

1                   IN THE COURT OF COMMON PLEAS

2                   LORAIN COUNTY, OHIO

3           JAMES J. ARMSTRONG, etc.,

4                               Plaintiff,

5                                               JUDGE ZALESKI

6                               - vs -

7                                               CASE NO. 00 CV 126180

8           EMH REGIONAL HEALTHCARE  
9           SYSTEM, dba, AMHERST  
10          HOSPITAL, et al.,

11                               Defendants.

12                               - - - - -

13                   Deposition of ALAN E. KRAVITZ, M.D., taken  
14                   as if upon cross-examination before Pamela S.  
15                   Greenfield, a Registered Diplomate Reporter,  
16                   Certified Realtime Reporter and Notary Public  
17                   within and for the State of Ohio, at the offices  
18                   of Alan E. Kravitz, M.D., 29001 Cedar Road,  
19                   Lyndhurst, Ohio, at 4:03 p.m. on Friday, May 31,  
20                   2002, pursuant to notice and/or stipulations of  
21                   counsel, on behalf of the Plaintiff in this  
22                   cause.

23                               - - - - -

24                               MEHLER & HAGESTROM  
25                               Court Reporters

26                               CLEVELAND  
27                   1750 Midland Building  
28                   Cleveland, Ohio 44115  
29                   216.621.4984  
30                   FAX 621.0050  
31                   800.822.0650

32                               AKRON  
33                   1015 Key Building  
34                   Akron, Ohio 44308  
35                   330.535.7300  
36                   FAX 535.0050  
37                   800.562.7100



APPEARANCES:

Donna Taylor-Kolis, Esq.  
Thomas Conway, Esq.  
Friedman, Domiano & Smith  
600 Standard Building  
Cleveland, Ohio 44113  
(216) 621-0070,

On behalf of the Plaintiff;

Ronald A. Rispo, Esq.  
Weston, Hurd, Fallon, Paisley & Howley  
2500 Terminal Tower  
Cleveland, Ohio 44113  
(216) 241-6602,

On behalf of the Defendant  
Briccio Celerio, M.D.;

Ronald Wilt, Esq.  
Buckingham, Doolittle & Burroughs  
1375 East Ninth Street  
Suite 1700  
Cleveland, Ohio 44114  
(216) 621-5300,

On behalf of the Defendants  
Paul Bartulica, M.D., et al.



W I T N E S S I N D E X

PAGE

CROSS-EXAMINATION  
ALAN E. KRAVITZ, M.D.  
BY MS. TAYLOR-KOLIS..... 7

CROSS-EXAMINATION  
ALAN E. KRAVITZ, M.D.  
BY MR. WILT..... 80

E X H I B I T I N D E X

EXHIBIT MARKED

Plaintiff's Exhibit 1, 2/13/01  
Papalardo letter to Kravitz..... 28

Plaintiff's Exhibit 2,  
handwritten notes..... 28

Plaintiff's Exhibit 3,  
5/21/02 Kravitz letter to Rispo..... 29

Plaintiff's Exhibit 4, 5/20/02  
Rispo letter to Kravitz..... 30

Plaintiff's Exhibit 5, 5/16/02  
Rispo letter to Kravitz..... 31

Plaintiff's Exhibit 6,  
5/21/02 Rispo fax to Kravitz..... 31

Plaintiff's Exhibit 7, 5/21/02  
Kravitz fax to Rispo..... 31

Plaintiff's Exhibit 8, 5/21/02  
Kravitz fax to Rispo..... 32



E X H I B I T   I N D E X   C O N T I N U E DEXHIBITMARKED

Plaintiff's Exhibit 9 , handwritten notes.....	32
Plaintiff's Exhibit 10 , 5/30/02 Kravitz fax to Rispo.....	33
Plaintiff's Exhibit 11 , 5/30/02 Kravitz fax to Rispo.....	33
Plaintiff's Exhibit 12 , graphic.....	34
Plaintiff's Exhibit 13 , graphic.....	34
Plaintiff's Exhibit 14 , 10/19/01 Kravitz letter to Rispo.....	35
Plaintiff's Exhibit 15 , 11/17/01 Shumate letter to Kravitz.....	35
Plaintiff's Exhibit 16 , 1/3/02 Kravitz letter to Rispo.....	35
Plaintiff's Exhibit 17 , 1/23/02 Papalardo letter to Kravitz.....	36
Plaintiff's Exhibit 18 , 9/4/01 Rispo letter to Kravitz.....	36
Plaintiff's Exhibit 19 , 11/6/01 Rispo letter to Kravitz.....	37
Plaintiff's Exhibit 20 , 11/8/01 Kravitz letter to Rispo.....	37
Plaintiff's Exhibit 21 , 12/15/01 Kravitz letter to Papalardo.....	38
Plaintiff's Exhibit 22 , 10/19/01 Kravitz letter to Rispo.....	38



EXHIBIT INDEXEXHIBITMARKED

Plaintiff's Exhibit 25, 11/2/01 Krawitz letter to Rispo ..	39
Plaintiff's Exhibit 23, 11/2/01 Krawitz fax to Rispo.....	39
Plaintiff's Exhibit 24, 10/16/01 Rispo letter to Krawitz.....	39
Plaintiff's Exhibit B6, 9/19/01 Rispo letter to Krawitz with attachment	40
Plaintiff's Exhibit 27, Richardson Min-U-Script.....	40
Plaintiff's Exhibit 28, 9/21/01 Krawitz letter to Rispo.....	40
Plaintiff's Exhibit 29, 5/24/02 Krawitz letter to Rispo.....	41
Plaintiff's Exhibit 30, 9/8 file memo.....	41
Plaintiff's Exhibit 31, 8/29/02 Krawitz letter to Pro-National.....	42
Plaintiff's Exhibit 32. 6/21/01 Krawitz report.	02
Plaintiff's Exhibit 33, handwritten notes.....	42
Plaintiff's Exhibit 34, 6/13/01 Shumate letter to Krawitz.....	44
Plaintiff's Exhibit 35, Complaint.....	44
Plaintiff's Exhibit 36, Bartulica Min-U-Script .....	44



E X H I B I T I N D E X C O N T I N U E DEXHIBITMARKED

Plaintiff's Exhibit 37,  
death certificate/coroner's report.... 45

Plaintiff's Exhibit 38, 1/15/01  
Mendelsohn letter to Farchione..... 45

Plaintiff's Exhibit 39,  
Celerio Min-U-Script..... 45

Plaintiff's Exhibit 40, 5/31/01  
Smithson letter to Taylor-Kolis..... 49

Plaintiff's Exhibit 41, 5/29/01  
London letter to Kolis..... 50

Plaintiff's Exhibit 42,  
10/4/01 Dublikar letter with  
Richardson's office chart..... 50

Plaintiff's Exhibit 43, 8/24/01  
Burkons letter to Farchione..... 51

Plaintiff's Exhibit 44, 8/26/01  
Watts letter to Farchione..... 51

Plaintiff's Exhibit 45,  
indexed Richardson records..... 53



1                    ALAN E. KRAVITZ, M.D., of lawful age,  
2                    called by the Plaintiff for the purpose of  
3                    cross-examination, as provided by the Rules of  
4                    Civil Procedure, being by me first duly sworn, as  
5                    hereinafter certified, deposed and said as  
6                    follows:

7                    CROSS-EXAMINATION OF ALAN E. KRAVITZ, M.D.

8                    BY MS. TAYLOR-KOLIS:

9                    Q.    Doctor, for the record would you state your name  
10                    and your business address, please?

11                    A.    I'm sorry?    Say that again, please.

12                    Q.    Sure.    Your name and your business address?

13                    A.    Sure.    My name is Alan E. Kravitz and my business  
14                    address is 29001 Cedar Road, Lyndhurst, Ohio,  
15                    44124, Suite 615.

16                    Q.    Doctor, we were briefly introduced but for  
17                    identification purposes on the record, my name is  
18                    Donna Kolis and along with Thomas Conway, we  
19                    represent the estate of Nancy Armstrong.    It is  
20                    my understanding that you have been retained by  
21                    Mr. Rispo for purposes of testifying in this  
22                    case.    Is that a correct statement?

23                    A.    I was retained by Mr. Rispo to review certain  
24                    materials and act as a consultant to him and to  
25                    subject myself to depositions or testify if



1           needed.

2       Q.   All right.  Fair enough, doctor.

3               We'll get started while Tom's looking through  
4       there.

5               Doctor, to the best of your recollection,  
6       have you ever testified for Mr. Rispo on any  
7       prior occasions?

8       A.   No.

9       Q.   What is the frequency with which you testify in  
10       northeast Ohio on behalf of physicians?

11      A.   I'm sorry.  What is the?

12      Q.   The frequency with -- do you have --

13      A.   You'll have to speak up    little bit.  I'm sorry.

14      Q.   You're hard of hearing?

15      A.   You'll have to speak up a little bit.

16      Q.   Okay.  What is the frequency with which you  
17       testify for physicians in northeast Ohio?

18      A.   In the last 12 months, I haven't testified for  
19       any physicians.

20      Q.   In the last 12 months have you testified by way  
21       of deposition or trial in any medical malpractice  
22       case?

23      A.   I believe I have for one of Mr. Rispo's  
24       colleagues or partners.

25      Q.   I didn't understand your answer.  You think



1           you've --

2       A.   The answer is yes.

3       Q.   And was that for --

4       A.   To my knowledge.

5       Q.   -- someone at Weston Hurd, doctor?

6       A.   To my knowledge, yes.

7       Q.   Do you recall what attorney that was?

8       A.   No.

9       Q.   And was that on behalf of a patient or a  
10           physician?

11      A.   It was on behalf of a physician.

12      Q.   Doctor, you became a physician in what year?  I  
13           do have your CV but --

14      A.   1969.

15      Q.   Since 1969 through the present, that being 2002,  
16           what would you say the volume of medical/legal  
17           reviews is that you have done?

18      A.   I don't know.

19      Q.   Well, with what frequency, doctor -- first of  
20           all, when did you start doing medical/legal  
21           reviews?

22      A.   Probably in the mid '80s.

23      Q.   And when you began how is it that you came to  
24           start doing testifying or reviewing?

25      A.   A golfing partner, attorney represented a major



1 carrier at the time in Ohio and wanted me to meet  
2 with one of their adjusters, which I did, and  
3 they had a need for someone to review a volume of  
4 cases which they insured the defendant hospital  
5 or doctors.

6 Q. So that's how you began and I know you're saying  
7 you don't know the numbers but you must have some  
8 idea of how frequently you've given depositions  
9 or testified in that period of time.

10 A. 20 years ago, I don't have any idea. I would  
11 tell you that at least 75 percent of my work with  
12 that insurance company involved simply reviewing  
13 cases and communicating to the adjuster or to the  
14 attorney.

15 Q. I discovered by doing some Internet research that  
16 in the past I would say seven, we'll call it  
17 seven years or so that it seems that you've done  
18 some testifying for patients but outside of Ohio,  
19 specifically Michigan. Does that refresh your  
20 recollection as to maybe cases that you've done  
21 for patients?

22 A. No. If you can tell me the cases, I'd be glad to  
23 listen to it. I'll tell you what -- would you  
24 repeat the attorney's question?

25 Q. Is it your testimony under oath that in the past



1 five to seven years you haven't testified for  
2 patients in the State of Michigan in medical  
3 malpractice cases?

4 A. I'm sorry, I misunderstood your question.

5 The answer is yes, I have.

6 Q. And how is it that you came to begin testifying  
7 for patients in the State of Michigan?

8 A. I was asked by a law firm or attorney many years  
9 ago. I haven't, for reasons that are not clear  
10 to me, I haven't done any record reviewing or  
11 testifying, to my knowledge, for anybody in  
12 Michigan for the last three or four years with  
13 the exception of one case which is, I believe,  
14 still dragging along.

15 Q. Doctor, have you ever had your name listed with a  
16 medical/legal service that provides expert names  
17 to attorneys?

18 A. No, or at least not with my permission.

19 Q. Doctor, you are board certified in what  
20 subspecialties?

21 A. I'm board certified in internal medicine. I'm  
22 also board certified in cardiology.

23 Q. And as we sit here today, this of course is your  
24 business address, correct?

25 A. Correct.



1 Q. Tell me a little bit about your practice.

2 A. My practice is internal medicine and cardiology,  
3 hospital inpatient, office, that's a little  
4 bit --

5 Q. When you say internal medicine, are you  
6 indicating to me that you don't exclusively have  
7 cardiac patients for your patient population?

8 A. Yes, that's correct.

9 Q. How does that break down between internal  
10 medicine and cardiology?

11 A. How do I do it? I do it the same way everybody  
12 else does it. There are 14 specialties of  
13 internal medicine. I do 13 and because of my  
14 expertise in cardiology, I do a lot of cardiology  
15 referrals.

16 Q. I didn't ask the question very articulately.  
17 What is the percentage breakdown in your patient  
18 population? What percentage of your patients are  
19 here because you're a cardiologist versus the  
20 percentage that you see for internal medicine  
21 issues?

22 A. Probably about 50/50.

23 Q. Do you consider yourself a family practice  
24 physician?

25 A. No. I told you what I am. Please don't ask the



1 question again. I'm an internist and a  
2 cardiologist. That's all I am.

3 Q. Doctor, I'm not entirely sure why you would be so  
4 hostile about the question.

5 A. I'm not hostile. I'm just asking you not to ask  
6 the question again. That's all.

7 Q. Well, guess what? This is my deposition and I  
8 get to ask the questions.

9 A. That's fine. This is my office and I get to  
10 decide whether you stay here or not. Ask your  
11 question.

12 Q. Is that a threat on your part to terminate this  
13 deposition?

14 A. Not at all. It's a statement of fact.

15 Q. Now that we're done with the colloquy. The  
16 question was directed at the issue if you are an  
17 internal medicine physician, are you handling  
18 family practice issues such as people come to you  
19 for complaints of colds, flus, fevers, general  
20 medical inquiries?

21 A. People come to me for problems with general  
22 internal medicine with the however many  
23 subspecialties of internal medicine there are  
24 that exclude cardiology. That's what I see here.  
25 Things like endocrinology. I mean, I'm sure you



1 know what they are. If you'd like, I'll go  
2 through as many as I can remember, as many of the  
3 subspecialties.

4 Q. You currently have admitting privileges at  
5 Hillcrest and South Pointe; is that correct?

6 A. Yes.

7 Q. Any other hospitals?

8 A. No.

9 Q. Have you had your hospital privileges revoked at  
10 any hospital during your career?

11 A. No.

12 Q. Have you been sued for medical negligence at any  
13 time in your career?

14 A. Yes.

15 Q. How many occasions?

16 A. One.

17 Q. How did that case resolve?

18 A. It was dropped.

19 Q. It was dismissed without settlement? Is that it?

20 A. The, I guess that's what you'd say. The way I  
21 understand it, the plaintiff did not want to  
22 pursue the case.

23 Q. You have no partners in your practice with you,  
24 is that correct, Dr. Kravitz?

25 A. Yes.



1 Q. Has that been so since you opened this cardiology  
2 practice?

3 A. Can you be a little more clear on this cardiology  
4 practice.

5 Q. Sure. Your CV indicates that you are in private  
6 practice since 1976 as Alan E. Kravitz M.D., Inc.  
7 through the present and I'm asking you if at any  
8 time from 1976 through the present you've had  
9 partners or --

10 A. Okay. I'm sorry. I understand your question.

11 No.

12 Q. And the answer to the question?

13 A. The answer is no. I'm sorry.

14 Q. Doctor, when were you initially contacted to  
15 consult with Mr. Rispo in this matter?

16 A. I think it was about a year ago. It's in the  
17 records that your colleague is reviewing.

18 Q. Okay. Well, we'll probably go through those so  
19 I'm going to ask some general questions that  
20 don't have to do with me going through the file  
21 at this point but suffice it to say, I gather  
22 this is your complete file?

23 A. Yes, ma'am.

24 Q. I gather you've removed no pieces of paper from  
25 the same?



1 A. Right.

2 Q. I have been provided with a report that is dated  
3 June 21st, 2001 and I need to inquire, doctor,  
4 whether that's the only report you have written  
5 in this matter?

6 A. I don't recall, but I'll be glad to look through,  
7 you know, all this material and tell you.

8 This is everything I gave you; is that  
9 correct?

10 MR. CONWAY: Everything is right  
11 here and you're holding it.

12 THE WITNESS: Is that the only  
13 report I wrote?

14 MR. RISPO: That's the only  
15 report I'm aware of.

16 A. Yeah. To my knowledge, that's the only report  
17 that I wrote to Mr. Rispo.

18 MR. WILT: Here's this. I don't  
19 know if you gave that to Mr. Rispo or not.

20 Do you have another question?

21 Q. Are you going to look while I'm asking questions?

22 A. No. To my knowledge, that's the only report that  
23 I provided.

24 Q. Doctor, let me ask you another question just so  
25 it's clear for the record because transcripts



1 sometimes are helpful in court.

2 Do you understand that you are being paid  
3 \$400 an hour today by court order?

4 A. I understand that you're paying me \$400 an hour  
5 today by court order, yes, or your firm.

6 Q. All right. What --

7 A. I also want to make it clear that irrespective of  
8 what time the deposition in fact started, that at  
9 the appointed hour, specifically, 4:00, I was  
10 ready, willing and able to begin.

11 MR. WILT: It was my fault we were  
12 ten minutes late.

13 A. Whosever fault it is. We were ready to begin  
14 without you.

15 Q. We certainly won't attempt to reduce your fee  
16 based upon Ron's not being able to be here on  
17 time.

18 All right. In any event, doctor, you begin  
19 your report or at least the one that I have says,  
20 "At your request I have reviewed certain  
21 documents related to Nancy Armstrong."

22 Doctor, I would like to know what documents  
23 specifically you reviewed that were forwarded to  
24 you from Mr. Rispo before you authored this  
25 report dated June 21st, 2001?



1 A. I reviewed all of the documents that Mr. Rispo  
2 forwarded to me that are lying in front of us. I  
3 also reviewed some slides that Dr. Mendelsohn had  
4 prepared and I reviewed certain medical texts.

5 Q. All right. Well, let's begin at the beginning.  
6 You're saying you reviewed certain documents  
7 supplied to you by Mr. Rispo. Of course by the  
8 way you've written this report, I have absolutely  
9 no way of knowing what you reviewed. So I  
10 need --

11 A. Well, everything that I have in my lap and that's  
12 sitting in front of you and I'll be glad to, you  
13 know, to go ahead and --

14 Q. Enumerate them?

15 A. -- catalog them for you.

16 Q. Sure.

17 MR. RISPO: Do you have the June  
18 13th letter?

19 MR. CONWAY: Doctor, why don't  
20 you take everything here.

21 A. The documents that Mr. Rispo provided me were: A  
22 copy of the complaint, records of Dr. Richardson,  
23 the records of Dr. Bartulica, the records from  
24 Amherst Hospital regarding Mrs. Armstrong, the  
25 deposition transcript of Dr. Bartulica, the



1 deposition transcript of Dr. Celerio, the autopsy  
2 report and the coroner's report, the report of  
3 Dr. Mendelsohn, the report of your expert,  
4 Dr. London, the report of your expert,  
5 Dr. Smithson.

6 Q. And those were the documents which you had  
7 available to you at that time, correct?

8 A. Those, yes, those were the documents that  
9 Mr. Rispo provided me on or before June 21st.

10 Q. You also indicated that you had some slides.

11 Do you recall today whether they were stained  
12 for amyloidosis at the time you saw them?

13 A. My recollection is they were.

14 Q. Doctor, do you consider yourself because of your  
15 specialty in cardiology able to look at slides  
16 and interpret or diagnose amyloidosis from those  
17 slides?

18 A. No. I consider myself, based on my training in  
19 internal medicine, able to do that but not to  
20 the, excuse me, to the degree of skill that a  
21 pathologist could.

22 - - - -

23 (Telephone interruption.)

24 - - - -

25 MS. TAYLOR-KOLIS: Let the record



1 reflect that it's 4:20 and the doctor  
2 walked out of the room and I don't owe him  
3 for his phone call.

4 A. I'm sorry.

5 Q. Doctor, where we were is the question was  
6 regarding your ability to look at stained slides  
7 and determine whether or not there was  
8 amyloidosis and you indicated you had that  
9 ability, correct?

10 A. Correct.

11 Q. And were you able to in looking at the slides,  
12 confirm the information contained in  
13 Dr. Mendelsohn's report relative to his findings  
14 about the slides?

15 A. No. I thought about whether I should get  
16 involved in looking at the slides considering  
17 that I'm not a pathologist and I decided not to  
18 and I returned the slides to Mr. Rispo.

19 Q. So you didn't come to any definitive conclusions  
20 on your own?

21 A. No. I've known Dr. Mendelsohn for more than 20  
22 years and I feel comfortable with his  
23 interpretation and I feel uncomfortable with  
24 considering myself an expert in pathology since  
25 I've already qualified myself as an expert in 15



1 other things.

2 Q. You also indicated, I believe, that you had some  
3 medical literature --

4 A. Yes.

5 Q. -- to review?

6 A. Yes.

7 Q. Could you please tell me what medical literature  
8 you reviewed and is it in fact still part of your  
9 file?

10 A. I reviewed the editions of Hurst, The Heart and  
11 Braunwald's Heart Disease.

12 Q. Braunwald --

13 A. B-R-A-U-N-W-A-L-D.

14 Q. -- fifth or sixth edition?

15 A. Let me finish answering your question.

16 Braunwald's Heart Disease that were available to  
17 the doctors in 1999.

18 Q. Are you done with your answer?

19 A. Yes.

20 Q. The Braunwald's that you looked at, do you know  
21 what edition it was?

22 A. It was the edition that was available in January  
23 of 1999.

24 Q. Did Mr. Rispo supply this literature to you or  
25 did you look it up yourself?



1 A. No. It's in my library.

2 Q. Okay. And did you photocopy it and make it part  
3 of your file?

4 A. No.

5 Q. I would request that immediately following  
6 today's deposition, you do the same and it be  
7 provided to me through Mr. Rispo as soon as  
8 practical.

9 Doctor, why did you review medical literature  
10 in this matter?

11 A. I reviewed the editions of Hurst and Braunwald  
12 that were available in 1999. That's all I  
13 reviewed.

14 Q. That wasn't my question. My question is why did  
15 you review medical literature?

16 A. Oh, it's my custom in doing a so-called  
17 medical/legal case to confirm my opinions before  
18 submitting them and that's why I did it.

19 Q. Okay. Prior to becoming involved in the Nancy  
20 Armstrong case, doctor, have you ever treated a  
21 patient who had primary cardiac amyloid disease?

22 A. Just solely amyloid is, cardiac amyloid, no other  
23 amyloid?

24 Q. Yes. Primary cardiac amyloid.

25 A. I'm not aware that there is such an entity



1 Q. Well, that's the phrase that's been traded  
2 around. What I'm saying is, first of all, have  
3 you treated a person who has primary amyloidosis?

4 A. Yes.

5 Q. How many patients?

6 A. Three.

7 Q. And were you involved in their care and treatment  
8 because the amyloid had infiltrated their heart  
9 and they had cardiac issues?

10 A. These occurred during the time that I spent at  
11 Cornell and at Emery and I think one of them  
12 occurred because it was an interesting case that  
13 they wanted residents to see and I think the  
14 other two occurred during my fellowship, again,  
15 at Cornell and at Emery where I, you know, played  
16 some part in their, in their, in the treatment.

17 Q. All right. So if I understood what you just  
18 testified to, your exposure to patients who have  
19 amyloid disease with cardiac issues occurred  
20 during your residency and fellowship and not  
21 since you have commenced your career as an  
22 attending physician in 1976?

23 A. Just so the record is clear, I commenced my  
24 career, I went into private practice in 1973 but  
25 since 1976 or 1973 I have not treated a patient



1 with primary amyloidosis.

2 Q. To the best of your recollection, doctor, since  
3 you reviewed the medical literature in  
4 anticipation of writing this report, would you  
5 say that treatment modalities for diagnosed  
6 cardiac amyloidosis changed between 1973 and  
7 2001?

8 A. No.

9 Q. So it's your testimony that no advances have been  
10 made in the treatment of cardiac amyloidosis in  
11 that period of time?

12 A. None that I'm aware of, no.

13 Q. Let's deal a little bit with your report first.  
14 Should I do the file first?

15 MR. CONWAY: Mark all the  
16 documents.

17 Q. Guess what we're going to do. Tom's had an  
18 opportunity previously to look through this and  
19 I'm going to have to go through this material  
20 myself and have it marked by the court reporter.

21 And before I do that, doctor, subsequent to  
22 the time of you writing that report on June 21st,  
23 2001, can I assume that you received additional  
24 materials from Mr. Rispo?

25 A. I don't -- yes, actually, I did.



1 Q. Just by way of a brief question at this point,  
2 have any of the subsequent materials, and we'll  
3 find out when we go through this file what they  
4 are that you've received, changed or amended any  
5 of the opinions that you originally wrote in your  
6 first report?

7 A. Yes. Actually, a combination of the materials  
8 and rereading the sections in Hurst and in  
9 Braunwald, I determined that my statement in the  
10 fourth paragraph of my June 21, '01 report was  
11 incorrect with respect to the life expectancy and  
12 that the correct life expectancy or a more  
13 correct life expectancy would be between a  
14 year-and-a-half and two years absent the, absent  
15 sudden cardiac death.

16 Q. Can I inquire, doctor, in candor what made you  
17 change your opinion?

18 A. In candor, the materials that I, the subsequent  
19 materials I reviewed, the relooking at the  
20 material that I had and the material in, about  
21 primary amyloidosis involving the heart in Hurst  
22 and Braunwald.

23 Q. Outside of Hurst and Braunwald, the textbooks  
24 that you looked at, did you avail yourself of any  
25 Internet research from any primary centers in



1           this country that are publishing, researching and  
2           treating cardiac amyloidosis?

3   A.   No.

4   Q.   So you wouldn't have looked at anything from the  
5       Mayo Clinic?

6   A.   No.

7   Q.   You wouldn't have looked at anything from  
8       Columbia University?

9   A.   No.

10   Q.   You wouldn't have looked at anything from The  
11       Cleveland Clinic Foundation?

12   A.   No, not about amyloidosis, no.

13   Q.   Doctor, when did you come to this revised opinion  
14       about Mrs. Armstrong's life expectancy?

15   A.   Sometime in the last 11 months.

16   Q.   Well, doctor, it's rather important to me for a  
17       number of reasons to know with as much  
18       specificity as possible at what juncture you  
19       changed your opinion.

20   A.   I didn't change my opinion. I have revised it.  
21       I would say it was no later than January 15th of  
22       2002.

23   Q.   And did you pick up the phone and communicate  
24       that amendment of your opinions to Mr. Rispo?

25   A.   I think I communicated it to Mr. Rispo or to his



1 nurse paralegal.

2 Q. Did you put that opinion in writing? Will I find  
3 that anywhere in this material?

4 A. I don't believe so, no.

5 Q. Were you aware, doctor, that at or around the  
6 very time frame that you are talking about,  
7 Mr. Rispo and I entered into a stipulation that  
8 Mrs. Armstrong had a four to five-year life  
9 expectancy?

10 MR. RISPO: Objection. We'll  
11 talk about that later.

12 A. No, I'm not aware.

13 MS. TAYLOR-KOLIS: Mr. Rispo, that  
14 letter says what it says.

15 A. I'm not aware of any communications you've had  
16 with Mr. Rispo.

17 MR. RISPO: Do you have my copy  
18 of that June 13th letter?

19 MS. TAYLOR-KOLIS: Is one of these  
20 a copy and one's yours and one's his? Is  
21 that it?

22 MR. RISPO: Yes. He'd have the  
23 original. I'd have my file copy.

24 MS. TAYLOR-KOLIS: These are in no  
25 particular order obviously but we're going



1 to have all of these documents marked and  
2 unfortunately the poor court reporter will  
3 have to copy them but let's go and they're  
4 not as I said in any particular order. I  
5 guess this is Plaintiff's Exhibit 1.

6 - - - -

7 (Thereupon, Plaintiff's Exhibit 1,  
8 2/13/01 Papalardo letter to Kravitz was marked  
9 for purposes of identification.)

10 - - - -

11 Q. Plaintiff's Exhibit 1, which I'm putting the  
12 sticker on, apparently, Dr. Kravitz, is a letter  
13 to you from Ross Papalardo, Litigation Visuals,  
14 and in it or attached to it are some, what I'm  
15 going to go color proofs. Am I correctly  
16 identifying that document?

17 A. You are.

18 Q. You want to just turn that over face down on the  
19 floor?

20 - - - -

21 (Thereupon, Plaintiff's Exhibit 2,  
22 handwritten notes was marked for purposes of  
23 identification.)

24 - - - -

25 Q. All right. Plaintiff's Exhibit 2, you're going



1 to have to identify what it is because it's  
2 handwriting on a piece of notebook paper.

3 A. It's a series of notes that I made either last  
4 night or this afternoon when I reviewed the case  
5 in preparation for this exercise.

6 Q. And what name is across the top? Is that a name?  
7 It seems to be a heading of some sort.

8 A. Yeah. It's, I think it's Dr. Richardson, who is  
9 the internist that took care of Mrs. Armstrong.

10 Q. And what do the notes say? If you could read  
11 them into the record, please.

12 A. Sure. It says Richardson and that's underlined.  
13 It says Maxide 75/50. Fastin, F-A-S-T-I-N, 30.  
14 There's a, I suppose it was a letter that I can't  
15 interpret. The next series of letters are C-A-D  
16 and echo. Thyroid disease. No diagnosis.  
17 Amyloid. Carpal tunnel. Normal, that would be  
18 echo. I'm not certain about that. Cath  
19 negative. Normal LV function. SJWS,  
20 5/99-5/6/99. Anxiety, right frontal lobe brain  
21 lesion and there's another, the last notation  
22 appears to be lumbo -- LS spine.

23 Q. Thank you. You want to put that one down?

24 - - - -

25 (Thereupon, Plaintiff's Exhibit 3,



1           5/21/02 Kravitz letter to Rispo was marked for  
2           purposes of identification.)

3                               - - - -

4       Q.   Plaintiff's Exhibit 3 is evidently a letter from  
5           yourself to Mr. Rispo. Briefly stated, we won't  
6           have to go through the whole letter, this is a  
7           letter you sent him indicating that you would  
8           need \$6500 prepaid global nonrefundable fee for  
9           your appearance at trial. Am I stating that  
10          accurately?

11       A.   Yes. This is in response to an inquiry regarding  
12          depositions and trials.

13                               - - - -

14                               (Thereupon, Plaintiff's Exhibit 4,  
15          5/20/02 Rispo letter to Kravitz was marked for  
16          purposes of identification.)

17                               - - - -

18       Q.   Next document is a letter to you apparently from  
19           Mr. Rispo. I'm going to mark that Exhibit 4 and  
20           that correspondence is dated May 20, 2002 and it  
21           is four pages long.

22                   Am I correctly identifying the date and the  
23           author of the letter and the number of pages?

24       A.   Yes.

25                               - - - -



1                   (Thereupon, Plaintiff's Exhibit 5,  
2           5/16/02 Rispo letter to Kravitz was marked for  
3           purposes of identification.)

4                   -   -   -   -

5   Q.   Plaintiff's Exhibit Number 5 is a letter to you  
6           from Mr. Rispo dated May 16th, it is a two-page  
7           letter; is that correct?

8   A.   Yes.

9                   -   -   -   -

10                   (Thereupon, Plaintiff's Exhibit 6,  
11           5/21/02 Rispo fax to Kravitz was marked for  
12           purposes of identification.)

13                   -   -   -   -

14   Q.   Plaintiff's Exhibit Number 6 is a fax copy, I  
15           think, well, it's a fax letter from Mr. Rispo  
16           dated May 21st. It's three pages, correct?

17   A.   Exhibit 6, Plaintiff's Exhibit 6 is a three-page  
18           fax from Mr. Rispo.

19                   -   -   -   -

20                   (Thereupon, Plaintiff's Exhibit 7,  
21           5/21/02 Kravitz fax to Rispo was marked for  
22           purposes of identification.)

23                   -   -   -   -

24   Q.   All right. Plaintiff's Exhibit Number 7 is a fax  
25           communication from yourself to Mr. Rispo dated



1 May 21st, 2002. Content apparently appears to be  
2 a discussion about Judge Zaleski's order  
3 regarding your hourly rate?

4 A. Yeah. Again, this is material with respect to,  
5 this is material with respect to arrangements for  
6 today and subsequent arrangements for my  
7 testimony.

8 Q. Put it on the stack. Thank you.

9 - - - -

10 (Thereupon, Plaintiff's Exhibit 8,  
11 5/21/02 Kravitz fax to Rispo was marked for  
12 purposes of identification.)

13 - - - -

14 Q. Plaintiff's Exhibit 8 is a facsimile from  
15 yourself to Mr. Rispo dated May 21st, 2002. Am I  
16 stating that correctly?

17 A. Yes, sure.

18 - - - -

19 (Thereupon, Plaintiff's Exhibit 9,  
20 handwritten notes was marked for purposes of  
21 identification.)

22

23 Q. Plaintiff's Exhibit Number 9, can you please  
24 identify, doctor, what is on this -- don't read  
25 it, just tell me what this piece of paper



1 represents.

2 A. It represents some notes that I took last night  
3 and this afternoon to prepare for this exercise.

4 - - - -

5 (Thereupon, Plaintiff's Exhibit  
6 10, 5/30/02 Kravitz fax to Rispo was marked for  
7 purposes of identification.)

8 - - - -

9 Q. Plaintiff's Exhibit Number 10 from you to  
10 Mr. Rispo dated May 30th, 2002; is that correct?

11 A. Yes, this is, again, a fax arranging for this  
12 exercise.

13 Q. Doctor, I just want to make sure I get the date  
14 and the to and from correct.

15 - - - -

16 (Thereupon, Plaintiff's Exhibit  
17 11, 5/30/02 Kravitz fax to Rispo was marked for  
18 purposes of identification.)

19 - - - -

20 Q. Plaintiff's Exhibit 11, a facsimile cover sheet  
21 dated May 30th to Ron Rispo from Dr. Kravitz; is  
22 that correct?

23 A. No, it's not correct.

24 Q. What's incorrect about it?

25 A. Well, there's a message in addition to a cover



1 sheet.

2 Q. Well, that piece of paper is the fax cover sheet,  
3 isn't it, and there may be a message on it but  
4 I'm just trying to get tos, froms and dates.

5 - - - -

6 (Thereupon, Plaintiff's Exhibit  
7 12, graphic, was marked for purposes of  
8 identification.)

9 - - - -

10 Q. Plaintiff's Exhibit 12, if you can just identify  
11 briefly what that is?

12 A. This is some of the graphics that I worked on  
13 with Mr. Papalardo that might be needed for, to  
14 clarify certain issues with the jury.

15 - - - -

16 (Thereupon, Plaintiff's Exhibit  
17 13, graphic was marked for purposes of  
18 identification.)

19 - - - -

20 Q. Plaintiff's Exhibit 13, I assume is the same?

21 A. Yeah. These are all, I guess I should have  
22 supplied you with some paperclips. These are all  
23 part of the same piece of work.

24 Q. This is paper-clipped together. I might want to  
25 keep it that way.



- - - -

(Thereupon, Plaintiff's Exhibit  
14, 10/19/01 Kravitz letter to Rispo was marked  
for purposes of identification.)

- - - -

Q. Okay. Plaintiff's Exhibit 14 is a letter dated  
October 19th, 2001 to Mr. Rispo from Dr. Kravitz,  
the letter with enclosures, it appeared to be  
one, two, three, four pages. Doctor, is that a  
correct statement?

A. Yes.

- - - -

(Thereupon, Plaintiff's Exhibit  
15, 11/17/01 Shumate letter to Kravitz was marked  
for purposes of identification.)

- - - -

Q. Okay. A letter dated October 17th, 2001 to you  
from Mary Lou Shumate, nurse paralegal. I think  
it's two pages.

A. Yes, your description is correct.

- - - -

(Thereupon, Plaintiff's Exhibit  
16, 1/3/02 Kravitz letter to Rispo was marked for  
purposes of identification.)

- - - -



1 Q. Plaintiff's Exhibit 16 dated January 3rd, 2002, a  
2 letter to Ron Rispo from Alan E. Kravitz,  
3 correct?

4 A. Yes. It's a copy of a letter.

5 - - - -

6 (Thereupon, Plaintiff's Exhibit  
7 17, 1/23/02 Papalardo letter to Kravitz was  
8 marked for purposes of identification.)

9 - - - -

10 Q. Plaintiff's Exhibit 17, a letter dated January  
11 23rd, 2002, to yourself from Ross Papalardo?

12 A. Yes.

13 Q. I think this is, doctor, I'm not going to mark  
14 that. That's a copy of a letter we just marked.

15 A. This is, you acknowledge that this is something  
16 you already have?

17 Q. Right.

18 A. Do you want it?

19 Q. No.

20 - - - -

21 (Thereupon, Plaintiff's Exhibit  
22 18, 9/4/01 Rispo letter to Kravitz was marked for  
23 purposes of identification.)

24 - - - -

25 Q. Okay. Plaintiff's Exhibit 18, a letter to Alan



1 Kravitz from Ron Rispo dated September 4th, 2001?

2 A. It's two pages, if it hasn't been indicated.

3 - - - -

4 (Thereupon, Plaintiff's Exhibit

5 19, 11/6/01 Rispo letter to Kravitz was marked  
6 for purposes of identification.)

7 - - - -

8 Q. Plaintiff's Exhibit 19 is a letter dated November  
9 6th, 2001 to Alan Kravitz from Ronald Rispo and  
10 attached to it is three pages of attachments?

11 A. Yes. Just for the record some of this is  
12 redundant regarding the graphics that were  
13 provided for this case.

14 - - - -

15 (Thereupon, Plaintiff's Exhibit

16 20, 11/8/01 Kravitz letter to Rispo was marked  
17 for purposes of identification.)

18 - - - -

19 Q. Okay. Plaintiff's Exhibit 20, a letter dated  
20 November 8th, 2001 to Mr. Rispo from Alan  
21 Kravitz?

22 A. It's not a letter. It's a copy of a letter.

23 Q. Well, doctor, you would have copies because  
24 Mr. Rispo would have the originals, right?

25 A. I'm describing what you gave me. It's a copy of



1 a letter. I don't know what Mr. Rispo has.

2 - - - -

3 (Thereupon, Plaintiff's Exhibit  
4 21, 12/15/01 Kravitz letter to Papalardo was  
5 marked for purposes of identification.)

6 - - - -

7 Q. Plaintiff's Exhibit 21, a copy of a letter to  
8 Ross Papalardo dated December 15th, 2001 from  
9 Alan E. Kravitz?

10 A. Yes, that's correct.

11 - - - -

12 (Thereupon, Plaintiff's Exhibit  
13 22, 10/19/01 Kravitz letter to Rispo was marked  
14 for purposes of identification.)

15 - - - -

16 Q. I think we've already marked this but,  
17 Plaintiff's Exhibit 22, a letter dated, a copy of  
18 a letter dated October 19th, 2001, to Ron Rispo  
19 from Alan Kravitz, the document has a two-page  
20 attachment to it?

21 A. This is a fax. Otherwise you've described it  
22 accurately.

23 Q. And you can take that, doctor, because that's  
24 just the same cover, I think.

25 - - - -



1 (Thereupon, Plaintiff's Exhibit  
2 25, 11/2/01 Kravitz letter to Rispo was marked  
3 for purposes of identification.)

4 - - - -

5 Q. 25 is --

6 A. Wait a second. Do you mind if I destroy this?

7 Q. That's fine.

8 Plaintiff's Exhibit 25, original letter dated  
9 November 2nd, 2001 from Alan E. Kravitz to Ron  
10 Rispo?

11 A. That's correct.

12 - - - -

13 (Thereupon, Plaintiff's Exhibit  
14 23, 11/2/01 Kravitz fax to Rispo was marked for  
15 purposes of identification.)

16 - - - -

17 Q. Plaintiff's Exhibit 23, facsimile cover sheet  
18 dated November 2nd, 2001 to Ron Rispo from Alan  
19 Kravitz with a message contained therein?

20 A. That's correct.

21 - - - -

22 (Thereupon, Plaintiff's Exhibit  
23 24, 10/16/01 Rispo letter to Kravitz was marked  
24 for purposes of identification.)

25 - - - -



1 Q. Plaintiff's Exhibit 24, original letter dated  
2 October 16th, 2001 to Alan Kravitz from Ron  
3 Rispo?

4 A. That's correct.

5

- - - -

6 (Thereupon, Plaintiff's Exhibit  
7 26, 9/19/01 Rispo letter to Kravitz with  
8 attachment was marked for purposes of  
9 identification.)

10

- - - -

11 Q. Exhibit 26, original cover letter dated September  
12 19th, 2001 to Alan Kravitz from Ron Rispo.  
13 Attached thereto is a Min-U-Script copy of the  
14 deposition of Dr. Kenneth Smithson?

15 A. That's correct.

16

- - - -

17 (Thereupon, Plaintiff's Exhibit  
18 27, Richardson Min-U-Script was marked for  
19 purposes of identification.)

20

- - - -

21 Q. Plaintiff's Exhibit 27 is a Min-U-Script copy of  
22 the deposition of Dr. William Richardson?

23 A. That's also correct.

24

- - - -

25 (Thereupon, Plaintiff's Exhibit



1           28, 9/21/01 Kravitz letter to Rispo was marked  
2           for purposes of identification.)

3                               - - - -

4       Q.   Plaintiff's Exhibit 28 is a copy of a letter  
5           dated September 21st, 2001 to Ron Rispo from Alan  
6           Kravitz?

7       A.   Correct.

8                               - - - -

9                               (Thereupon, Plaintiff's Exhibit  
10          29, 5/24/02 Kravitz letter to Rispo was marked  
11          for purposes of identification.)

12                              - - - -

13       Q.   Plaintiff's Exhibit 29 is a letter dated May 24,  
14           2002 to Alan Kravitz from Ron Rispo, do you have  
15           the documents that were with it?

16                              MR. CONWAY:   Yes.   Those are it  
17                              right there.

18                              - - - -

19                              (Thereupon, Plaintiff's Exhibit  
20          30, 9/8 file memo was marked for purposes of  
21          identification.)

22                              - - - -

23       Q.   Plaintiff's Exhibit 30 is a -- I don't know what  
24           it is.   It's a piece of paper that says memo to  
25           the file dated September 8th, Re:   Nancy



1 Armstrong versus Celerio; is that right?

2 Doctor, I'm assuming you authored that memo?

3 A. Yes.

4 - - - -

5 (Thereupon, Plaintiff's Exhibit  
6 31, 8/29/02 Kravitz letter to Pro-National was  
7 marked for purposes of identification.)

8 - - - -

9 Q. Plaintiff's Deposition Exhibit 31, a copy of a  
10 letter dated August 29, 2001 to Pro-National from  
11 Alan Kravitz, correct?

12 A. Correct.

13 - - - -

14 (Thereupon, Plaintiff's Exhibit  
15 32, 6/21/01 Kravitz report was marked for  
16 purposes of identification.)

17 - - - -

18 Q. Plaintiff's Exhibit 32, doctor, is a copy, I  
19 believe, of your June 21st report?

20 A. Yeah. With, so it's clear, with three or four  
21 lines written on it after the copy was made.

22 - - - -

23 (Thereupon, Plaintiff's Exhibit  
24 33, handwritten notes was marked for purposes of  
25 identification.)



1 - - - -

2 Q. Plaintiff's Exhibit 33, doctor, you're going to  
3 have to identify what it is. It looks like it's  
4 your handwriting but I don't know what the  
5 document is.

6 A. It's some notes that I took not recently  
7 regarding -- would you care -- how do you want me  
8 to read them?

9 Q. No. I just generally want to know what it is.

10 A. They're notes I took, I can't tell you what the  
11 date is, but it was not recent -- not recent.  
12 Probably late 2001.

13 Q. And they were notes regarding -- what were you  
14 reviewing at the time you were taking those  
15 notes?

16 A. It was the whole, this whole matter. Part of it  
17 relates to who cleared the patient for surgery.  
18 Part of it relates to Dr. Richardson's role.  
19 Part of it relates to amyloidosis and the meaning  
20 of monoclonal antibodies. Part of it relates to  
21 Dr. Celerio. Some more of the amyloid and what's  
22 returned, what's termed restrictive disease and  
23 sudden cardiac death and part of it is certain  
24 comments I made about the wet reading of the EKG.

25 - - - -



1 (Thereupon, Plaintiff's Exhibit  
2 34, 6/13/01 Shumate letter to Kravitz was marked  
3 for purposes of identification.)

4 - - - -

5 Q. Doctor, Plaintiff's Exhibit 34 is an original  
6 letter dated June 13th, 2001 from, to yourself,  
7 Alan Kravitz, from Ron Rispo?

8 A. Actually, it's not from Ron Rispo. It's from  
9 Mary Lou Shumate.

10 Q. Oh, who's not an attorney, she's the paralegal;  
11 is that correct?

12 A. That's my understanding. She's a nurse.

13 - - - -

14 (Thereupon, Plaintiff's Exhibit  
15 35, Complaint was marked for purposes of  
16 identification.)

17 - - - -

18 Q. Okay. Plaintiff's Exhibit 35 apparently is a  
19 photostatic copy of the lawsuit which was filed  
20 in this matter?

21 A. Yes.

22

23 (Thereupon, Plaintiff's Exhibit  
24 36, Bartulica Min-U-Script was marked for  
25 purposes of identification.)



1 - - - -

2 Q. Plaintiff's Exhibit 36, doctor, is a Min-U-Script  
3 of Dr. Paul Bartulica's deposition, correct?

4 A. Yes.

5 - - - -

6 (Thereupon, Plaintiff's Exhibit  
7 37, death certificate/coroner's report was marked  
8 for purposes of identification.)

9 - - - -

10 Q. Okay. Plaintiff's Exhibit 37 is a photostatic  
11 copy of the death certificate of Nancy Armstrong  
12 along with the coroner's report and verdict?

13 A. correct.

14 - - - -

15 (Thereupon, Plaintiff's Exhibit  
16 38, 1/15/01 Mendelsohn letter to Farchione was  
17 marked for purposes of identification.)

18 - - - -

19 Q. Plaintiff's Exhibit 38, a copy of a letter dated  
20 January 15 to Joe Farchione from Geoffrey  
21 Mendelsohn?

22 A. Correct.

23 - - - -

24 (Thereupon, Plaintiff's Exhibit  
25 39, Celerio Min-U-Script was marked for purposes



1 of identification.)

2 - - - -

3 Q. Plaintiff's Exhibit 39, Min-U-Script copy of the  
4 deposition testimony of Briccio Celerio?

5 A. Correct.

6 Q. Doctor, are you ACLS certified?

7 A. No.

8 Q. Have you ever been ACLS certified?

9 A. No.

10 Q. Can you comment upon the resuscitation that  
11 occurred in this case of Nancy Armstrong given  
12 that you lack that certification?

13 A. Yeah. I think it was, it was suitable  
14 resuscitation, however, the, had all the facts  
15 been known, resuscitation would have been  
16 unnecessary because it was doomed to failure.

17 Q. And had all the facts been known, the surgery  
18 wouldn't have occurred, would you be in agreement  
19 with that?

20 A. Pardon me?

21 Q. I said had all the facts been known, the surgery  
22 wouldn't have occurred and therefore no  
23 resuscitation would have been necessary. Would  
24 you agree with that?

25 A. No.



1 Q. Why not?

2 A. The issues that I've been asked to review and  
3 comment upon really have nothing to do with the  
4 surgery and I don't think the -- I don't think  
5 the surgery has anything to do with the  
6 plaintiff's case, at least with the death of the  
7 plaintiff.

8 Q. That wasn't the question I asked.

9 A. Well, that was the question you asked.

10 Q. Well, what I asked you was first of all had all  
11 the facts been known, this surgery would not have  
12 gone forward. Would you agree with that?

13 A. No. I think the surgery would have gone forward.

14 Q. If you were the cardiologist called in to consult  
15 on this patient, you would have cleared this  
16 patient for surgery on August 7th, 1999?

17 A. There was no cardiologist called in, number one.

18 Number two, there was a, there were certain  
19 medical facts that were never addressed including  
20 the nature of the patient's heart disease at  
21 catheterization and the monoclonal antibody issue  
22 and a couple of other issues.

23 I didn't see the patient at that time and  
24 based on the description of what I've read, I  
25 just can't comment what I would do or wouldn't do



1           had I seen the patient just before the surgery.

2       Q.   So if I understand you clearly, based on what  
3           you've just said, that you can't comment on what  
4           you would or wouldn't have done, you're going to  
5           render no testimony at this trial regarding  
6           whether or not she should have gone to surgery  
7           that day?

8       A.   I'm going to, I believe, and, Mr. Rispo, you  
9           correct me if I'm wrong, I believe that I'm only  
10          going to render testimony regarding internal  
11          medicine and cardiology issues and not about  
12          OB/GYN issues or anesthesia issues or other  
13          issues.

14      Q.   Well, let me ask it more simply since you're  
15          saying it medically and I want to say it legally.

16               Are you going to be testifying as to the  
17          appropriate standard of care in this case?

18      A.   For what?

19      Q.   For Dr. Celerio, first of all?

20      A.   No.

21      Q.   Dr. Bartulica?

22      A.   No.

23      Q.   Are you going to be opining at the trial of this  
24          lawsuit that any physician involved in the care  
25          and treatment of Nancy Armstrong up to the point



1 of her surgery on August 7th, 1999 deviated from  
2 the standard of care?

3 A. Based on the material that I have as of 5:00 May  
4 31st, 2002, no, unless I receive additional  
5 material or I review additional literature.

6 Q. Doctor, at this point in time, as you've just  
7 stated what the day and time is, I won't have to  
8 repeat it and waste more of my time and money,  
9 are you going to be rendering any criticisms  
10 against Dr. Richardson?

11 A. I'm not sure.

12 Q. Well, when will you be sure since this is  
13 supposed to be my discovery deposition before  
14 trial?

15 A. I understand that I'm under oath and you're not.  
16 My answer is I'm not sure. If you want to know  
17 when I'll be sure, I'll be sure before the trial  
18 and I'll let you know. I'll let you know through  
19 my, through Mr. Rispo.

20 Q. Your comments are so noted and we'll certainly  
21 bring them to the attention of the court.

22 - - - -

23 (Thereupon, Plaintiff's Exhibit  
24 40, 5/31/01 Smithson letter to Taylor-Kolis was  
25 marked for purposes of identification.)



1

- - - -

2

Q. Plaintiff's Exhibit 40 is a letter, a copy of a letter addressed to myself from Dr. Kenneth Smithson?

3

4

5

A. That's correct.

6

- - - -

7

(Thereupon, Plaintiff's Exhibit

8

41, 5/29/01 London letter to Kolis was marked for purposes of identification.)

9

10

- - - -

11

Q. Plaintiff's Exhibit 41 is a copy of a letter dated May 29, 2001 addressed to myself from Dr. Andrew London?

12

13

14

A. That's correct also.

15

- - - -

16

(Thereupon, Plaintiff's Exhibit

17

42, 10/4/01 Dublikar letter with Richardson's office chart was marked for purposes of identification.)

18

19

20

- - - -

21

Q. Plaintiff's Exhibit 42 is a letter, a copy of a letter addressed to myself, Mr. Farchione who's no longer on this case, and Mr. Rispo from Ralph Dublikar enclosing the office notes of Dr. Richardson?

22

23

24

25



1 A. That's correct.

2 - - - -

3 (Thereupon, Plaintiff's Exhibit  
4 43, 8/24/01 Burkons letter to Farchione was  
5 marked for purposes of identification.)

6 - - - -

7 Q. 43, a copy of a letter from David Burkons  
8 addressed to Joe Farchione dated August 24, 2001?

9 A. That's correct.

10 - - - -

11 (Thereupon, Plaintiff's Exhibit  
12 44, 8/26/01 Watts letter to Farchione was marked  
13 for purposes of identification.)

14 - - - -

15 Q. Plaintiff's Exhibit 44, a copy of a letter dated  
16 August 26th, 2001 to Joseph Farchione from  
17 Richard Watts and one last page, apparently they  
18 sent somebody a copy, they sent me a copy, but,  
19 whatever?

20 A. That's correct also.

21 Q. Doctor, I'm just going to note for the record  
22 that you have bound copies of the records of the  
23 following physicians and I'm not going to mark  
24 them: William Richardson. Paul Bartulica and  
25 Amherst Hospital. Let me just go through them



1 real quick because I don't think any of these  
2 have markings in them. That would be correct, so  
3 you can keep those. Pam does not have to copy  
4 these.

5 A. Excuse me, did you ask me if any of these had  
6 markings in them?

7 Q. I went through them and this set does not have  
8 markings in them.

9 However; now, I have a set of records,  
10 doctor, well, they're office notes from  
11 Dr. Richardson is one set, this may be nothing  
12 but Dr. Richardson. Let's see.

13 Could you identify that these are the records  
14 that you received from Dr. Richardson but somehow  
15 now they're indexed and tabbed with notes on the  
16 sides?

17 A. I'm sorry, your question was did I receive these  
18 from Dr. Richardson?

19 Q. No.

20 A. I'm sorry, would you --

21 Q. We've already marked and identified a set of  
22 records that came to you from Attorney Ralph  
23 Dublikar and now these would appear to be those  
24 same said records but now they're in an indexed  
25 fashion with tabs, is that right?



1 A. That's correct.

2 - - - -

3 (Thereupon, Plaintiff's Exhibit  
4 45, indexed Richardson records, was marked for  
5 purposes of identification.)

6 - - - -

7 Q. We're going to mark that Plaintiff's Exhibit 45  
8 and I think that's it.

9 Okay. Doctor, as we were identifying these  
10 documents, I asked you if you had a criticism of  
11 Dr. Richardson. It seems abundantly clear that  
12 you've had a lot of time to look at documents  
13 over the past year or so.

14 What is it that you don't know that you need  
15 to know to determine whether or not you'll be  
16 criticizing Dr. Richardson as deviating from the  
17 accepted standards of medical care?

18 A. I don't know how, I don't believe I know what  
19 Dr. Richardson did, if anything, to assess the  
20 presence of monoclonal antibodies. I don't know,  
21 I don't think I know for sure whether or not  
22 Dr. Richardson consulted either by phone or had  
23 Mrs. Armstrong go to a university center like  
24 Michigan or UH or The Cleveland Clinic or  
25 Columbus or someplace like that. Those are the



1 things I need to know.

2 I guess I really don't know what, I guess  
3 there are questions in my mind about this  
4 patient's, about what I just mentioned and about  
5 the patient's heart disease and that weren't  
6 answered. For example, everybody agrees, I  
7 think, that the patient had an abnormal EKG and  
8 everybody agrees that she had normal coronary  
9 arteries and restrictive heart disease.

10 It's very easy in retrospect to take that and  
11 the monoclonal antibodies and look up monoclonal  
12 antibodies in a general internal medicine  
13 textbook and get a list of as many items as are  
14 listed and evaluate the presence or absence of  
15 each of those things. I'm just not clear that he  
16 did it or didn't do it.

17 Those, I don't know, five issues that I  
18 raised.

19 Q. And whether he did or didn't do them, are you  
20 saying he had a duty to do them?

21 A. Do I think so?

22 Q. Yes.

23 A. Yes.

24 Q. But you've not written an opinion that appears in  
25 a letter prior to today that addresses those



1 issues, have you?

2 A. No.

3 Q. And when did you have your epiphany regarding  
4 these issues? Was that recently?

5 A. No.

6 Q. Or a long time ago?

7 A. No. A long time ago.

8 Q. Was there a reason you didn't commit them to  
9 writing or communicate them to Mr. Rispo in an  
10 effective manner so that he could have shared  
11 those concerns with the rest of counsel in this  
12 case?

13 A. I was just asked to comment on Dr. Celerio's,  
14 Mr. Rispo's client.

15 MS. TAYLOR-KOLIS: Mr. Rispo, I  
16 guess I need to inquire at this point so  
17 that I can file appropriate motions or  
18 whatever it is I need to do with the court,  
19 do you intend to have Dr. Kravitz testify  
20 that Dr. Richardson deviated from the  
21 standard of care?

22 MR. RISPO: Not at this time. If  
23 we're talking about a trial next week, the  
24 answer is no. However --

25 MS. TAYLOR-KOLIS: Then maybe



1 we'll go to trial next week.

2 MR. RISPO: However, if you're  
3 going to dismiss and refile, we'll reserve  
4 our rights to reconsider that at a later  
5 time. Kind of depends on who you bring  
6 back in on the second time around.

7 Q. Well, Dr. Celerio's not going anywhere.

8 You had indicated very early in your  
9 deposition a relationship with someone who golfed  
10 that introduced you to an adjuster.

11 Have you previously known any Pro-National  
12 adjusters?

13 A. No.

14 Q. Who's your current insurance carrier?

15 A. Clarindon.

16 Q. Let's go back to your expert report so we can get  
17 out of here in a reasonable amount of time.

18 Second paragraph of your report, doctor, you  
19 begin she, obviously referring to Nancy  
20 Armstrong, underwent gynecological surgery by  
21 Dr. Bartulica following clearance by her  
22 internist, Dr. Richardson.

23 Doctor, you do understand that it is disputed  
24 that Dr. Richardson cleared her for surgery?

25 A. My understanding is that Dr. Richardson had a



1 communication to Bartulica and that, clearing her  
2 for surgery and Dr. Bartulica spoke to  
3 Dr. Celerio and that understanding is from  
4 Mr. Rispo.

5 There is nothing that I could find in the  
6 Amherst Hospital records that could confirm that  
7 but that's the genesis of my, of what you just  
8 read.

9 Q. So your understanding is from Mr. Rispo?

10 A. Yes. I, after I read the records a couple times  
11 and was looking for certain materials, I couldn't  
12 find them and in a telephone discussion we, I was  
13 told that Dr. Richardson had spoken to  
14 Dr. Bartulica and Dr. Bartulica told Dr. Celerio  
15 that the patient had been cleared for surgery.

16 Q. Did you read Dr. Richardson's deposition?

17 A. I did.

18 Q. So as you sit here today, you're saying you read  
19 it but you're unacquainted with the fact that he  
20 claims that he did not clear her for surgery?

21 A. I told you my understanding of this. Okay? And  
22 what's in the deposition speaks for itself.

23 Q. Well, doctor, don't you think that in formulating  
24 expert opinions and then giving discovery  
25 depositions that you have an obligation to



1 independently find the evidence in a record or a  
2 deposition that would support the point of view  
3 that you're supporting, not to talk to the  
4 attorney and get the attorney's impression?

5 A. That was the only documentation that I could find  
6 apart from the, apart from the, Mr. --  
7 Dr. Richardson's deposition and I couldn't  
8 understand how anybody would go ahead with the,  
9 with any surgery in somebody that was even in  
10 very good health without having the individual,  
11 quote, cleared for surgery by an internist or a  
12 family practitioner.

13 Q. So what you were looking for was a letter from  
14 the internist or the family practitioner  
15 indicating to the surgeon that the patient had  
16 been cleared medically for surgery. Is that why  
17 you needed to call Mr. Rispo because you couldn't  
18 find that document?

19 A. I couldn't, I, you know, I told you under oath  
20 that I couldn't find any preoperative notes  
21 clearing Mrs. Armstrong for surgery and in a  
22 communication, in a verbal communication I had  
23 with Mr. Rispo, he indicated that the series of  
24 events was what I just mentioned.

25 Q. Okay. So, doctor, as a prudent physician who's



1        been involved in patients getting cleared for  
2        surgery, you were expecting to find some, as we  
3        call it, positive information or an indication  
4        from Dr. Richardson, either in writing either in  
5        his chart, Dr. Bartulica's chart or something at  
6        a minimum in the Amherst Hospital chart  
7        indicating she had been cleared for surgery by  
8        Dr. Richardson?

9                                MR. WILT:    Objection.    He's  
10                              already stated he's not going to comment on  
11                              standards of care.

12    A.    I specifically looked and I thought that if there  
13           were such a clearance, that the best place for it  
14           to be would be in the Amherst Hospital chart.

15    Q.    And you didn't find one in the Amherst Hospital  
16           chart, correct?

17    A.    No, I didn't, no.

18    Q.    In fact, doctor, I take it that you familiarized  
19           yourself with the PAT testing in this case?

20    A.    The laboratory testing, yeah.    I mean, I haven't  
21           committed it to memory but I'm familiar with PAT,  
22           with -- PAT testing, by the way, is not a correct  
23           statement.

24    Q.    Well, I call it PAT testing.    Preadmission  
25           testing?



1 A. Well, you're saying testing twice. Well, anyway,  
2 with that testing, yeah.

3 Q. And is it clear from your recollection, first of  
4 all, when have you most recently reviewed all of  
5 the documents that I've just labeled?

6 A. In toto maybe four to five months ago.

7 Q. In anticipation of today's deposition was there  
8 any material that you chose to focus on more  
9 carefully?

10 A. Yes. I looked at Dr. Richardson's office work  
11 product and his deposition and Dr. Mendelsohn's  
12 letter and the EKGs and the cardiology  
13 evaluation.

14 Q. Doctor, let me ask this question: You were  
15 retained to advocate, I suppose is a good word,  
16 or review and consult on behalf of Dr. Celerio,  
17 correct?

18 A. I really object to you saying advocate.

19 Q. Well, I'll withdraw that word. You --

20 A. Well, I just think it's absolutely inappropriate.  
21 I was retained to review certain medical records  
22 and generate a report.

23 Q. On behalf of Dr. Celerio, correct?

24 A. No. With respect to Dr. Celerio. Not on behalf  
25 of Dr. Celerio's counsel and Dr. Celerio's



1 insurance carrier.

2 Q. What has caused you to become so focused on  
3 Dr. Richardson and not what Dr. Celerio knew at  
4 the time?

5 A. Because Dr. Richardson's expertise and my  
6 expertise are more closely related than  
7 Dr. Celerio's expertise and my expertise and I  
8 thought the answer to this matter was in the  
9 preoperative workup over a period of years, not  
10 the specific preoperative clearance and that's  
11 why my focus was the way it was.

12 Q. Doctor, are you sitting here today saying there  
13 was insufficient information available in the  
14 Amherst Hospital chart that began being generated  
15 on August 5th, 1999 through the date of the  
16 surgery that wouldn't have alerted someone to the  
17 fact that Nancy Armstrong might have had a  
18 cardiac problem?

19 MR. RISPO: I don't know if I  
20 understand the question, but --

21 A. I think that the doctors knew that she had a  
22 cardiac problem. I don't think anybody knew  
23 exactly what it was. I think I previously said,  
24 maybe I'll say it another way, that the records  
25 from Amherst Hospital are inadequate and are, the



1 internal medicine/cardiology records are  
2 inadequate or absent and are not the usual way  
3 that, the usual sort of note that I would write  
4 to clear or not to clear a patient. I mean, I  
5 guess another way to say it is there are no  
6 records.

7 Q. You feel that Dr. Celerio should have been aware  
8 that she had cardiac issues based upon what was  
9 in the chart?

10 A. I believe, I am not familiar enough with exactly  
11 what's in the chart to make a comment other than  
12 I think that Dr. Celerio should have known that  
13 she had cardiac issues to the extent that  
14 everyone else knew it.

15 Q. Have you ever seen the chest films of Nancy  
16 Armstrong?

17 A. No.

18 Q. Have you asked to see the chest films?

19 A. No.

20 Q. Why wouldn't you want to see what the chest films  
21 looked like just before her surgery?

22 A. Because I am so convinced that the reason that  
23 Nancy Armstrong died had nothing to do with her  
24 chest films at all since I had known that her  
25 heart was enlarged and actually the actual weight



1 of her heart and since I know retrospectively  
2 that she had restrictive cardiac disease, normal  
3 coronary arteries, an abnormal EKG and monoclonal  
4 antibody.

5 Q. I guess I'm going to go to the end and then we'll  
6 go back and work on the middle.

7 Nancy Armstrong died on August 7th, 1999  
8 because she had underwent general anesthesia in  
9 the face of an unknown heart disease. Would you  
10 agree with that statement?

11 MR. RISPO: Objection. The  
12 question is a trick question that you have.

13 MS. TAYLOR-KOLIS: It's not a  
14 trick question, Mr. Rispo.

15 MR. RISPO: Yes, it is, Donna.  
16 You have not asked a question. You have  
17 made a statement and it is a double  
18 ambiguous statement to which I have every  
19 right to object for the record.

20 Q. Well, your objection is noted; but, doctor,  
21 attempt to answer the question.

22 MR. RISPO: And I will continue  
23 to object unless you break it down and make  
24 sense of it.

25 I had the same problem with you



1 and Tom on the same issue and I'll take the  
2 same stand as I did before.

3 MS. TAYLOR-KOLIS: No, we are  
4 having the same problem with you.

5 MR. RISPO: You're asking double  
6 questions.

7 MS. TAYLOR-KOLIS: We're not  
8 asking double questions.

9 MR. RISPO: Well, then, break it  
10 down. Try again.

11 MS. TAYLOR-KOLIS: Ron, I'd really  
12 appreciate you not telling me to try again.  
13 You know there is a prohibition against  
14 these kinds of speaking objections so we'll  
15 start with that. I'm asking the doctor if  
16 he can agree with me that the reason that  
17 Nancy Armstrong died on August 7th is that  
18 she underwent general anesthesia in the  
19 face of an unknown heart disease; that  
20 being her amyloidosis.

21 MR. RISPO: You're asking whether  
22 he can agree with the statement?

23 MS. TAYLOR-KOLIS: Yes, I'm asking  
24 him if he can agree with that statement.

25 A. No, I can't.



1 Q. Then why do you believe that she died on that  
2 operating table?

3 A. I believe that she died because the amount of  
4 amyloid tissue infiltrating her heart,  
5 infiltrated a portion of her conduction system,  
6 specifically the bundle of HIS causing sudden --  
7 and, as Dr. Hurst I believe says -- unexpected or  
8 expected in this disease, cardiac death. I don't  
9 think her death had anything to do with the  
10 anesthesia or the surgery. I think it would have  
11 happened if she were at home watching TV or  
12 sitting here at this deposition if we had it that  
13 day or that night. That's my answer to your  
14 question.

15 Q. So you think it's coincidental that Nancy  
16 Armstrong underwent the induction of general  
17 anesthesia and ten minutes into the surgery  
18 literally had cardiac arrest and didn't survive  
19 it?

20 A. I think she, I think she had a cardiac, I think  
21 that she had a cardiac arrest and died unrelated  
22 to anything but the infiltration of her  
23 interventricular septum and conduction system  
24 with amyloid tissue and that that is documented  
25 all over in the literature and that this sudden



1 death from amyloid heart disease is the natural  
2 history of the disease unless the patient first  
3 dies from congestive heart failure.

4 Q. This sudden death that you're referring to, are  
5 you referring to sudden death due to an  
6 arrhythmia?

7 A. An arrhythmia or a conduction system problem.

8 Q. Well, why don't you break it out for me how  
9 you're defining or differentiating those two  
10 things?

11 A. Well, I believe that Mrs. Armstrong, an  
12 arrhythmia is an abnormal rhythm. A conduction  
13 system problem, which I believe is more likely to  
14 have caused her death, is the infiltration of the  
15 conduction system, the specialized cardiac tissue  
16 in the ventricles that carry the heartbeat from  
17 the sinoatrial node, that carry the heartbeat  
18 that normally goes from the sinoatrial node to  
19 the AV node to the bundle of HIS and to the left  
20 bundle and the right bundle.

21 In this case, I believe that the sinoatrial  
22 node functioned appropriately and the AV node  
23 functioned appropriately but the specialized,  
24 quote, electrical conduction fibers did not  
25 because they were crushed by amyloid infiltrate.



1 Q. How do you know that, doctor, to a reasonable  
2 degree of medical probability?

3 A. There's, as I said previously, there is an  
4 abundance of medical literature that supports it.

5 Q. That's not my question.

6 My question is what is the physical evidence  
7 in the medical chart that supports your  
8 conclusion that that is what occurred?

9 A. As I said before, my conclusions were not, were  
10 based on medical literature but there is no  
11 evidence in the quote medical chart that she had  
12 amyloidosis. There is certainly an  
13 extraordinarily strong suggestion, as I said  
14 before, because she had some sort of heart  
15 disease with normal coronary arteries, heart  
16 disease which is said to be restrictive in  
17 nature. Her heart was enlarged to I believe it  
18 was 625 grams and the monoclonal antibody issue,  
19 to my knowledge, had not been addressed.

20 Q. In your report, you indicate the review of the  
21 autopsy performed by Geoffrey Mendelsohn, M.D.  
22 revealed amyloid heart disease, particularly of  
23 the inferior wall. This is consistent with the  
24 records generated by Dr. Richardson including the  
25 cardiac imaging studies.



1           Can you please tell me specifically which  
2           cardiac imaging studies you're referring to?

3   A.   Yeah.   I'm referring to the, I think it's  
4           persantine, the nuclear studies which showed a  
5           dead zone in the septum and that that is not an  
6           uncommon finding but it is usually associated  
7           with advanced coronary artery disease and not a  
8           person with normal coronary arteries, so there is  
9           some sort of heart disease, not coronary  
10          atherosclerosis that this woman had that had the  
11          features that I previously mentioned plus this  
12          issue with the monoclonal antibody, which I  
13          believe is very significant.

14   Q.   And explain to me the significance of that in  
15          your point of view.

16   A.   There are six adult people sitting in this room.  
17          Let's just say if there were 10 or 20, one might  
18          have a monoclonal antibody which is a spike in a  
19          plasma electrophoresis.

20               Sometimes that is just a normal finding. The  
21               only way to determine that it is a normal finding  
22               is to look up all the causes of monoclonal  
23               antibodies, one of which is amyloidosis.  
24               Actually it's the A, so if you go alphabetically,  
25               that might be the first one you'd look and there



1           are ways of determining in life whether this  
2           woman had amyloidosis or not and if she didn't,  
3           then you could look through the rest of the  
4           things and if you could --

5   Q.   Whose --

6   A.   Excuse me.

7   Q.   Sorry.

8   A.   -- if you couldn't find a reason, you would say  
9           to your patient you have monoclonal spike and  
10          we'll check you once a year and we'll do this  
11          plasma electrophoresis but we don't think you  
12          have any of the things that are, any of the bad  
13          entities that are associated with the monoclonal  
14          spikes.

15  Q.   When was the evidence of the monoclonal antibody  
16          found in the chart, under what circumstances?

17  A.   It was in Richardson's chart and I'm not sure  
18          what, where he --

19  Q.   Feel free to look because I know you have those  
20          nicely tabbed.

21  A.   Pardon me?

22  Q.   You have those tabbed in the black binder?

23  A.   Okay.  Oh, yeah, right here.

24               In my mind -- I'll tell you when he found it.

25               In my mind, if you do that test, if you ask



1 the question, then you have to deal with the  
2 answer and I'm not sure that that happened.

3 I don't believe that the, either  
4 contemporaneously or that the order that this  
5 happened -- I don't believe that the spike was  
6 found the day before the surgery or the week  
7 before the surgery. I believe it was found quite  
8 a bit --

9 Q. No. I'm asking you when it was found and under  
10 what circumstances.

11 A. Oh, okay. Well, as soon as I find it, I'll tell  
12 you. In looking at other tests. I haven't found  
13 the monoclonal antibody issue yet. I'm sorry, I  
14 have found it.

15 At least one time was March 24th, 1999. That  
16 was the electrophoresis and there was a  
17 suggestion that an Immunofix electrophoresis be  
18 done and my understanding is that it was done and  
19 that was done on, looks like 3/26/99.

20 Q. Under whose supervision or direction was that  
21 test performed?

22 A. That test was performed by a company in Salt Lake  
23 City called ARUP.

24 Q. For what physician?

25 A. There's no physician's name on the report; but



1           based on previous reports suggesting, and I'm  
2           just assuming that it was for Dr. Richardson.

3   Q.   I don't mean to get in your personal space but  
4           just to make this easier for myself --

5   A.   You can be wherever you want.

6   Q.   -- see this tab right here?   Can you tell me  
7           whose notes these are?   These are labs, right?

8   A.   Right.

9   Q.   Do you know why Dr. Richardson sent Nancy  
10          Armstrong to Dr. Cunningham?   First of all, do  
11          you know who Dr. James Cunningham is?

12   A.   No.   Unless he was the predecessor of  
13          Dr. Richardson in her care.

14   Q.   He is not.   I would ask that you take me at my  
15          word that he is an oncologist at Saint John's  
16          West Shore.

17                Did you in your review of Nancy's chart  
18          discover records from Dr. Cunningham?

19   A.   No.   The record that specifically suggests that  
20          the monoclonal antibody be sent out and refers to  
21          an abnormally high sed rate and doing an ANA and  
22          other tests like that, the physician name that's  
23          on the record is Dr. Richardson.

24   Q.   Correct, but my question is you've got his chart  
25          there and I thought on your side tab I saw that



1           you had sorted out the consult letters and  
2           reports from Dr. Cunningham. Are you saying  
3           today you don't recall doing that?

4   A. Wait a second. Is it your, are you making a  
5           statement that I prepared this chart in this  
6           fashion?

7   Q. I don't know who prepared it. That's, you had  
8           one set that wasn't prepared and one set that  
9           was.

10   A. Okay.

11   Q. Did you not index those records? Someone else  
12           did for you?

13   A. I did not index anything.

14   Q. Did you, however, since I'm sure you carefully  
15           went through Dr. Richardson's chart, find his  
16           consult letters and reports from Dr. Cunningham?

17   A. No.

18   Q. Can I see that, please? That document?

19   A. Sure.

20   Q. You see in the back where it's marked  
21           Dr. Cunningham excerpts? Do you see that? Have  
22           you ever looked at those?

23   A. I'm sure I looked at the whole record. I don't  
24           recall specifically reading this one page, no.

25   Q. So you don't know what Dr. Cunningham evaluated



1 in this patient?

2 A. Without reading this, no.

3 Q. Fair enough. And how long have you had those  
4 records?

5 A. About 10 or 11 months.

6 Q. And were you asked specifically, well,  
7 Mr. Rispo's office sent them to you, correct?

8 A. Yes.

9 Q. And I assume that you would have interpreted that  
10 the sending of those records would mean they want  
11 you to evaluate them, correct?

12 A. Yes.

13 Q. And as of today you have not evaluated the  
14 records of Dr. Cunningham contained in  
15 Dr. Richardson's chart?

16 A. I have not evaluated the one-page, 5/14/99 letter  
17 from Dr. Cunningham.

18 Q. Well, it's labeled on the side -- again, you  
19 didn't prepare it -- as a Dr. Cunningham excerpt,  
20 right?

21 A. It's labeled yes, it says Dr. Cunningham excerpt.

22 Q. Would that lead you to believe as a person that's  
23 done medical/legal evaluations that it is an  
24 excerpt only in that other records exist for  
25 Dr. Cunningham?



1 A. I don't know. I don't have an opinion.

2 Q. Fair enough.

3 Doctor, what are the signs that would lead  
4 you as a cardiologist to suspect that someone had  
5 amyloid heart disease?

6 A. To suspect, the presence of a monoclonal  
7 antibody, the presence of recurrent episodes of  
8 congestive heart failure with an enlarged heart,  
9 normal coronary arteries, an abnormal, as  
10 previously described, imaging test indicating a,  
11 quote, dead zone, a zone that was not active  
12 muscularly. That would put amyloid heart disease  
13 pretty high on my list.

14 Also the other, there actually were a bunch  
15 of other tests like a highly elevated sed rate  
16 and, that were not to my knowledge generated by  
17 Dr. Cunningham but were generated by  
18 Dr. Richardson. That would raise a suspicion.

19 Q. Let's just sort of break these out because I  
20 don't want to say you wear two hats but you are  
21 an internal medicine physician and you are a  
22 cardiologist.

23 In terms of basic information available, if  
24 you were doing a -- let's say you were called in  
25 to Nancy Armstrong's case on the morning of



1 August 7th, 1999. Okay?

2 A. Yes.

3 Q. You are aware there was an abnormal chest x-ray,  
4 correct?

5 A. I'm aware that the wet reading was said to be  
6 normal and that the, that the, the final reading  
7 was either a pulmonary infiltrate or congestive  
8 heart failure; but that the, my understanding is  
9 that the information that was communicated to the  
10 doctors was that a wet reading was a normal chest  
11 x-ray.

12 Q. Did you ever read the final read in this matter  
13 for the August 5th chest film?

14 A. Yes.

15 Q. Do you know what the final read says?

16 A. I believe it says that there's an infiltrate.

17 Q. Does it not also say there's cardiomegaly?

18 A. Well, I'm, we're assuming that 625 milligrams is  
19 cardiomegaly, so I'm just not going to repeat the  
20 things I think are black and white unless you ask  
21 me to.

22 Q. No, I'm not asking you to.

23 A. Okay.

24 Q. I'm asking you what was on the final read.

25 Obviously you --



1 A. Well, this woman's had cardiomegaly for three or  
2 four years and that's not something that  
3 generally goes away, so, yeah, I said, my  
4 recollection is that it said infiltrate and  
5 cardiomegaly.

6 Q. How do you know she's had cardiomegaly for three  
7 to four years?

8 A. Oh, I guess I go back to the initial testing  
9 which was '97, maybe before '97, '96. Go ahead,  
10 ask your next question.

11 Q. No, I'm still on my first one.

12 A. Okay.

13 Q. Tell me where you have seen a chest film result  
14 three to four years -- I'm always game to know if  
15 I've missed something.

16 Tell me where there's a chest film result  
17 three to four years prior to this time that says  
18 she has cardiomegaly.

19 A. Is that what you require? I know you're not a  
20 physician, or at least I don't think you are.

21 Do you understand that there are other ways  
22 to determine there's cardiomegaly other than a  
23 chest film?

24 Q. Sure, but I'm asking you first of all if there's  
25 a chest film.



1 A. Okay. That was not your initial question.

2 Q. Correct.

3 A. And, you know, maybe I could get some relief from  
4 these switch questions here.

5 MS. TAYLOR-KOLIS: Doctor, while  
6 you're looking for that, if the court  
7 reporter would record this, it's about 20  
8 of 6:00 and the doctor is looking through  
9 his documents, I'm going to take a step out  
10 in the hallway.

11 - - - -

12 (Thereupon, a recess was had.)

13 - - - -

14 Q. Still looking through your chart, doctor?

15 A. No. I can tell you, since you seem to be focused  
16 on the x-rays, that the, under the tab noted  
17 x-rays, there is not a single chest x-ray here.  
18 I'm looking for -- I guess the only thing that I  
19 can tell you is that amyloid heart disease is not  
20 like a motor vehicle accident. It's something  
21 that develops over a period of years and that a  
22 625 gram heart also is something that is not like  
23 a motor vehicle accident and occurs over a period  
24 of years, but I can't find, to be clear with you,  
25 I can't find in this report a single chest x-ray



1 or a single chest x-ray report under the tab  
2 labeled radiology.

3 I can find cardiac echos that show concentric  
4 hypertrophy and things of that nature.

5 Q. Okay. A couple things, doctor, quickly.

6 Have you been made aware of the testimony of  
7 Dr. Lyons and Dr. Brandon, two anesthesiologists  
8 who have been retained to testify on behalf of  
9 Dr. Celerio?

10 A. No.

11 Q. So you don't --

12 A. I'm unaware of their presence in this matter.

13 Q. So you don't know what their opinions are  
14 regarding the cause of death in Mrs. Armstrong;  
15 is that correct?

16 A. I don't know anything about what they've said or  
17 haven't said.

18 Q. And once again, doctor, prior to the issuance of  
19 your report on June 21st, 2001, you had all the  
20 material we've discussed and the ability to go  
21 through the medical textbooks before you wrote  
22 your opinion?

23 A. That's -- yes, that's correct.

24 Q. In other words I mean you wouldn't have written  
it and in that report you clearly state that



1           Mrs. Armstrong's age, in a patient of  
2           Mrs. Armstrong's age, estimated life expectancy  
3           is no more than three or four years absent the  
4           sudden cardiac death aspect, correct?

5       A.   Yes, ma'am.

6       Q.   And of course when you wrote that opinion, your  
7           three to four-year life expectancy was to a  
8           reasonable degree of medical probability,  
9           correct?

10      A.   Yes, when I wrote that opinion.

11      Q.   Okay. Doctor, you spend more than 50 percent of  
12           your professional time actively involved in  
13           medicine; is that correct?

14      A.   Ask the question again.

15      Q.   Sure. You qualify under the expert witness  
16           rules, I guess what I'm asking, you spend at  
17           least 50 percent of your time in the active  
18           practice of clinical medicine?

19      A.   Oh, I'm sorry. Yes. I'm sorry, I just didn't  
20           understand what you were saying.

21      Q.   Sorry.

22      A.   You said the right thing.

23      Q.   And you're licensed in the State of Ohio, I'm  
24           assuming?

25      A.   Yes.



1 Q. Your license is current?

2 A. Yes.

3 Q. And your current opinion as to Mrs. Armstrong's  
4 life expectancy minus a sudden cardiac death is a  
5 year-and-a-half to two years?

6 A. Yes, ma'am.

7 Q. And that opinion also, doctor, is to a reasonable  
8 degree of medical probability?

9 A. Yes, ma'am.

10 Q. Doctor, we're done.

11 A. Thank you.

12 - - - -

13 CROSS-EXAMINATION OF ALAN E. KRAVITZ, M.D.

14 BY MR. WILT:

15 Q. Doctor, a couple questions. I represent  
16 Dr. Bartulica. My name is Ron Wilt. We haven't  
17 met before.

18 In all of the opinions you've given today,  
19 just so we're clear, you are not in any way  
20 criticizing the care and treatment of my client,  
21 Dr. Bartulica, for Nancy Armstrong; is that  
22 correct?

23 A. Yes.

24 Q. And you did not review the pathology slides in  
25 this case?



1 A. No. I had the opportunity to review them,  
2 though.

3 Q. But you decided in your opinion Dr. Mendelsohn  
4 was, had far more expertise to render opinions  
5 regarding what those pathology slides show?

6 A. Yes, and I had a very long experience of working  
7 with him. I mean, I knew of his capabilities  
8 personally.

9 MR. WILT: That's all I have.  
10 Thank you, doctor.

11 MS. TAYLOR-KOLIS: Before we go  
12 off the record, let the record reflect that  
13 it is ten minutes to 6:00. Pursuant to the  
14 courts order and agreement, I would expect  
15 that Dr. Kravitz would refund to be \$400 in  
16 prompt fashion.

17 THE WITNESS: I'll read it.

18

19

20

---

ALAN E. KRAVITZ, M.D.

21

22

23

24

25



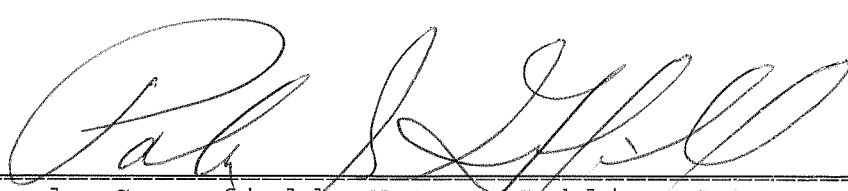
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C E R T I F I C A T E

The State of Ohio, ) SS:  
County of Cuyahoga.)

I, Pamela S. Greenfield, a Notary Public within and for the State of Ohio, authorized to administer oaths and to take and certify depositions, do hereby certify that the above-named witness was by me, before the giving of their 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 this is a true record of the testimony given by the witness; that said deposition was taken at the aforementioned time, date and place, pursuant to notice or stipulation of counsel; and that I am not a relative or employee or attorney of any of the parties, or a relative or employee of such attorney, or financially interested in this action; that I am not, nor is the court reporting firm with which I am affiliated, under a contract as defined in Civil Rule 28(D).

IN WITNESS WHEREOF, I have hereunto set my hand and seal of office, at Cleveland, Ohio, this 10th day of June A.D. 20 02.

  
\_\_\_\_\_  
Pamela Greenfield, Notary Public, State of Ohio  
1750 Midland Building, Cleveland, Ohio 44115  
My commission expires June 30, 2003



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attorneys 11:17 August 42:10; 47:16; 49:1; 51:8, 16; 61:15; 63:7; 64:17; 75:1, 13 author 30:23 authored 17:24; 42:2 autopsy 19:1; 67:21 AV 66:19, 22 avail 25:24 available 19:7; 21:16, 22; 22:12; 61:13; 74:23 aware 16:15; 22:25; 24:12; 27:5, 12, 15; 62:7; 75:3, 5; 78:6 away 76:3	20 Burkons 51:4, 7 business 7:10, 12, 13; 11:24	centers 25:25 certain 7:23; 17:20; 18:4; 6; 29:18; 34:14; 43:23; 47:18; 57:11; 60:21 certainly 17:15; 49:20; 67:12 certificate 45:11 certificate/coroner's 45:7 certification 46:12 certified 7:5; 11:19, 21, 22; 46:6, 8 change 25:17; 26:20 changed 24:6; 25:4; 26:19 chart 50:18; 59:5, 5, 6, 14, 16; 61:14; 62:9, 11; 67:7, 11; 69:16, 17; 71:17, 24; 72:5, 15; 73:15; 77:14 check 69:10 chest 62:15, 18, 20, 24; 75:3, 10, 13; 76:13, 16, 23, 25; 77:17, 25; 78:1 chose 60:8 circumstances 69:16; 70:10 City 70:23 Civil 7:4 claims 57:20 clarify 34:14 Clarindon 56:15 clear 11:9; 15:3; 16:25; 17:7; 23:23; 42:20; 53:11; 54:15; 57:20; 60:3; 62:4, 4; 77:24; 80:19 clearance 56:21; 59:13; 61:10 cleared 43:17; 47:15; 56:24; 57:15; 58:11, 16; 59:1, 7 clearing 57:1; 58:21 clearly 48:2; 78:25 Cleveland 26:11; 53:24 client 55:14; 80:20 Clinic 26:5, 11; 53:24 clinical 79:18 closely 61:6 coincidental 65:15 colds 13:19 colleague 15:17 colleagues 8:24 colloquy 13:15 color 28:15 Columbia 26:8 Columbus 53:25 combination 25:7 comfortable 20:22 commenced 23:21, 23 comment 46:10; 47:3, 25; 48:3; 55:13; 59:10; 52:11 comments 43:24; 49:20 commit 55:8	committed 59:21 communicate 26:23; 55:9 communicated 26:25; 75:9 communicating 10:13 communication 31:25; 57:1; 58:22, 22 communications 27:15 company 10:12; 70:22 complaint 18:22; 44:15 complaints 13:19 complete 15:22 concentric 78:3 concerns 55:11 conclusion 67:8 conclusions 20:19; 67:9 conduction 65:5, 23; 66:7, 12, 15, 24 confirm 20:12; 22:17; 57:6 congestive 66:3; 74:8; 75:7 consider 12:23; 19:14, 18 considering 20:16, 24 consistent 67:23 consult 15:15; 47:14; 60:16; 72:1, 16 consultant 7:24 consulted 53:22 contacted 15:14 contained 20:12; 39:19; 73:14 contemporaneously 70:4 Content 32:1 continue 63:22 convinced 62:22 Conway 7:18; 16:10; 18:19; 24:15; 41:16 copies 37:23; 51:22 copy 18:22; 27:17, 20, 23; 28:3; 31:14; 36:4, 14; 37:22, 25; 38:7, 17; 40:13, 21; 41:4; 42:9, 18, 21; 44:19; 45:11, 19; 46:3; 50:2, 11, 21; 51:7, 15, 18, 18; 52:3 Cornell 23:11, 15 coronary 54:8; 63:3; 57:15; 68:7, 8, 9; 74:9 coroner's 19:2; 45:12 correctly 28:15; 30:22; 32:16 correspondence 30:20 counsel 55:11; 60:25 country 26:1 couple 47:22; 57:10; 78:5; 80:15 course 11:23; 18:7; 79:6 court 17:1, 3, 5; 24:20; 28:2; 49:21; 55:18; 77:6 courts 81:14	cover 33:20, 25; 34:2; 38:24; 39:17; 40:11 criticism 53:10 criticisms 49:9 criticizing 53:16; 80:20 cross-examination 7:3, 7; 80:13 crushed 66:25 Cunningham 71:10, 11, 18; 72:2, 16, 21, 25; 73:14, 17, 19, 21, 25; 74:17 current 56:14; 80:1, 3 currently 14:4 custom 22:16 CV 9:13; 15:5
<b>B</b>	<b>C</b>		<b>D</b>	
B-R-A-U-N-W-A-L-D 21:13 back 56:6, 16; 63:6; 72:20; 76:8 bad 69:12 Bartulica 18:23, 25; 44:24; 48:21; 51:24; 56:21; 57:1, 2, 14, 14; 80:16, 21 Bartulica's 45:3; 59:5 based 17:16; 19:18; 47:24; 48:2; 49:3; 62:8; 67:10; 71:1 basic 74:23 became 9:12 become 61:2 becoming 22:19 began 9:23; 10:6; 61:14 begin 11:6; 17:10, 13, 18; 18:5; 56:19 beginning 18:5 behalf 8:10; 9:9, 11; 60:16, 23, 24; 78:8 best 8:5; 24:2; 59:13 binder 69:22 bit 8:13, 15; 12:1, 4; 24:13; 70:8 black 69:22; 75:20 board 11:19, 21, 22 bound 51:22 brain 29:20 Brandon 78:7 Braunwald 21:12; 22:11; 25:9, 22, 23 Braunwald's 21:11, 16, 20 break 12:9; 63:23; 64:9; 66:8; 74:19 breakdown 12:17 Briccio 46:4 brief 25:1 briefly 7:16; 30:5; 34:11 bring 49:21; 56:5 bunch 74:14 bundle 65:6; 66:19, 20,	C-A-D 29:15 call 10:16; 20:3; 58:17; 59:3, 24 called 7:2; 47:14, 17; 70:23; 74:24 came 9:23; 11:6; 52:22 can 10:22; 14:2; 15:3; 24:23; 25:16; 32:23; 34:10; 38:23; 46:10; 52:3; 55:17; 56:16; 64:16, 22, 24; 68:1; 71:5, 6; 72:18; 77:15, 19; 78:3 candor 25:16, 18 capabilities 81:7 cardiac 12:7; 22:21, 22, 24; 23:9, 19; 24:6, 10; 25:15; 26:2; 43:23; 61:18, 22; 62:8, 13; 63:2; 65:8, 18, 20, 21; 66:15; 67:25; 68:2; 78:3; 79:4; 80:4 cardiologist 12:19; 13:2; 47:14, 17; 74:4, 22 cardiology 11:22; 12:2, 10, 14, 14; 13:24; 15:1, 3; 19:15; 48:11; 60:12 cardiomegaly 75:17, 19; 76:1, 5, 6, 18, 22 care 23:7; 29:9; 43:7; 48:17, 24; 49:2; 53:17; 55:21; 59:11; 71:13; 80:20 career 14:10, 13; 23:21, 24 carefully 60:9; 72:14 Carpal 29:17 carrier 10:1; 56:14; 61:1 carry 66:16, 17 case 7:22; 8:22; 11:13; 14:17, 22; 22:17, 20; 23:12; 29:4; 37:13; 46:11; 47:6; 48:17; 50:23; 55:12; 59:19; 66:21; 74:25; 80:25 cases 10:4, 13, 20, 22; 11:3 catalog 18:15 Cath 29:18 catheterization 47:21 cause 78:14 caused 61:2; 66:14 causes 68:22 causing 65:6 Cedar 7:14 Celerio 19:1; 42:1; 43:21; 45:25; 46:4; 48:19; 57:3, 14; 60:16, 23, 24; 61:3; 52:7, 12; 78:9 Celerio's 55:13; 56:7; 50:25, 25; 61:7 center 53:23		date 30:22; 33:13; 43:11; 61:15 dated 16:2; 17:25; 30:20; 31:6, 16, 25; 32:15; 33:10, 21; 35:6, 17; 36:1, 10; 37:1, 8, 19; 38:8, 17, 18; 39:8, 18; 40:1, 11; 41:5, 13, 25; 42:10; 44:6; 45:19; 50:12; 51:8, 15 dates 34:4 David 51:7 day 48:7; 49:7; 65:13; 70:6 dead 68:5; 74:11 deal 24:13; 70:1 death 25:15; 43:23; 45:7, 11; 47:6; 65:8, 9; 66:1, 4, 5, 14; 78:14; 79:4; 80:4 December 38:8 decide 13:10 decided 20:17; 81:3 defendant 10:4 defining 66:9 definitive 20:19 degree 19:20; 67:2; 79:8; 80:8 depends 56:5 deposed 7:5 deposition 8:21; 13:7, 13; 17:8; 18:25; 19:1; 22:6; 40:14, 22; 42:9; 45:3; 46:4; 49:13; 56:9; 57:16, 22; 58:2, 7; 60:7, 11; 65:12 depositions 7:25; 10:8; 30:12; 57:25 described 38:21; 74:10 describing 37:25 description 35:20; 47:24 destroy 39:6 determine 20:7; 53:15; 58:21; 76:22 determined 25:9 determining 69:1 develops 77:21 deviated 49:1; 55:20	



deviating 53:16 diagnose 19:16 diagnosed 24:5 diagnosis 29:16 died 62:23; 63:7; 64:17; 65:1, 3, 21 dies 66:3 differentiating 66:9 directed 13:16 direction 70:20 discover 71:18 discovered 10:15 discovery 49:13; 57:24 discussed 78:20 discussion 32:2; 57:12 Disease 21:11, 16; 22:21; 23:19; 29:16; 43:22; 47:20; 54:5, 9; 63:2, 9; 64:19; 65:8; 66:1, 2; 67:15, 16, 22; 68:7, 9; 74:5, 12; 77:19 dismiss 56:3 dismissed 14:19 disputed 56:23 Doctor 7:9, 16; 8:2, 5; 9:5, 12, 19; 11:15, 19; 13:3; 15:14; 16:3, 24; 17:18, 22; 18:19; 19:14; 20:1, 5; 22:9, 20; 24:2, 21; 25:16; 26:13, 16; 27:5; 32:24; 33:13; 35:9; 36:13; 37:23; 38:23; 42:2, 18; 43:2; 44:5; 45:2; 46:6; 49:6; 51:21; 52:10; 53:9; 56:18, 23; 57:23; 58:25; 59:18; 60:14; 61:12; 63:20; 64:15; 67:1; 74:3; 77:5, 8, 14; 78:5, 18; 79:11; 80:7, 10, 15; 81:10 doctors 10:5; 21:17; 61:21; 75:10 document 28:16; 30:18; 38:19; 43:5; 58:18; 72:18 documentation 58:5 documented 65:24 documents 17:21, 22; 18:1, 6, 21; 19:6, 8; 24:16; 28:1; 41:15; 53:10, 12; 60:5; 77:9 done 9:17; 10:17, 20; 11:10; 13:15; 21:18; 48:4; 70:18, 18, 19; 73:23; 80:10 Donna 7:18; 63:15 doomed 46:16 double 63:17; 64:5, 8 down 12:9; 28:18; 29:23; 63:23; 64:10 Dr 14:24; 18:3, 22, 23, 25; 19:1, 3, 4, 5; 20:13, 21; 28:12; 29:8; 33:21; 35:7; 40:14, 22; 43:18, 21; 45:3; 48:19, 21; 49:10; 50:3, 13, 25; 52:11, 12, 14, 18; 53:11, 16, 19, 22; 55:13, 19, 20; 56:7, 21, 22, 24, 25; 57:2, 3, 13, 14, 14, 14, 16; 58:7; 59:4, 5, 8; 60:10,	11, 16, 23, 24, 25, 25; 61:3, 3, 5, 7; 62:7, 12; 65:7; 67:24; 71:2, 9, 10, 11, 13, 18, 23; 72:2, 15, 16, 21, 25; 73:14, 15, 17, 19, 21, 25; 74:17, 18; 78:7, 7, 9; 80:16, 21; 81:3, 15 dragging 11:14 dropped 14:18 Dublikar 50:17, 24; 52:23 due 66:5 duly 7:4 during 14:10; 23:10, 14, 20 duty 54:20	events 58:24 everybody 12:11; 54:6, 8 everyone 62:14 evidence 58:1; 67:6, 11; 69:15 evidently 30:4 exactly 61:23; 62:10 example 54:6 exception 11:13 excerpt 73:19, 21, 24 excerpts 72:21 exclude 13:24 exclusively 12:6 excuse 19:20; 52:5; 69:6 exercise 29:5; 33:3, 12 Exhibit 28:5, 7, 11, 21, 25; 29:25; 30:4, 14, 19; 31:1, 5, 10, 14, 17, 17, 20, 24; 32:10, 14, 19, 23; 33:5, 9, 16, 20; 34:6, 10, 16, 20; 35:2, 6, 13, 22; 36:1, 6, 10, 21, 25; 37:4, 8, 15, 19; 38:3, 7, 12, 17; 39:1, 8, 13, 17, 22; 40:1, 6, 11, 17, 21, 25; 41:4, 9, 13, 19, 23; 42:5, 9, 14, 18, 23; 43:2; 44:1, 5, 14, 18, 23; 45:2, 6, 10, 15, 19, 24; 46:3; 49:23; 50:2, 7, 11, 16, 21; 51:3, 11, 15; 53:3, 7 exist 73:24 expect 81:14 expectancy 25:11, 12, 13; 26:14; 27:9; 79:2, 7; 80:4 expected 65:8 expecting 59:2 experience 81:6 expert 11:16; 19:3, 4; 20:24, 25; 56:16; 57:24; 79:15 expertise 12:14; 61:5, 6, 7, 7; 81:4 explain 68:14 exposure 23:18 extent 62:13 extraordinarily 67:13	58:12, 14 far 81:4 Farchione 45:16, 20; 50:22; 51:4, 8, 12, 16 fashion 52:25; 72:6; 81:16 Fastin 29:13 fault 17:11, 13 fax 31:11, 14, 15, 18, 21, 24; 32:11; 33:6, 11, 17; 34:2; 38:21; 39:14 features 68:11 fee 17:15; 30:8 feel 20:22, 23; 62:7; 69:19 fellowship 23:14, 20 fevers 13:19 fibers 66:24 fifth 21:14 file 15:20, 22; 21:9; 22:3; 24:14; 25:3; 27:23; 41:20, 25; 55:17 filed 44:19 film 75:13; 76:13, 16, 23, 25 films 62:15, 18, 20, 24 final 75:6, 12, 15, 24 find 25:3; 27:2; 57:5, 12; 58:1, 5, 18, 20; 59:2, 15; 69:8; 70:11; 72:15; 77:24, 25; 78:3 finding 68:6, 20, 21 findings 20:13 fine 13:9; 39:7 finish 21:15 firm 11:8; 17:5 first 7:4; 9:19; 23:2; 24:13, 14; 25:6; 47:10; 48:19; 60:3; 66:2; 68:25; 71:10; 76:11, 24 five 11:1; 54:17; 60:6 Five-year 27:8 floor 28:19 flus 13:19 focus 60:8; 61:11 focused 61:2; 77:15 following 22:5; 51:23; 56:21 follows 7:6 formulating 57:23 forward 47:12, 13 forwarded 17:23; 18:2 found 69:16, 24; 70:6, 7, 9, 12, 14 Foundation 26:11 'our 11:12; 27:8; 30:21; 35:9; 42:20; 60:6; 76:2, 7, 14, 17; 79:3 'our-year 79:7 'ourth 25:10 'rame 27:6 'ree 69:19 'requency 8:9, 12, 16; 's:19	frequently 10:8 froms 34:4 front 18:2, 12 frontal 29:20 function 29:19 functioned 66:22, 23
<b>G</b>				
game 76:14 gather 15:21, 24 gave 16:8, 19; 37:25 general 13:19, 21; 15:19; 54:12; 63:8; 64:18; 65:16 generally 43:9; 76:3 generate 60:22 generated 61:14; 67:24; 74:16, 17 genesis 57:7 Geoffrey 45:20; 67:21 given 10:8; 46:11; 80:18 giving 57:24 glad 10:22; 16:6; 18:12 global 30:8 goes 66:18; 76:3 golfed 56:9 golfing 9:25 good 58:10; 60:15 gram 77:22 grams 67:18 graphic 34:7, 17 graphics 34:12; 37:12 guess 13:7; 14:20; 24:17; 28:5; 34:21; 54:2, 2; 55:16; 62:5; 63:5; 76:8; 77:18; 79:16 gynecological 56:20				
<b>H</b>				
hallway 77:10 handling 13:17 handwriting 29:2; 43:4 handwritten 28:22; 32:20; 42:24 happened 65:11; 70:2, 5 hard 8:14 hats 74:20 heading 29:7 health 58:10 hearing 8:14 Heart 21:10, 11, 16; 23:8; 25:21; 47:20; 54:5, 9; 52:25; 63:1, 9; 64:19; 65:4; 56:1, 3; 67:14, 15, 17, 22; 58:9; 74:5, 8, 8, 12; 75:8; 77:19, 22 heartbeat 66:16, 17 helpful 17:1 Here's 16:18 hereinafter 7:5				
<b>E</b>				
E 7:1, 7, 13; 15:6; 36:2; 38:9; 39:9; 80:13; 81:20 early 56:8 easier 71:4 easy 54:10 echo 29:16, 18 echos 78:3 edition 21:14, 21, 22 editions 21:10; 22:11 effective 55:10 either 29:3; 53:22; 59:4, 4; 70:3; 75:7 EKG 43:24; 54:7; 63:3 EKGs 60:12 electrical 66:24 electrophoresis 68:19; 69:11; 70:16, 17 elevated 74:15 else 12:12; 62:14; 72:11 Emery 23:11, 15 enclosing 50:24 enclosures 35:8 end 63:5 endocrinology 13:25 enlarged 62:25; 67:17; 74:8 enough 8:2; 62:10; 73:3; 74:2 entered 27:7 entirely 13:3 entities 69:13 entity 22:25 Enumerate 18:14 epiphany 55:3 episodes 74:7 estate 7:19 estimated 79:2 evaluate 54:14; 73:11 evaluated 72:25; 73:13, 16 evaluation 60:13 evaluations 73:23 even 58:9 event 17:18				
<b>F</b>				
F-A-S-T-I-N 29:13 face 28:18; 63:9; 64:19 facsimile 32:14; 33:20; 39:17 fact 13:14; 17:8; 21:8; 57:19; 59:18; 61:17 facts 46:14, 17, 21; 47:11, 19 failure 46:16; 66:3; 74:8; 75:8 Fair 8:2; 73:3; 74:2 familiar 59:21; 62:10 'amiliarized 59:18 'amily 12:23; 13:18;				



high 71:21; 74:13  
highly 74:15  
Hillcrest 14:5  
history 66:2  
holding 16:11  
home 65:11  
hospital 10:4; 12:3; 14:9;  
10:18;24; 51:25; 57:6;  
59:6, 14, 15; 61:14, 25  
hospitals 14:7  
hostile 13:4, 5  
hour 17:3, 4, 9  
hourly 32:3  
Hurd 9:5  
Hurst 21:10; 22:11; 25:8,  
21, 23; 65:7  
hypertrophy 78:4

**I**

idea 10:8, 10  
identification 7:17; 28:9,  
23; 30:2, 16; 31:3, 12, 22;  
32:12, 21; 33:7, 18; 34:8,  
18; 35:4, 15, 24; 36:8, 23;  
37:6, 17; 38:5, 14; 39:3,  
15, 24; 40:9, 19; 41:2, 11,  
21; 42:7, 16, 25; 44:3, 16,  
25; 45:8, 17; 46:1; 49:25;  
50:9, 19; 51:5, 13; 53:5  
identified 52:21  
identify 29:1; 32:24;  
34:10; 43:3; 52:13  
identifying 28:16; 30:22,  
53:9  
imaging 67:25; 68:2;  
74:10  
immediately 22:5  
Immunofix 70:17  
important 26:16  
impression 58:4  
inadequate 61:25; 62:2  
inappropriate 60:20  
Inc 15:6  
including 47:19; 67:24  
incorrect 25:11; 33:24  
independently 58:1  
index 72:11, 13  
indexed 52:15, 24; 53:4  
indicate 67:20  
indicated 19:10; 20:8;  
21:2; 37:2; 56:8; 58:23  
indicates 15:5  
indicating 12:6; 30:7;  
58:15; 59:7; 74:10  
indication 59:3  
individual 58:10  
induction 65:16  
inferior 67:23  
infiltrate 66:25; 75:7, 16;  
76:4  
infiltrated 23:8; 65:5  
infiltrating 65:4

infiltration 65:22; 66:14  
information 20:12; 59:3;  
61:13; 74:23; 75:9  
initial 76:8; 77:1  
initially 15:14  
inpatient 12:3  
inquire 16:3; 25:16;  
55:16  
inquiries 13:20  
inquiry 30:11  
insufficient 61:13  
insurance 10:12; 56:14;  
61:1  
insured 10:4  
intend 55:19  
interesting 23:12  
internal 11:21; 12:2, 5, 9,  
13, 20; 13:17, 22, 23;  
19:19; 48:10; 54:12; 62:1;  
74:21  
Internet 10:15; 25:25  
internist 13:1; 29:9;  
56:22; 58:11, 14  
interpret 19:16; 29:15  
interpretation 20:23  
interpreted 73:9  
interruption 19:23  
interventricular 65:23  
into 23:24; 27:7; 29:11;  
65:17  
introduced 7:16; 56:10  
involved 10:12; 20:16;  
22:19; 23:7; 48:24; 59:1;  
79:12  
involving 25:21  
irrespective 17:7  
issuance 78:18  
issue 13:16; 47:21; 64:1;  
67:18; 68:12; 70:13  
issues 12:21; 13:18;  
23:9, 19; 34:14; 47:2, 22;  
48:11, 12, 12, 13; 54:17;  
55:1, 4; 62:8, 13  
items 54:13

**J**

James 71:11  
January 21:22; 26:21;  
36:1, 10; 45:20  
Joe 45:20; 51:8  
John's 71:15  
Joseph 51:16  
Judge 32:2  
juncture 26:18  
June 16:3; 17:25; 18:17;  
19:9; 24:22; 25:10; 27:18;  
42:19; 44:6; 78:19  
jury 34:14

**K**

keep 34:25; 52:3  
Kenneth 40:14; 50:3  
Kind 56:5  
kinds 64:14  
knew 61:3, 21, 22; 62:14;  
81:7  
knowing 18:9  
knowledge 9:4, 6; 11:11;  
16:16, 22; 67:19; 74:16  
known 20:21; 46:15, 17,  
21; 47:11; 56:11; 62:12, 24  
Kolts 7:18; 50:8  
KRAVITZ 7:1, 7, 13;  
14:24; 15:6; 28:8, 12; 30:1,  
15; 31:2, 11, 21; 32:11;  
33:6, 17, 21; 35:3, 7, 14,  
23; 36:2, 7, 22; 37:1, 5, 9,  
16, 21; 38:4, 9, 13, 19;  
39:2, 9, 14, 19, 23; 40:2, 7,  
12; 41:1, 6, 10, 14; 42:6,  
11, 15; 44:2, 7; 55:19;  
80:13; 81:15, 20

**L**

labeled 60:5; 73:18, 21;  
78:2  
laboratory 59:20  
labs 71:7  
lack 46:12  
Lake 70:22  
lap 18:11  
last 8:18, 20; 11:12;  
26:15; 29:3, 21; 33:2;  
51:17  
late 17:12; 43:12  
later 26:21; 27:11; 56:4  
law 11:8  
lawful 7:1  
lawsuit 44:19; 48:24  
lead 73:22; 74:3  
least 10:11; 11:18; 17:19;  
47:6; 70:15; 76:20; 79:17  
left 66:19  
legally 48:15  
lesion 29:21  
letter 18:18; 27:14, 18;  
28:8, 12; 29:14; 30:1, 4, 6,  
7, 15, 18, 23; 31:2, 5, 7, 15;  
35:3, 6, 8, 14, 17, 23; 36:2,  
1, 7, 10, 14, 22, 25; 37:5, 8,  
16, 19, 22, 22; 38:1, 4, 7,  
13, 17, 18; 39:2, 8, 23;  
40:1, 7, 11; 41:1, 4, 10, 13;  
42:6, 10; 44:2, 6; 45:16,  
19; 49:24; 50:2, 3, 8, 11,  
17, 21, 22; 51:4, 7, 12, 15;  
54:25; 58:13; 60:12; 73:16  
letters 29:15; 72:1, 16  
library 22:1  
license 80:1

licensed 79:23  
life 25:11, 12, 13; 26:14;  
27:8; 69:1; 79:2, 7; 80:4  
likely 66:13  
lines 42:21  
list 54:13; 74:13  
listed 11:15; 54:14  
listen 10:23  
literally 65:18  
literature 21:3, 7, 24;  
22:9, 15; 24:3; 49:5; 65:25;  
67:4, 10  
Litigation 28:13  
little 8:13, 15; 12:1, 3;  
15:3; 24:13  
lobe 29:20  
London 19:4; 50:8, 13  
long 30:21; 55:6, 7; 73:3;  
81:6  
longer 50:23  
look 16:6, 21; 19:15; 20:6;  
21:25; 24:18; 53:12;  
54:11; 68:22, 25; 69:3, 19  
looked 21:20; 25:24;  
26:4, 7, 10; 59:12; 60:10;  
62:21; 72:22, 23  
looking 8:3; 20:11, 16;  
57:11; 58:13; 70:12; 77:6,  
8, 14, 18  
looks 43:3; 70:19  
lot 12:14; 53:12  
Lou 35:18; 44:9  
LS 29:22  
lumbo 29:22  
LV 29:19  
lying 18:2  
Lyndhurst 7:14  
Lyons 78:7

**M**

M.D 7:1, 7; 15:6; 67:21;  
80:13; 81:20  
ma'am 15:23; 79:5; 80:6,  
9  
major 9:25  
making 72:4  
malpractice 8:21; 11:3  
nanner 55:10  
many 11:8; 13:22; 14:2,  
2, 15; 23:5; 54:13  
March 70:15  
Mark 24:15; 30:19; 36:13;  
51:23; 53:7  
narked 24:20; 28:1, 8,  
22; 30:1, 15; 31:2, 11, 21;  
32:11, 20; 33:6, 17; 34:7,  
17; 35:3, 14, 23; 36:8, 14,  
12; 37:5, 16; 38:5, 13, 16;  
39:2, 14, 23; 40:8, 18;  
41:1, 10, 20; 42:7, 15, 24;  
44:2, 15, 24; 45:7, 17, 25;  
49:25; 50:8, 18; 51:5, 12;  
52:21; 53:4; 72:20

markings 52:2, 6, 8  
Mary 35:18; 44:9  
material 16:7; 24:19;  
25:20, 20; 27:3; 32:4, 5;  
49:3, 5; 60:8; 78:20  
materials 7:24; 24:24;  
25:2, 7, 18, 19; 57:11  
matter 15:15; 16:5;  
22:10; 43:16; 44:20; 61:8;  
75:12; 78:12  
Maxide 29:13  
May 30:20; 31:6, 16; 32:1,  
15; 33:10, 21; 34:3; 41:13;  
49:3; 50:12; 52:11  
maybe 10:20; 55:25;  
60:6; 61:24; 76:9; 77:3  
Mayo 26:5  
mean 13:25; 59:20; 62:4;  
71:3; 73:10; 78:24; 81:7  
meaning 43:19  
medical 8:21; 11:2;  
13:20; 14:12; 18:4; 21:3, 7;  
22:9, 15; 24:3; 47:19;  
53:17; 60:21; 67:2, 4, 7,  
10, 11; 78:21; 79:8; 80:8  
medical/legal 9:16, 20;  
11:16; 22:17; 73:23  
medically 48:15; 58:16  
medicine 11:21; 12:2, 5,  
10, 13, 20; 13:17, 22, 23;  
19:19; 48:11; 54:12;  
74:21; 79:13, 18  
medicine/cardiology  
62:1  
meet 10:1  
memo 41:20, 24; 42:2  
memory 59:21  
Mendelsohn 18:3; 19:3;  
20:21; 45:16, 21; 67:21;  
81:3  
Mendelsohn's 20:13;  
60:11  
mentioned 54:4; 58:24;  
68:11  
message 33:25; 34:3;  
39:19  
met 80:17  
Michigan 10:19; 11:2, 7,  
12; 53:24  
mid 9:22  
middle 63:6  
might 34:13, 24; 61:17;  
68:17, 25  
milligrams 75:18  
Min-U-Script 40:13, 18,  
21; 44:24; 45:2, 25; 46:3  
mind 39:6; 54:3; 69:24,  
25  
minimum 59:6  
minus 80:4  
minutes 17:12; 65:17;  
31:13  
nissed 76:15  
nisunderstood 11:4  
nodalities 24:5



money 49:8 monoclonal 43:20; 47:21; 53:20; 54:11, 11; 63:3; 67:18; 68:12, 18, 22; 69:9, 13, 15; 70:13; 71:20; 74:6 months 8:18, 20; 26:15; 60:6; 73:5 more 15:3; 20:21; 25:12; 43:21; 48:14; 49:8; 60:8; 61:6; 66:13; 79:3, 11; 81:4 morning 74:25 most 60:4 motions 55:17 motor 77:20, 23 Mrs 18:24; 26:14; 27:8; 29:9; 53:23; 58:21; 66:11; 78:14; 79:1, 2; 80:3 much 26:17 muscularly 74:12 must 10:7 myself 7:25; 19:18; 20:24, 25; 24:20; 50:3, 12, 22; 71:4	10, 13, 15; 50:24; 52:10; 15; 58:20; 71:7 November 37:8, 20; 39:9, 18 nuclear 68:4 number 26:17; 30:23; 31:5, 14, 24; 32:23; 33:9; 47:17, 18 numbers 10:7 nurse 27:1; 35:18; 44:12	out 20:2; 25:3; 56:17; 66:8; 71:20; 72:1; 74:19; 77:9 outside 10:18; 25:23 over 28:18; 53:13; 61:9; 65:25; 77:21, 23 owe 20:2 own 20:20	photostatic 44:19; 45:10 phrase 23:1 physical 67:6 physician 9:10, 11, 12; 12:24; 13:17; 23:22; 48:24; 58:25; 70:24; 71:22; 74:21; 76:20 physician's 70:25 physicians 8:10, 17, 19; 51:23 pick 26:23 piece 29:2; 32:25; 34:2, 23; 41:24 pieces 15:24 place 59:13 Plaintiff 7:2; 14:21; 47:7 Plaintiff's 28:5, 7, 11, 21, 25; 29:25; 30:4, 14; 31:1, 5, 10, 14, 17, 20, 24; 32:10, 14, 19, 23; 33:5, 9, 16, 20; 34:6, 10, 16, 20; 35:2, 6, 13, 22; 36:1, 6, 10, 21, 25; 37:4, 8, 15, 19; 38:3, 7, 12, 17; 39:1, 8, 13, 17, 22; 40:1, 6, 17, 21, 25; 41:4, 9, 13, 19, 23; 42:5, 9, 14, 18, 23; 43:2; 44:1, 5, 14, 18, 23; 45:2, 6, 10, 15, 19, 24; 46:3; 47:6; 49:23; 50:2, 7, 11, 16, 21; 51:3, 11, 15; 53:3, 7 plasma 68:19; 69:11 played 23:15 please 7:10, 11; 12:25; 21:7; 29:11; 32:23; 68:1; 72:18 plus 68:11 point 15:21; 25:1; 48:25; 49:6; 55:16; 58:2; 68:15 Pointe 14:5 poor 28:2 population 12:7, 18 portion 65:5 positive 59:3 possible 26:18 practical 22:8 practice 12:1, 2, 23; 13:18; 14:23; 15:2, 4, 6; 23:24; 79:18 practitioner 58:12, 14 Preadmission 59:24 predecessor 71:12 preoperative 58:20; 51:9, 10 repaid 30:8 reparation 29:5 repare 33:3; 73:19 repared 18:4; 72:5, 7, 8 presence 53:20; 54:14; 74:6, 7; 78:12 resent 9:15; 15:7, 8 retty 74:13 revious 71:1 reviously 24:18; 56:11; 51:23; 67:3; 68:11; 74:10	primary 22:21, 24; 23:3; 24:1; 25:21, 25 prior 8:7; 22:19; 54:25; 76:17; 78:18 private 15:5; 23:24 privileges 14:4, 9 Pro-National 42:6, 10; 56:11 probability 67:2; 79:8; 80:8 Probably 9:22; 12:22; 15:18; 43:12 problem 61:18, 22; 63:25; 64:4; 66:7, 13 problems 13:21 Procedure 7:4 product 60:11 professional 79:12 prohibition 64:13 prompt 81:16 proofs 28:15 provided 7:3; 16:2, 23; 18:21; 19:9; 22:7; 37:13 provides 11:16 prudent 58:25 publishing 26:1 pulmonary 75:7 purpose 7:2 purposes 7:17, 21; 28:9, 22; 30:2, 16; 31:3, 12, 22; 32:12, 20; 33:7, 18; 34:7, 17; 35:4, 15, 24; 36:8, 23; 37:6, 17; 38:5, 14; 39:3, 15, 24; 40:8, 19; 41:2, 11, 20; 42:7, 16, 24; 44:3, 15, 25; 45:8, 17, 25; 49:25; 50:9, 18; 51:5, 13; 53:5 Pursuant 81:13 ursue 14:22 ut 27:2; 29:23; 32:8; 74:12 utting 28:11
<b>N</b>	<b>O</b>	<b>P</b>		<b>Q</b>
name 7:9, 12, 13, 17; 11:15; 29:6, 6; 70:25; 71:22; 80:16 names 11:16 Nancy 7:19; 17:21; 22:19; 41:25; 45:11; 46:11; 48:25; 56:19; 61:17; 62:15, 23; 63:7; 64:17; 65:15; 71:9; 74:25; 80:21 Nancy's 71:17 natural 66:1 nature 47:20; 67:17; 78:4 necessary 46:23 need 10:3; 16:3; 18:10; 30:8; 53:14; 54:1; 55:16, 18 needed 8:1; 34:13; 58:17 negative 29:19 negligence 14:12 next 29:15; 30:18; 55:23; 56:1; 76:10 nicely 69:20 night 29:4; 33:2; 65:13 node 66:17, 18, 19, 22, 22 None 24:12 nonrefundable 30:8 Normal 29:17, 19; 54:8; 63:2; 67:15; 68:8, 20, 21; 74:9; 75:6, 10 normally 66:18 northeast 8:10, 17 notation 29:21 note 51:21; 62:3 notebook 29:2 noted 49:20; 63:20; 77:16 notes 28:22; 29:3, 10; 32:20; 33:2; 42:24; 43:6,	oath 10:25; 49:15; 58:19 OB/GYN 48:12 object 60:18; 63:19, 23 Objection 27:10; 59:9; 63:11, 20 objections 64:14 obligation 57:25 obviously 27:25; 56:19; 75:25 occasions 8:7; 14:15 occurred 23:10, 12, 14, 19; 46:11, 18, 22; 67:8 occurs 77:23 October 35:7, 17; 38:18; 40:2 Off 81:12 office 12:3; 13:9; 50:18, 24; 52:10; 60:10; 73:7 Ohio 7:14; 8:10, 17; 10:1, 18; 79:23 once 69:10; 78:18 oncologist 71:15 one 8:23; 10:2; 11:13; 14:16; 17:19; 23:11; 27:19; 29:23; 35:9; 47:17; 51:17; 52:11; 59:15; 68:17, 23, 25; 70:15; 72:8, 8, 24; 76:11 one's 27:20, 20 one-page 73:16 only 16:4, 12, 14, 16, 22; 48:9; 58:5; 68:21; 73:24; 77:18 opened 15:1 operating 65:2 spining 48:23 opinion 25:17; 26:13, 19, 20; 27:2; 54:24; 74:1; 78:22; 79:6, 10; 80:3, 7; 31:3 opinions 22:17; 25:5; 26:24; 57:24; 78:13; 30:18; 81:4 opportunity 24:18; 81:1 order 17:3, 5; 27:25; 28:4; 32:2; 70:4; 81:14 original 27:23; 39:8; 10:1, 11; 44:5 originally 25:5 originals 37:24 otherwise 38:21	page 51:17; 72:24 pages 30:21, 23; 31:16; 35:9, 19; 37:2, 10 paid 17:2 Pam 52:3 Papalardo 28:8, 13; 34:13; 36:7, 11; 38:4, 8 paper 15:24; 29:2; 32:25; 34:2; 41:24 paper-clipped 34:24 paperclips 34:22 paragraph 25:10; 56:18 paralegal 27:1; 35:18; 44:10 Pardon 46:20; 69:21 part 13:12; 21:8; 22:2; 23:16; 34:23; 43:16, 18, 19, 20, 23 particular 27:25; 28:4 particularly 67:22 partner 9:25 partners 8:24; 14:23; 15:9 past 10:16, 25; 53:13 PAT 59:19, 21, 22, 24 pathologist 19:21; 20:17 pathology 20:24; 80:24; 31:5 patient 9:9; 12:7, 17; 22:21; 23:25; 43:17; 47:15, 16, 23; 48:1; 54:7; 57:15; 58:15; 62:4; 66:2; 59:9; 73:1; 79:1 patient's 47:20; 54:4, 5 patients 10:18, 21; 11:2, 7, 12:7, 18; 23:5, 18; 59:1 Paul 45:3; 51:24 paying 17:4 people 13:18, 21; 68:16 percent 10:11; 79:11, 17 percentage 12:17, 18, 20 performed 67:21; 70:21, 22 period 10:9; 24:11; 61:9; 77:21, 23 permission 11:18 persantine 68:4 person 23:3; 68:8; 73:22 personal 71:3 personally 81:8 phone 20:3; 26:23; 53:22 photocopy 22:2	primary 22:21, 24; 23:3; 24:1; 25:21, 25 prior 8:7; 22:19; 54:25; 76:17; 78:18 private 15:5; 23:24 privileges 14:4, 9 Pro-National 42:6, 10; 56:11 probability 67:2; 79:8; 80:8 Probably 9:22; 12:22; 15:18; 43:12 problem 61:18, 22; 63:25; 64:4; 66:7, 13 problems 13:21 Procedure 7:4 product 60:11 professional 79:12 prohibition 64:13 prompt 81:16 proofs 28:15 provided 7:3; 16:2, 23; 18:21; 19:9; 22:7; 37:13 provides 11:16 prudent 58:25 publishing 26:1 pulmonary 75:7 purpose 7:2 purposes 7:17, 21; 28:9, 22; 30:2, 16; 31:3, 12, 22; 32:12, 20; 33:7, 18; 34:7, 17; 35:4, 15, 24; 36:8, 23; 37:6, 17; 38:5, 14; 39:3, 15, 24; 40:8, 19; 41:2, 11, 20; 42:7, 16, 24; 44:3, 15, 25; 45:8, 17, 25; 49:25; 50:9, 18; 51:5, 13; 53:5 Pursuant 81:13 ursue 14:22 ut 27:2; 29:23; 32:8; 74:12 utting 28:11	<b>R</b>
				qualified 20:25 qualify 79:15 quick 52:1 quickly 78:5 quite 70:7 quote 58:11; 66:24; 57:11; 74:11
				<b>R</b>
				radiology 78:2 raise 74:18 aised 54:18 Ralph 50:23; 52:22 ate 32:3; 71:21; 74:15 ather 26:16 Re 41:25



<p>read 29:10; 32:24; 43:8; 47:24; 57:8, 10, 16, 18; 75:12, 12, 15, 24; 81:17 reading 43:24; 72:24; 73:2; 75:5, 6, 10 ready 17:10, 13 real 52:1 really 47:3; 54:2; 60:18; 64:11 reason 55:8; 62:22; 64:16; 69:8 reasonable 56:17; 67:1; 79:8; 80:7 reasons 11:9; 26:17 recall 9:7; 16:6; 19:11; 72:3, 24 receive 49:4; 52:17 received 24:23; 25:4; 52:14 recent 43:11, 11 recently 43:6; 55:4; 60:4 recess 77:12 recollection 8:5; 10:20; 19:13; 24:2; 60:3; 76:4 reconsider 56:4 record 7:9, 17; 11:10; 16:25; 19:25; 23:23; 29:11; 37:11; 51:21; 58:1; 63:19; 71:19, 23; 72:23; 77:7; 81:12, 12 records 15:17; 18:22, 23, 23; 51:22; 52:9, 13, 22, 24; 53:4; 57:6, 10; 60:21; 61:24; 62:1, 6; 67:24; 71:18; 72:11; 73:4, 10, 14, 24 recurrent 74:7 reduce 17:15 redundant 37:12 referrals 12:15 referring 56:19; 66:4, 5; 68:2, 3 refers 71:20 refile 56:3 reflect 20:1; 81:12 refresh 10:19 refund 81:15 regarding 18:24; 20:6; 30:11; 32:3; 37:12; 43:7, 13; 48:5, 10; 55:3; 78:14; 81:5 related 17:21; 61:6 relates 43:17, 18, 19, 20 relationship 56:9 relative 20:13 relief 77:3 relooking 25:19 remember 14:2 removed 15:24 render 48:5, 10; 81:4 rendering 49:9 repeat 10:24; 49:8; 75:19 report 16:2, 4, 13, 15, 16, 22:17; 19, 25; 18:8; 19:2, 2, 2, 3, 4; 20:13; 24:4, 13, 22; 25:6, 10; 42:15, 19; 45:7, 12; 56:16, 18; 60:22; 67:20; 70:25; 77:25; 78:1, 19, 25 reporter 24:20; 28:2; 77:7 reports 71:1; 72:2, 16 represent 7:19; 80:15 represented 9:25 represents 33:1, 2 request 17:20; 22:5 require 76:19 rereading 25:8 research 10:15; 25:25 researching 26:1 reserve 56:3 residency 23:20 residents 23:13 resolve 14:17 respect 25:11; 32:4, 5; 60:24 response 30:11 rest 55:11; 69:3 restrictive 43:22; 54:9; 63:2; 67:16 result 76:13, 16 resuscitation 46:10, 14, 15, 23 retained 7:20, 23; 60:15, 21; 78:8 retrospect 54:10 retrospectively 63:1 returned 20:18; 43:22 revealed 67:22 review 7:23; 10:3; 21:5; 22:9, 15; 47:2; 49:5; 60:16, 21; 67:20; 71:17; 80:24; 31:1 reviewed 17:20, 23; 18:1, 3, 4, 6, 9; 21:8, 10; 22:11, 13; 24:3; 25:19; 29:4; 60:4 reviewing 9:24; 10:12; 11:10; 15:17; 43:14 reviews 9:17, 21 revised 26:13, 20 evoked 14:9 hythm 66:12 Richard 51:17 Richardson 18:22; 29:8, 2; 40:18, 22; 49:10; 10:25; 51:24; 52:11, 12, 4, 18; 53:4, 11, 16, 19, 12; 55:20; 56:22, 24, 25; 17:13; 59:4, 8; 61:3; 67:24; 1:2, 9, 13, 23; 74:18 Richardson's 43:18; 10:17; 57:16; 58:7; 60:10; 1:5; 69:17; 72:15; 73:15 ight 8:2; 16:1, 10; 17:6, 8; 18:5; 23:17; 28:25; 29:20; 31:24; 36:17; 37:24; 41:17; 42:1; 52:25; 63:19; 66:20; 69:23; 71:6, 7, 8; 73:20; 79:22 rights 56:4 Rispo 7:21, 23; 8:6; 15:15; 16:14, 17, 19; 17:24; 18:1, 7, 17, 21; 19:9; 20:18; 21:24; 22:7; 24:24; 26:24, 25; 27:7, 10 13, 16, 17, 22; 30:1, 5, 15, 19; 31:2, 6, 11, 15, 18, 21, 25; 32:11, 15; 33:6, 10, 17 21; 35:3, 7, 23; 36:2, 22; 37:1, 5, 9, 16, 20, 24; 38:1 13, 18; 39:2, 10, 14, 18, 23; 40:3, 7, 12; 41:1, 5, 10 14; 44:7, 8; 48:8; 49:19; 50:23; 55:9, 15, 22; 56:2; 57:4, 9; 58:17, 23; 61:19; 63:11, 14, 15, 22; 64:5, 9, 21 Rispo's 8:23; 55:14; 73:7 Road 7:14 role 43:18 Ron 33:21; 36:2; 37:1; 38:18; 39:9, 18; 40:2, 12; 41:5, 14; 44:7, 8; 64:11; 30:16 Ron's 17:16 Ronald 37:9 room 20:2; 68:16 Ross 28:13; 36:11; 38:8 Rules 7:3; 79:16</p>	<p>show 78:3; 81:5 showed 68:4 Shumate 35:14, 18; 44:2 9 side 71:25; 73:18 sides 52:16 significance 68:14 significant 68:13 signs 74:3 simply 10:12; 48:14 single 77:17, 25; 78:1 sinoatrial 66:17, 18, 21 sit 11:23; 57:18 sitting 18:12; 61:12; 65:12; 68:16 six 68:16 sixth 21:14 SJWS 29:19 skill 19:20 slides 18:3; 19:10, 15, 17 20:6, 11, 14, 16, 18; 80:24; 31:5 Smithson 19:5; 40:14; 19:24; 50:4 so-called 22:16 solely 22:22 somebody 51:18; 58:9 somehow 52:14 someone 9:5; 10:3; 56:9; 11:16; 72:11; 74:4 someplace 53:25 sometime 26:15 sometimes 17:1; 68:20 soon 22:7; 70:11 sorry 7:11; 8:11, 13; 11:4; 5:10, 13; 20:4; 52:17, 20; 9:7; 70:13; 79:19, 19, 21 ort 29:7; 62:3; 67:14; 8:9; 74:19 orted 72:1 outh 14:5 pace 71:3 peak 8:13, 15 peaking 64:14 peaks 57:22 pecialized 66:15, 23 pecialties 12:12 pecialty 19:15 pecific 61:10 pecifically 10:19; 17:9, 3; 59:12; 65:6; 68:1; 1:19; 72:24; 73:6 pecificity 26:18 pend 79:11, 16 pent 23:10 pike 68:18; 69:9; 70:5 spikes 69:14 spine 29:22 spoke 57:2 spoken 57:13 stack 32:8 stained 19:11; 20:6</p>	<p>stand 64:2 standard 48:17; 49:2; 55:21 standards 53:17; 59:11 start 9:20, 24; 64:15 started 8:3; 17:8 state 7:9; 11:2, 7; 78:25; 79:23 stated 30:5; 49:7; 59:10 statement 7:22; 13:14; 25:9; 35:10; 59:23; 63:10, 17, 18; 64:22, 24; 72:5 stating 30:9; 32:16 stay 13:10 step 77:9 sticker 28:12 still 11:14; 21:8; 76:11; 77:14 stipulation 27:7 strong 67:13 studies 67:25; 68:2, 4 subject 7:25 submitting 22:18 subsequent 24:21; 25:2, 18; 32:6 subspecialties 11:20; 13:23; 14:3 sudden 25:15; 43:23; 55:6, 25; 66:4, 5; 79:4; 80:4 sued 14:12 suffice 15:21 suggesting 71:1 suggestion 67:13; 70:17 suggests 71:19 suitable 46:13 Suite 7:15 supervision 70:20 supplied 18:7; 34:22 supply 21:24 support 58:2 supporting 58:3 supports 67:4, 7 suppose 29:14; 60:15 supposed 49:13 sure 7:12, 13; 13:3, 25; 5:5, 18:16; 29:12; 32:17; 13:13; 49:11, 12, 16, 17, 7; 53:21; 69:17; 70:2; 12:14, 19, 23; 76:24; 79:15 urgeon 58:15 urgery 43:17; 46:17, 21; 7:4, 5, 11, 13, 16; 48:1, 6; 9:1; 56:20, 24; 57:2, 15, 0; 58:9, 11, 16, 21; 59:2, 61:16; 62:21; 65:10, 17; 0:6, 7 urvive 65:18 uspect 74:4, 6 uspicion 74:18 witch 77:4 worn 7:4 ystem 65:5, 23; 66:7,</p>
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------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------



<p>13, 15</p> <hr/> <p><b>T</b></p> <hr/> <p>tab 71:6, 25; 77:16; 78:1  tabbed 52:15; 69:20, 22  table 65:2  tabs 52:25  talk 27:11; 58:3  talking 27:6; 55:23  TAYLOR-KOLIS 7:8;  19:25; 27:13, 19, 24;  49:24; 55:15, 25; 63:13;  64:3, 7, 11, 23; 77:5; 81:11  Telephone 19:23; 57:12  telling 64:12  ten 17:12; 65:17; 81:13  termed 43:22  terminate 13:12  terms 74:23  test 69:25; 70:21, 22;  74:10  testified 8:6, 18, 20; 10:9;  11:1; 23:18  testify 7:25; 8:9, 17;  55:19; 78:8  testifying 7:21; 9:24;  10:18; 11:6, 11; 48:16  testimony 10:25; 24:9;  32:7; 46:4; 48:5, 10; 78:6  testing 59:19, 20, 22, 24,  25; 60:1, 2; 76:8  tests 70:12; 71:22; 74:15  textbook 54:13  textbooks 25:23; 78:21  texts 18:4  therefore 46:22  therein 39:19  thereto 40:13  Thereupon 28:7, 21;  29:25; 30:14; 31:1, 10, 20;  32:10, 19; 33:5, 16; 34:6,  16; 35:2, 13, 22; 36:6, 21;  37:4, 15; 38:3, 12; 39:1,  13, 22; 40:6, 17, 25; 41:9,  19; 42:5, 14, 23; 44:1, 14,  23; 45:6, 15, 24; 49:23;  50:7, 16; 51:3, 11; 53:3;  77:12  Thomas 7:18  though 81:2  thought 20:15; 59:12;  61:8; 71:25  threat 13:12  three 11:12; 23:6; 31:16;  35:9; 37:10; 42:20; 76:1, 6,  14, 17; 79:3, 7  three-page 31:17  Thyroid 29:16  times 57:10  tissue 65:4, 24; 66:15  today 11:23; 17:3, 5;  19:11; 32:6; 54:25; 57:18;  61:12; 72:3; 71:13; 80:18</p>	<p>today's 22:6; 60:7  together 34:24  told 12:25; 57:13, 14, 21;  58:19  Tom 64:1  Tom's 8:3; 24:17  took 29:9; 33:2; 43:6, 10  top 29:6  tos 34:4  toto 60:6  traded 23:1  training 19:18  transcript 18:25; 19:1  transcripts 16:25  treated 22:20; 23:3, 25  treating 26:2  treatment 23:7, 16; 24:5,  10; 48:25; 80:20  trial 8:21; 30:9; 48:5, 23;  49:14, 17; 55:23; 56:1  trials 30:12  trick 63:12, 14  Try 64:10, 12  trying 34:4  tunnel 29:17  turn 28:18  TV 65:11  twice 60:1  two 23:14; 25:14; 35:9,  19; 37:2; 47:18; 66:9;  74:20; 78:7; 80:5  two-page 31:6; 38:19</p> <hr/> <p><b>U</b></p> <hr/> <p>JH 53:24  Jnacquainted 57:19  Jnaware 78:12  incomfortable 20:23  Jncommon 68:6  Jnder 10:25; 49:15;  58:19; 69:16; 70:9, 20;  77:16; 78:1; 79:15  Jnderlined 29:12  Jnderstood 23:17  Jnderwent 56:20; 63:8;  54:18; 65:16  Jnexpected 65:7  Jnfortunately 28:2  Jniversity 26:8; 53:23  Jnknown 63:9; 64:19  Jnless 49:4; 63:23; 66:2;  1:12; 75:20  Jnnecessary 46:16  Jnrelated 65:21  Jp 8:13, 15; 21:25; 26:23;  8:25; 54:11; 68:22  Jpon 17:16; 46:10; 47:3;  2:8  Jsual 62:2, 3  Jsually 68:6</p>	<hr/> <p><b>V</b></p> <hr/> <p>vehicle 77:20, 23  ventricles 66:16  verbal 58:22  verdict 45:12  versus 12:19; 42:1  view 58:2; 68:15  Visuals 28:13  volume 9:16; 10:3</p> <hr/> <p><b>W</b></p> <hr/> <p>Wait 39:6; 72:4  walked 20:2  wall 67:23  waste 49:8  watching 65:11  Watts 51:12, 17  way 8:20; 12:11; 14:20;  18:8, 9; 25:1; 34:25; 59:22;  51:11, 24; 62:2, 5; 68:21;  80:19  ways 69:1; 76:21  wear 74:20  week 55:23; 56:1; 70:6  iveight 62:25  weren't 54:5  Nest 71:16  Neston 9:5  wet 43:24; 75:5, 10  What's 33:24; 43:21, 22;  57:22; 62:11  wherever 71:5  white 75:20  who's 44:10; 50:22;  56:14; 58:25  whole 30:6; 43:16, 16;  72:23  Whose 69:5; 70:20; 71:7  Whosever 17:13  William 40:22; 51:24  willing 17:10  VILT 16:18; 17:11; 59:9;  0:14, 16; 81:9  withdraw 60:19  without 14:19; 17:14;  8:10; 73:2  WITNESS 16:12; 79:15;  1:17  roman 68:10; 69:2  roman's 76:1  word 60:15, 19; 71:15  words 78:24  work 10:11; 34:23; 60:10;  3:6  worked 34:12  working 81:6  workup 61:9  rite 62:3  riting 24:4, 22; 27:2;</p>	<p>55:9; 59:4  written 16:4; 18:8; 42:21;  54:24; 78:24  wrong 48:9  wrote 16:13, 17; 25:5;  78:21; 79:6, 10</p> <hr/> <p><b>X</b></p> <hr/> <p>x-ray 75:3, 11; 77:17, 25;  78:1  x-rays 77:16, 17</p> <hr/> <p><b>Y</b></p> <hr/> <p>year 9:12; 15:16; 53:13;  69:10  year-and-a-half 25:14;  80:5  years 10:10, 17; 11:1, 8,  12; 20:22; 25:14; 61:9;  76:2, 7, 14, 17; 77:21, 24;  79:3; 80:5</p> <hr/> <p><b>Z</b></p> <hr/> <p>Zaleski's 32:2  zone 68:5; 74:11, 11</p>	
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