, did
12 she relate to you any cancer in her family?

13 A. No.

14 Let me make a correction on that **if** I
15 can.

16 Q. Okay.

17 A. In the personal history that I took of her in
18 March, **early** in March, she did report to me **that**
19 her father had died at the age of 49 from cancer
20 of the **lungs**,

21 Q. Do you recall **what** you **told** her with respect to
22 the bone density scan?

23 First of all, do you recall talking to her
24 about the bone density **scan**?

25 A. Yes. I've got to find my **copy** of **that**.

1 Q I thought we **just** had **it**.

2 A **Yes**, I did, I don't know where I stuck **it**.

3 The one with the phone number at the top. I've
4 got **it**.

5 The reporting of the bone density is
6 somewhat technical in the values, figures,
7 ranges and ratings, That I did not read to the
8 patient. What I indicate to the patient on the
9 bone density is where they **lie** in respect to
10 averages and other studies and her age group.

11 e Okay. Would you look through this Exhibit A
12 and **see** whether or not you received the bone
13 density? This looks like part of **it**.

14 A. **This is** the face **sheet** on the bone densitometry,

15 Q That's **it**?

16 A. **That's it**.

17 Q **Is that** the same sheet that you have on there?

18 A. The entire study. **That is** the face sheet.

19 Q The same face sheet that we have?

20 A Yes.

21 Q **You** left the phone number off on **our** copy.

22 A. Pardon?

23 Q They left the phone number off on our copy,

24 Do **you** recall what you told her with
25 respect to the -- **was it** ultra monitor report?

1 A On the halter monitor, I would have told her
2 that the irregular beats did not exceed a normal
3 range.

4 Q Do you remember talking to her on that?

5 A Yes. And most probably with halters, **it** would
6 be an indication that this is an acceptably
7 normal result for **her**.

8 Q But you don't have anything on your patient
9 flow sheet indicating that you called her on
10 any of these three?

11 A Not specifically referring to these **tests**.

12 Q But that's not in keeping with your general
13 recording practice, is it?

14 A It is,

15 Q You're saying --

16 A Because my reporting practice includes both
17 references to entries in my progress notes,
18 or indications on my test results themselves
19 that I have indicated the findings to the patient.

20 Q Well, on the halter monitor report, other than
21 the fact that you agree with the report, where
22 do you indicate that you told her?

23 A I don't see that I've indicated that.

24 Q Okay, So, as far as we know, from your records,
25 other than your testimony --

1 A This report didn't require follow-up or
2 additional care, repeat subsequent testing.

3 Q Does that mean you don't make an entry?

4 A It means I didn't -- I didn't have to put an
5 indication that I was suggesting that she
6 repeat this or redo testing.

7 Q I guess I'm a little misunderstanding something
8 here. On 2-15-88, you had a phone call to the
9 patient?

10 A Yes.

11 Q And you told her about these test results,
12 and you entered that in your regular chart?

13 A. Right.

14 Q Did she have to follow-up with respect to those
15 tests that you called her on on that day?

16 A Did she have to?

17 Q. Yes.

18 A. Yes.

19 Q Okay, But you're saying now if they don't
20 have to have the follow-up, you don't make an
21 entry on it?

22 A. No.

23 Q What are you saying?

24 A. You asked specifically about the halter monitor.

25 Q. That's correct.

1 A. That required no further action.

2 Q. All right. How come you didn't indicate on
3 either it or your flow sheet that you called
4 her?

5 A. I don't have the indication, but I called her.
6 I discussed this with her.

7 Q. Likewise on the bone density scan, you don't
8 have any indication that you did indeed call her
9 on that one either in your flow sheet, or on the
10 bone density scan?

11 A. Other than I have her phone number available
12 on top.

13 P. Which means you were either going to or you did
14 call her?

15 A. Which means I did call her.

16 Q. So, from March 7th of 1988 to April 18th of '88,
17 where one was a complete physical and one was
18 an office visit, you apparently talked to her
19 three times on the phone or twice?

20 A. Between the physical and April 18th?

21 P. Right.

22 A. I may have talked to her once, twice or three
23 times.

24 Q. You don't recall if it was once, twice or three
25 times?

1 A I can't remember if the reports were
2 individually given or collectively given.

3 P But you do recall talking to her on each of
4 those?

5 A Certainly.

6 Q Now, on 5-12-88, getting back to your flow
7 sheet here, I see that it looks like a prescription
8 for Valium, five milligrams as directed.

9 A Right.

10 Q I don't see any initials after the dates, so, I
11 guess -- I don't know how this came to be. Did
12 she call you or did she come in looking for a
13 prescription? What triggered this?

14 A Usually a request of the patient.

15 Q So, a call?

16 A Yes.

17 Q And she probably got the secretary?

18 A Yes.

19 Q The secretary then conveys the information to you?

20 A Yes.

21 Q You say, " Well, yes, let's renew the prescription
22 or do whatever we have to."

23 A Correct.

24 Q You would then fill out the prescription?

25 A No.

1 Q. Who does?

2 A. The prescription may have been given **as** a phone
3 call. **In** fact, in that case **it** was.

4 Q. **Well**, isn't Valium a Schedule 2 drug. You still
5 have to do a prescription, don't you?

6 A. **It** doesn't require a handwritten prescription.

7 Q. Valium **does** not?

8 A. Right.

9 Q. You can call the druggist and he'll do it?
10 He **writes** out the prescription?

11 A. Or enters **it** in the patient record.

12 Q. You don't have to do a follow-up within **72** hours
13 on those?

14 A. No.

15 Q. Do you know whether or not that would be a call
16 to a druggist?

17 A. As indicated **in** the **record**, one of my office
18 personnel would have called that.

19 Q. Would have called **it** into the druggist?

20 A. That **would** be **my** interpretation of that **entry**.

21 **P** How would you know which druggist you're
22 calling **it** into?

23 A. I would have no way of knowing from that record.

24 Q. Would the personnel who worked **for** you -- how
25 would they have known which drugstore to call?

1 A That would be at the request of the patient.

2 Q So, your secretary has a list of the drugstores
3 that they know?

4 A They have a list of the drugstores, but the
5 patient may say, "Please call this to" --

6 Q With respect to the March 15th, 1988 report
7 and the findings on Mrs. Bastian, did you do
8 anything at all other than what you told us here
9 to follow up, to make sure that she had another
10 mammogram within six months or after six months?

11 A I think in the course of my care of her in this
12 interval between the two mammograms, it is
13 entirely probable that we had rediscussed the
14 findings.

15 Q Do you recall it?

16 A I can't honestly remember,

17 Q So, you don't recall telling her, "Hey, make
18 sure you have that done"?

19 A I have a lot of dialogue that I'm not able to
20 document.

21 Q What did that report mean to you?

22 A To me it meant the radiologist was concerned
23 with an appearance in hex breast, sufficient
24 to the extent that he made the recommendation
25 that he did.

1 P Therefore, you were concerned **too**, right?

2 A With a report **like** this, **my** concern is in the
3 absence of physical findings and that causes
4 me concern in a patient on direct examination.
5 **My** concern is to the extent that the radiologist
6 has made the recommendation and I'm obligated
7 to inform the patient of that recommendation.

8 Q Do you believe that your obligation carries any
9 further?

10 A Pardon?

11 Q Do you believe that your obligation carries any
12 further?

13 MS. MOORE CARULAS : Objection.

14 A I believe my obligation carries to the extent
15 that I inform the patient of **the** recommendation.

16 Q What about further examination of the patient
17 with respect to any kinds of lumps in her breasts?

18 A That is done.

19 Q Did you do that?

20 A I recommended **it**.

21 Q When was the next time that you did that?

22 A The next time that I did **it** was in September of
23 1989.

24 MS. MOORE CARULAS: When you
25 mean by **it**, the next time that you

1 examined her breast as opposed to
2 recommend it?

3 THE WITNESS: Oh, yes,

4 Yes. There was a question, right.

5 Q. In September of '89, the results, at least,
6 from the sensory palpation were negative.

7 A. The results of her breast examination were normal.

8 Q. Going back to your flow sheet, as I have a hard
9 time reading your handwriting sometimes --

10 MS. MOORE CARULAS: What date
11 are you looking at?

12 MR. NEWMAN: Page 3,
13 5-19-88.

14 Q. That was "PC", phone call?

15 A. Yes.

16 Q. Obviously to the patient?

17 A. Yes.

18 Q. That is what, advise patient of test results?

19 A. Yes.

20 Q. What test results were those?

21 A. I would presume of the preceding day.

22 Q. Which is what?

23 A. 5-18-88.

24 Q. I know that, but what were the test results that
25 you --

1 A She had an x-ray of the knee and lumbosacral
2 spine x-ray.

3 Q The x-rays would have been at York?

4 A Yes.

5 Q You generally use York for your x-rays?

6 A That's a facility that is in the building.

7 Q It makes it easier, doesn't it?

8 A Convenient for the patient.

9 P You're not a shareholder in York, are you?

10 A No.

11 Q Nor an officer or director?

12 A Currently.

13 Q Were you ever?

14 A At one time,

15 Q When was that?

16 MS. MOORE CARULAS: Objection.

17 A I don't remember. I don't remember the dates,

18 Q What was your capacity?

19 A My capacity?

20 Q Yes.

21 MS. MOORE CARULAS: Objection.

22 A No capacity.

23 Q Well --

24 A No officer, no official capacity.

25 Q Were you a shareholder?

1 A. No. I wasn't a shareholder.

2 Q. Were you a director?

3 A. No.

4 Q. Who was?

5 A. Who was?

6 Q. Yes, What was your affiliation?

7 A. My affiliation was -- I actually had no
8 affiliation.

9 Q. Did somebody in your office group have an
10 affiliation?

11 A. Yes.

12 Q. Who?

13 A. All of my colleagues.

14 Q. Do any of them have an affiliation now?

15 MS. MOORE CARULAS: Objection.

16 a No.

17 Q. Did you ever put any money into York as an
18 enterprise or business?

19 MS. MOORE CARULAS: Objection.

20 A. Personally.

21 Q. Yes.

22 a No.

23 Q. Corporately?

24 MS. MOORE CARULAS: Objection.

25 A. No.

1 Are you a corporation?

2 A Personally, no.

3 Q You're just a personal physician?

4 A I'm an **employee** of a corporation.

5 Q What is the name of your corporation?

6 A Internal Medicine Services, Incorporated,

7 Q Are **you** a shareholder of **that** corporation?

8 A Yes,

9 Q A professional corporation?

10 A Yes.

11 Q How many shares are existing in the corporation?

12 Do you know?

13 A I don't, I don't know.

14 Q Who is the corporation's accountant?

15 MS. MOORE CARULAS: Objection.

16 This is clearly not relevant. I don't

17 see any possible tie-up to this case.

18 Q Go ahead.

19 A Ted Lauric.

20 Q Is that **spelled** L-o-r-i-n-c-k?

21 A L-a-u-r-i-c

22 Q Do you know how many shares you own of the
23 corporation?

24 A No.

25 MS. MOORE CARULAS: Objection.

1 Q On 5-25-88, is that also a telephone -- phone
2 call to the client?

3 A No. That phone call is from the client.

4 Q You can tell that by the nature of the --

5 A I tell that by the nature of the information
6 requested.

7 Q Where her stomach hurts, she would have called you
8 and complained about it?

9 A Yes. I wouldn't have called her to tell her.

10 Q Her stomach hurt.

11 A Yes.

12 Q To ask her if her stomach hurt?

13 A Or tell her her stomach hurt.

14 Q On 6-2-88, would you tell me what those
15 indications mean?

16 A Stress, ECC.

17 P Would this have been something that you ordered
18 for her?

19 A Yes.

20 Q Would she have been here?

21 A She was here.

22 Q I note that you don't have OV. You usually use
23 for office visit.

24 A It is a procedure entry, It is a test that's
25 done here by me.

1 Q On 9-12-88, you had another office visit.

2 Could you tell me what those notes read?

3 A Transderm used on trip caused her to be upset.

4 Q That's the motion sickness?

5 h Correct.

6 Q Is that the button stuff behind your ear?

7 A Correct.

8 Q What did you do for her on this particular

9 occasion? Looks like you did some other

10 activities. Took her blood pressure.

11 A Checked her pressure. Checked her neck. Checked

12 her heart. Suggested she lose weight. Change

13 some medication dosage on her,

14 Q Did you discuss her weight problem with her?

15 A Yes.

16 Q She used to be a thin, little thing, didn't she?

17 A I don't recall how thin she used to be. My

18 recollection is that she was concerned about

19 her weight, and this was an important

20 management aspect for blood pressure elevations

21 that she had evidence for.

22 I suggested that it would be in her

23 interest to lose weight, On my initial

24 evaluation of her in March of '88, I thought

25 she was overweight,

1 Q Now, on 9-27-88, you have another Valium entry.
2 In parenthesis underneath it indicates, "Okay
3 Dr. K." I take it you're Dr. K?

4 A Which date?

5 Q 9-27-88.

6 A Yes, "Per K."

7 Q "Per K." Or, "Okay, Dr, K."

8 A It is, "Per K," per me.

9 Q That means you've okayed it?

10 A Yes.

11 Q I notice in some of the previous entries that
12 wasn't in there.

13 A Give me the date again.

14 Q 9-27-88.

15 A I'm sorry, I was looking at the October entry.
16 9-27-88, "Okay, Dr, K."

17 Q Looking back at the 6-24-88 entry, it doesn't
18 say anything?

19 A Right.

20 Q I guess I'm trying to figure out, don't you
21 have a certain standardization with regard to
22 making entries on these?

23 A No standardization, because different girls
24 handle these and they make their own entries
25 in different manners.

1 Q Now, right after the 9-27-88 Valium, it looks
2 like 10-18-88, she had an office visit?

3 A. Correct.

4 Q Do you recall discussing with her at **this** time
5 anything with respect to the chest x-ray or
6 mammogram?

7 A. You're talking about the x-rays of the mammogram
8 from her original exam, original complete
9 exam?

10 Q **Yes.**

11 A. I don't remember specifically that we did.
12 But **as** I previously mentioned, there's a good
13 possibility that **we** had rediscussed those
14 findings.

15 Q 10-24-88, you **have a** phone call, You advise her
16 of the test results?

17 A. Right.

18 P Then on, is it 10-28-88, or 10-25-88?

19 A. I think that's 25,

20 Q You discuss lab results?

21 A Yes.

22 Q On P1-35-86, you have another office visit with
23 her?

24 A Correct.

25 Q Okay. I don't **mean** to impugn your handwriting,

1 but I have a hard time understanding some of it.

2 Is it a "myriad of complaints"?

3 A. Correct.

4 Q. "Fatigue," could you read that to me?

5 A. "Fatigue, cough, a catching, being like pain
6 in the lower sternum area, hard to pick things
7 up."

8 Do you want me to narrate the rest of it?

9 Q. No, I think that's all right.

10 On 1-24-89, you have a little, it Books
11 like -- is that an office visit?

12 A. Yes.

13 Q. She apparently had a little pee problem at that
14 time?

15 A. Yes.

16 Q. Again, you don't recall specifically talking to
17 her about retaking a mammogram?

18 A. I don't recall specifically discussing those
19 findings at that visit. She was advised at that
20 visit however to schedule her annual examination.

21 Q. Which she did for 9-12-89?

22 A. She scheduled that, yes. That wasn't the
23 anniversary of her original one, but she did
24 schedule that,

25 Q. Is there something indicating on there that you

1 advised her to **schedule** that?

2 A In the entry of 1-24-89, this circle, "CP" is
3 advice to the patient that she schedule a
4 complete physical exam.

5 Q **When** was her complete physical exam?

6 A Subsequent to that. Her exam was 9-12-89.

7 Q Seven and a **half** months later?

8 A Right.

9 Q You checked her breasts at that time?

10 A **Yes,**

11 Q That's basically the same **way** you described **it**?

12 A In the manner that I previously described.

13 P As far as **you** could palpate, **it** was normal?

14 A Yes,

15 P You sent her out for a breast x-ray at that time?

16 A Yes.

17 Q On 4-27-89, you had a phone **call** from the
18 patient, I take **it**, C' means --

19 A With.

20 Q Or phone call with the patient.

21 A With patient.

22 Q She apparently had fallen down?

23 A Yes.

24 Q She did not come into the office at that time?

25 A **She** was informing me of **an** injury and care **she**

1 had received outside.

2 Q Now, on 9-15-89, apparently you got another
3 report from York?

4 A Yes.

5 P That was with respect to the x-ray?

6 A Correct.

7 P On her mammogram?

8 A Right.

9 Q What did you do?

10 A Reported that finding to her and referred her to
11 a surgeon.

12 P Did you read that entire report to her over the
13 phone?

14 A Yes.

15 Q Now, on the entry for 9-15-89, I take it that
16 means phone call?

17 A Yes.

18 P What does it read?

19 A "Advise patient abnormal mammogram, refer to
20 Dr. Leiby,"

21 Q Dr. Leiby was who?

22 A Surgeon.

23 Q When you saw that report, you didn't ask her to
24 come back in so that you could palpate to see
25 whether or not there was anything you could feel

1 in there?

2 A. Correct.

3 Q. When you called her on this, do you recall the
4 discussion?

5 A. I can't honestly say I recall the discussion,
6 other than to what my records reflect, as far
7 as the suspicion being strong of a problem,
8 and the need to biopsy the area.

9 Q. In looking at the report, do you have an
10 opinion as to whether it could have been
11 discovered earlier?

12 MS. MOORE CARULAS: Objection.

13 A. I'm not a specialist in the disease. I am able
14 to detect to the ability of my clinical
15 examination, and from that exam, I could not
16 feel any masses. I could feel no lymph nodes
17 enlargement or abnormalities, nothing that
18 would have clinically led me to suspect that
19 there was disease present. So, certainly, based
20 upon my method of exam, I could not have diagnosed
21 it earlier.

22 Q. I don't think that's what I was asking though.
23 I was asking, do you have opinion as to whether
24 or not an x-ray had been performed two, three
25 or four months earlier, whether it would have

1 been discovered?

2 MS. MOORE CARULAS: Objection.

3 A. I don't know.

4 P. So, you don't have an opinion on it basically?

5 A. I don't have an opinion,

6 P. You had some contact with her after this, didn't
7 you?

8 A. No, I didn't.

9 P. Was this your last contact basically, 9-27-89?

10 A. By my records, that's my last contact.

11 Q. Did you ever discuss with her the -- she
12 apparently discovered this prior York x-ray,
13 which she indicates she did not know about.

14 Did you ever discuss that with her?

15 A. Discuss what, the prior York x-ray?

16 Right.

17 I had previously discussed her findings.

18 What I'm talking about, after 9-15 of '89,
19 when you told her to go see Dr. Leiby and she
20 had to go pick up her records, she indicates
21 that she picked up this x-ray report.

22 I've had no discussion or contact with her
23 subsequent to that entry.

24 Now, on your appointments with Mrs. Bastian,
25 those would be entered into your daily calendar?

1 A. Yes.

2 Q. Could I get your calendars with respect to the
3 days that you did see her?

4 A. Sure.

5 MS. MOORE CARULAS: Well, he'll
6 provide them to us and then we'll
7 determine --

8 MR. NEWMAN: I understand.
9 That's what I meant.

10 Q. Do you have any kind of library or written
11 materials with respect to breast cancer or the
12 detection of breast cancer?

13 A. The libraries that I have of information on all
14 diseases.

15 Q. You say the libraries, are you talking about
16 the libraries --

17 A. Well, I'm talking about **books** that we have in
18 the office, libraries available to me in other
19 areas.

20 Are you asking me do I have a specific
21 reference or text that I use with respect to
22 this particular disease? No.

23 Q. Do you have any general texts that you **use**?

24 A. General **texts**, yes.

25 Q. What do you use?

- 1 A What do I use?
- 2 Q Yes.
- 3 A Anything that's available.
- 4 Q Well, what do you have in your office that you
- 5 can receive?
- 6 A I'd have to get them and list them for you.
- 7 Q Okay. Could you make a list of those for me,
- 8 please?
- 9 A Sure.
- 10 Q For your attorney to pass on --
- 11 A Sure.
- 12 Q Is Dr. Leiby a regular surgeon that you use for
- 13 referrals?
- 14 A Leiby, yes.
- 15 Q Is he a general surgeon?
- 16 A Yes, he is.
- 17 Q Do you have staff privileges at any hospitals?
- 18 A At any, yes.
- 19 Q Yes.
- 20 A Yes.
- 21 Q Where do you have staff privileges?
- 22 A At Parma Community General and at Beacons
- 23 Hospital.
- 24 Q Are you on any committees with those hospitals?
- 25 A Yes.

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do so.

THE WITNESS :

Sure.

MS . MOORE CARULAS:

Not waiving

signature.

(Signature not waived.)

- - - -

C E R T I F I C A T E

The State of Ohio,))
County of **Lake.**) SS:

I, **Deborah M. Reiter**, a Notary Public within and for the State aforesaid, **duly** commissioned and qualified, **do** hereby certify that the above-named **KEITH ROBERT KOEPKE, M.D.**, was by **me**, **before** the giving of his deposition, first duly sworn to testify the truth, the whole truth, and nothing but the truth; that the deposition **as** above set **forth** was reduced to writing by me **by** means of stenotypy, and was later transcribed into typewriting under my direction; that **said** deposition was taken in all respects pursuant to the stipulations of counsel herein contained, and was completed without adjournment; that the foregoing is the deposition given at **said time** and place **by** said **Keith Robert Koepke, M.D.**; **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 Mentor, Ohio, this 14th day of March, A.D. 1992.



Deborah M. Reiter, Notary Public
8547 Hilltop Drive, Mentor, Ohio 44060
My commission expires **12-26-94.**

ADDITIONS OR CORRECTIONS

PLEASE SEE ATTACHED PAGE.

Keith Robert Koepke, M.D.
Keith Robert Koepke, M.D.

ADDITIONS OR CORRECTIONS

<u>Page</u>	<u>Line</u>
5	17.....three years of residency
6	25.....two associates,
7	21.....believe solo.
9	20.....Yes. They focus...
10	2.....I am not expert in a subspecialty field, but am in the broad spectrum of general internal medicine.
30	23.....outward, circumferentially...
30	25.....breasts (misspelled)
40	20.....an unalarming...
39	3.....holter monitor
39	7.....holter monitor
44	1.....holter monitor
44	5.....holters
45	24.....holter
52	12.....Currently'?
52	14.....No.
55	16.....Stress ECG
59	5.....a catching, burning like...
32	14.....Yes. As documented in the chart the next office visit was 4/18/88. But, I did speak with her in the interim.
38	17.....Yes.
40	7.....Yes. I'm positive that I did based on my notations and routine.


Keith Robert Koepke, M.D.