

1 THE STATE of OHIO,
2 : SS:
3 COUNTY of SUMMIT.

4 IN THE COURT OF COMMON PLEAS
5 -----

6 MARGARET VARGO, administratrix :
7 of the ESTATE of KRISTOPHER
8 VARGO, deceased,

plaintiff, :

9 vs.

: Case No. CV97064063

10 KAMEL F. MUAKKASSA, M.D.,
11 et al.,

defendants.
12 -----

13 Deposition of THIRUVENGADA KULASEKARAN, M.D.,
14 a defendant herein, called by the plaintiff for the
15 purpose of cross-examination pursuant to the Ohio Rules
16 of civil Procedure, taken before Constance Campbell, a
17 Notary Public within and for the State of Ohio, at the
18 offices of Thiruvengada Kulasekaran, M.D., 300 Locust
19 Street, Akron, Ohio, on FRIDAY, APRIL 30TH, 1999,
20 commencing at 2:00 p.m. pursuant to agreement of
21 counsel.
22
23
24
25

1 APPEARANCES:

2 ON BEHALF OF THE PLAINTIFF:

3
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10
11 ON BEHALF OF THE DEFENDANT

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APPEARANCES:

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I N D E X

WITNESS:THIRUVENGADA KULASEKARAN. M.D.PAGE

Cross - examination by Miss Kolis

5

(NO EXHIBITS MARKED)

(FOR COMPLETE INDEX, SEE APPENDIX)

(IF ASCII DISK ORDERED, SEE BACK COVER)

1 THIRUVENGADA KULASEKARAN, M.D.

2 of lawful age, a defendant herein, called by the
3 plaintiff for the purpose of cross-examination pursuant
4 to the Ohio Rules of Civil Procedure, being first duly
5 sworn, as hereinafter certified, was examined and
6 testified as follows:

7 -----

8 MISS KOLIS: Dr. Kulasekaran,
9 with apologies ■ can guarantee you that your deposition
10 won't be quite as brief as Dr. Timmons.

11 -----

12 CROSS-EXAMINATION

13 BY MISS KOLIS:

14 Q. Having said that, for the record can you state
15 your name and professional address, please?

16 A. My name is Thiruvengada Kulasekaran,
17 k-u-l-a-s-e-k-a-r-a-n, pediatric neurologist at
18 children's Hospital in Akron.

19 Q. ■ bet if ■ asked your attorney he would turn
20 around and hand me your CV?

21 MR. CULLEN: ■ would indeed.

22 MISS KOLIS: Thank you.

23 Q. Doctor, can you just briefly tell me about your
24 training that led you to your occupation as a physician?

25 A. Yes. I did all my medical school in India. ■

1 came to New Jersey for pediatric training for two yea
2 Then after that came to children's Hospital in
3 Pittsburgh for pediatric neurology training for three
4 years. Then I came here in 1981 to join with
5 Dr. Timmons in the private practice of pediatric
6 neurology.

7 Q. Let me see if I follow that. while you were
8 speaking I was reading.

9 You did your residency training at
10 College Hospital, vellore?

11 A. Yes.

12 Q. where is that?

13 A. In South India.

14 Q. 1968 to 1969, correct?

15 A. correct.

16 Q. Then you served as a research assistant?

17 A. Correct.

18 Q. what did you research?

19 A. Longitudinal studies in human reproduction.

20 Q. Not being as well read as I should be in my
21 lifetime I suppose, can you tell what kind of research
22 that is?

23 A. Following pregnant women in urban settings or
24 rural settings, looking at the birth rate of babies born
25 in rural settings and urban settings.

1 Q. Subsequent to your research responsibilities it
2 said you had some postgraduate residency training in
3 pediatrics from '71 to '73, once again at Vellore,
4 India, correct?

5 A. Correct.

6 Q. Is this comparable to the American residency
7 program in terms of the progression, is that how they do
8 that?

9 A. Correct.

10 Q. You served it looks like in an academic function
11 as a lecturer in pediatrics?

12 A. Correct.

13 Q. From '73 to '76?

14 A. Correct.

15 Q. Then you came here to New Jersey as you indicated?

16 A. Correct.

17 MR. CULLEN: we're in Akron.

18 MISS KOLIS: Yes, we are.

19 Q. You came to the united States in 1976, correct?

20 A. Correct.

21 Q. You did a one year residency at Rutgers School of
22 Medicine?

23 A. Correct.

24 Q. Then after that an additional year in pediatrics
25 from '77 to '78?

- 1 A. correct.
- 2 Q. At Memorial Hospital of New Jersey?
- 3 A. Correct.
- 4 Q. Then you got a Fellowship?
- 5 A. Correct.
- 6 Q. university of Pittsburgh?
- 7 ""A. Correct.
- 8 Q. That was '78 to '81?
- 9 A. Correct.
- 10 Q. Your CV says you are Boarded both in pediatrics
- 11 and you have a certification Board in pediatric
- 12 neurology?
- 13 A. Board certification.
- 14 Q. They are both Board certifications?
- 15 A. Yes.
- 16 Q. You've been in Akron, where we are now, not New
- 17 Jersey, through the present?
- 18 A. correct.
- 19 Q. Do you practice anyplace other than children's
- 20 Hospital?
- 21 A. NO.
- 22 Q. So you are just strictly confined to this
- 23 faci1ity?
- 24 A. Correct.
- 25 Q. Doctor, I also dislike asking this question, but

1 other than the instance case in which you are a named
2 party, have you been involved in other medical
3 malpractice cases?

4 MR. CULLEN: objection.

5 A. Yes.

6 Q. Approximately how many other cases?

7 P- MR. CULLEN: objection. Can I
8 have a continuing objection?

9 MISS KOLIS: Yes, you can have a
10 continuing objection.

11 A. Two cases. One was dropped out of the case, the
12 other one is settled out of court.

13 Q. Did either one of those cases involve a shunt
14 malfunction?

15 A. No.

16 Q. Doctor, by way of some background so that I have
17 an understanding, prior to Kristopher Vargo becoming
18 your patient, with what frequency did you have the
19 opportunity to interact with or work with children with
20 spina bifida?

21 A. I think I had a few patients which I shared with
22 Dr. Muakkassa that had spina bifida, shunt problems

23 Q. Prior to Kristopher becoming your patient you had
24 a referral relationship with Dr. Muakkassa, I don't mean
25 it in some sinister way. What I'm saying is

1 Dr. **Muakkassa** as a child neurosurgeon had occasion to
2 ask you to treat some of his patients?

3 A. Yes.

4 Q. You really can't state with any certainty how many
5 spina bifida patients you would have had?

6 A. I think before Dr. Muakkassa came into practice,
7 Dr. Baukman used to manage all the shunt patients at
8 children's Hospital. He referred a lot of patients to
9 me. After Baukman left the practice, Dr. Muakkassa took
10 over his practice, then he started referring patients to
11 me.

12 Q. Do you hold any positions at the hospital in
13 addition to being a member of this group practice?

14 A. I'm assistant director of neurology at children's
15 Hospital.

16 Q. How long have you held that position?

17 A. That is ever since I joined the practice of
18 Dr. Timmons, from 1981 forward.

19 Q. The job you got when you came, you are still
20 holding onto it, right?

21 A. Right.

22 Q. Have you had an opportunity, **Doctor**, to carefully
23 review the medical records in this matter?

24 A. I did.

25 Q. Is your attorney sitting there with a copy of your

1 office chart?

2 A. Yes. Should be around here somewhere.

3 Q. I thought you might need it. If you've memorized
4 the chart, that is great.

5 Can you tell me, based upon the chart
6 that you have, when Kristopher became your patient?

7 A. I saw the patient first in children's Hospital in
8 Akron I think 6-4-1988 as a consult from Dr. Baukman.

9 Q. What was the purpose of that consult, Doctor?

10 A. That is the time I think he had a seizure with a
11 fever at the time, Dr. Baukman asked me to see him at
12 that time.

13 Q. You were called in, I'm interpreting it so you can
14 tell me, for advice, your opinion on the management of
15 the seizures or something else?

16 A. I think mainly for seizures with a fever. He
17 wanted my opinion on treatment.

18 Q. What was your treatment for him at that time?

19 A. At that time I started him on -- patient was
20 already on Phenobarbital, I told him to continue the
21 Phenobarbital, 15 milligrams in the morning, 30 at
22 bedtime, I told him to continue that. My impression was
23 seizure disorder precipitated by fever.

24 Q. To your knowledge, if you were able to ascertain
25 any background on this child, in 1988 Kristopher would

1 have been how old?

2 A. He was --

3 Q. Not too old?

4 A. I think he was 30 months.

5 Q. 13?

6 A. 30, 3-0.

7 Q. Were you able from the history you gleaned from
8 the record or the parents, determine whether or not
9 Kristopher had had seizure activity prior to that time?

10 A. I don't think he had a seizure before. That is
11 the first time, if I remember correctly, he had a
12 seizure.

13 Q. Were you able to sufficiently work up a diagnosis
14 at that time to attribute that seizure solely to fever?

15 A. Rephrase the question. I'm sorry.

16 Q. was it a febrile seizure, that's what you
17 concluded?

18 A. Probably. The difference between a febrile
19 seizure and a seizure disorder is that it is
20 precipitated by fever.

21 Q. Explain to me what you mean by a seizure disorder
22 precipitated by fever then?

23 A. Seizure disorder, you have a tendency for seizure,
24 fever brings on the seizure activity, as opposed to the
25 febrile seizure, you don't have a seizure disorder, the

1 fever causes the seizure.

2 Q. So I can understand it, you determined that he had
3 a seizure disorder. what in your opinion was the cause
4 of his seizure disorder?

5 A. At the time I couldn't come up with anything.
6 There was no reason for him to have a seizure disorder.

7 Q. over time, between 1988 and the date of
8 Kristopher's death in 1995, did you clearly establish in
9 your diagnosis and treatment of this patient a cause for
10 his seizure disorder?

11 A. NO.

12 Q. were there probable causes for the seizure
13 disorder that you could state with reasonable medical
14 probability?

15 A. Repeat that question, please.

16 Q. Were there causes for the seizure disorder that
17 you could state with reasonable medical probability?

18 A. There was no cause for the seizure disorder.

19 Q. During the time period from when you first saw him
20 in 1988 through the time of his death, did Kristopher
21 ever again have a seizure?

22 A. Yes, he had seizures after that.

23 Q. Did you document those in hospital visits and
24 office notes?

25 A. I think I must have done it in my chart.

1 Q. what I would like to do -- go ahead if you thought
2 you could find them quickly.

3 A. This is all documented by the residents, the
4 emergency room, I don't think I personally witnessed the
5 seizure activity, it was documented by history.

6 Q. Perhaps I didn't clarify the question, so you
7 clarified it by your answer. There is some anecdotal
8 history from the residents and other physicians
9 contained in some records, correct?

10 A. correct.

11 Q. You are stating you never saw him have seizure
12 activity?

13 A. Correct.

14 Q. From reviewing the final hospitalization of
15 June 28, 1995, do you have an opinion, Doctor, as to
16 whether or not Kristopher experienced a seizure during
17 that last confinement?

18 A. It appears to be when he died, a few minutes
19 before he died, it appeared in the description from the
20 resident's notes looks like probably he had a seizure.

21 Q. Are you saying that was a few minutes before he
22 died?

23 A. Correct.

24 Q. can you refer for me to which resident's note
25 you're commenting upon?

1 A. I can look at the notes.

2 Q. I actually have a pretty good --

3 MR. CULLEN: Do you have it
4 there?

5 MISS KOLIS: I have the progress
6 notes.

7 A. I think 7-1-1995, 2:00 a.m.

8 Q. 2:00 a.m. in the morning?

9 A. Yes.

10 Q. There are a lot of notes that day. You're
11 referring to the surgery note?

12 A. Yes, surgical notes.

13 Q. You were out of town at this time, did I
14 understand this correctly?

15 A. Correct.

16 Q. what in this note gives you the impression that
17 there was an actual seizure which occurred?

18 A. I think the patient with seizure activity at 1:30,
19 that description what he described, he doesn't give the
20 exact what the patient did at that time.

21 Q. Is there anything else in the progress notes that
22 gave you the impression that there was a seizure?

23 A. No.

24 Q. Were you able to speak with any of the residents?
25 Is this a resident's signature? I don't know whose

1 signature this is, do you?

2 A. I don't know. I think that is probably a surgical
3 resident.

4 Q. That's your best guess?

5 A. That's what I think most likely.

6 Q. Were you able to speak with that surgical resident
7 ~~e~~ at any time after Kristopher died?

8 A. No.

9 Q. Regarding what he or she actually observed?

10 A. No.

11 Q. The reason I would ask that -- we're going to skip
12 around, mostly because I have a sinus infection, that is
13 the easier way to do it.

14 It's clear obviously after Kristopher
15 died you had some meetings with the Vargos?

16 A. Correct.

17 Q. what did you recall being the purpose of those
18 meetings, Doctor?

19 A. Mom wanted to know what exactly happened at the
20 time of death, she wanted a meeting with me and with
21 Dr. Timmons, so we met after the -- I don't know the
22 exact date, I think it was -- I have in my chart I think
23 it's on --

24 MR. CULLEN: That's okay, she's
25 got the chart.

1 A. On 7-19-95 I had a meeting with mom and
2 Dr. Timmons and myself.

3 Q. In anticipation of that meeting would you have
4 reviewed the hospital chart?

5 A. I don't think I reviewed the chart at the time.

6 Q. Did you at some time after he died review the
7 w-chart so you could answer Mr. and Mrs. Vargos' inquiries
8 to you regarding the probable cause of death for
9 Kristopher?

10 A. I don't recall if I reviewed the chart, I'm sorry,
11 I don't know.

12 Q. I don't mean to be impertinent, if their purpose
13 was to discuss with you the cause of his death, you
14 wouldn't have been able to do that without reviewing the
15 medical material, would you?

16 MR. CULLEN: I don't think he
17 said they wanted to know what the cause of death was.

18 Q. You said mom wanted to know what happened?

19 A. she wanted to talk to me. Only after coming here
20 talking to her I came to know what she wanted to know.

21 Q. That was not the only meeting you had with her,
22 correct?

23 A. I had a meeting after that with Mr. consadine,
24 which is the president of the hospital, mom and myself.
25 That is maybe a few days, I don't know exact the date, a

1 few days after the meeting with Dr. Timmons.

2 Q. Doctor, do you have a recollection of offering
3 Mr. or Mrs. Vargo at any time after Kristopher's death
4 your opinion as to the most likely cause of his death?

5 A. I don't think I offered any opinion at that time.

6 Q. Do you recall that they asked you for one?

7 A. I don't think they asked me, I don't remember.

8 Q. Do you have a recollection of advising them as to
9 a doctor that they could contact for an answer to their
10 question?

11 A. They asked me whether they can contact Dr. Baukman
12 who was the previous surgeon here before Dr. Muakkassa's
13 practice to talk to him about the case, that he can come
14 and see, view the case.

15 Q. Did you facilitate that conversation?

16 A. I did. I called Dr. Baukman.

17 Q. To ask him if he would do this?

18 A. Correct.

19 Q. Do you have a recollection whether he agreed to do
20 it?

21 A. He didn't want to do it.

22 Q. Past that did you offer Mrs. vargo any further
23 advice in terms of resolving her questions?

24 A. I think I called her back saying Dr. Baukman
25 didn't want to review the case, I told her about that.

1 Q. Did you read any of the nursing notes in this
2 chart?

3 A. I may have read it, ■ don't have a recollection.

4 Q. As a child neurologist, ■ gather that you would
5 know what decerebrate or decorticate posturing from
6 brain swelling would look like in a child; would you
7 agree with that?

8 A. Yes.

9 Q. If a child had a brain swelling, began posturing
10 because of it, would that or could that appear to
11 someone who is untrained to be seizures?

12 A. correct.

13 Q. Tell me to the best of your ability what a child
14 experiencing decerebrate posturing would look like
15 clinically?

16 A. It would look like flexing the arms, extending the
17 legs, may suggest decerebrate posturing.

18 Q. In addition to the clinical appearance, what
19 physiological changes would you expect a child who was
20 suffering from brain swelling, who was posturing, to be
21 going through?

22 A. Rephrase the question.

23 Q. I asked a complicated question that could be put
24 forward in a simple manner.

25 In a child experiencing brain swelling,

1 they are posturing, would you expect change in their
2 respirations?

3 A. correct.

4 Q. In which direction?

5 A. It could be shallow, it could be rapid.

6 Q. Either way?

7 ~~Q.~~
A. Right.

8 Q. what about the child's pulse?

9 A. Pulse can go rapid or low.

10 Q. what about the child's heart rate?

11 A. Also can go up and low.

12 Q. So, with a decorticate or decerebrate posturing
13 episode you can change all of those vitals on the high
14 or low side?

15 A. Correct.

16 Q. In your opinion as a child neurologist, do the
17 changes on the high or low side reflect any specific
18 underlying clinical condition, or it just randomly
19 happens?

20 A. I'm sorry?

21 Q. As you just said, when a child is posturing due to
22 brain swelling, they experience a high or low pulse,
23 high or low respiration, high or low heart rate, that
24 fairly summarizes what we just discussed?

25 A. Yes.

1 Q. would a child who tends to go on the low side in
2 those three categories indicate anything about the brain
3 swelling or the process that was going on, or is it all
4 just truly random?

5 A. I think it can be random.

6 Q. Was anyone from your service called in at this
7 1:30 time to attend to or observe the child to the best
8 of your knowledge?

9 MR. CULLEN: You want to take a
10 look?

11 A. I think they -- I don't know the exact time they
12 called Dr. Enlow, who was an associate at the time who
13 was on call.

14 Q. He got the call because he was on call?

15 A. He was on call.

16 Q. I don't recognize Dr. Enlow's handwriting, you
17 might need to help me out. Is there a note?

18 A. I think the resident called and talked to him over
19 the phone, I think. There is a note written by a
20 resident here.

21 Q. Is that the 1800 note, 7-1-95, 1800?

22 A. on 7-1-95 the note is timed 1800 which is 6:00 in
23 the evening.

24 MR. CULLEN: Do you have it
25 there, Donna?

1 MISS KOLIS: Yes, ■ have the
2 note. I don't see the reference to Dr. Enlow, if he
3 could show it to me that would be fine.

4 A. Yes.

5 Q. It's not the 1800 note?

6 MR. CULLEN: 5:30.

7 Q. Dr. Enlow in a.m. before doses?

8 A. Did you --

9 Q. so, that indicates —

10 MR. BEST: what note?

11 MISS KOLIS: 7-1-95 at 5:30 in
12 the morning, unfortunately the copy ■ have isn't Bates
13 stamped.

14 A. ■ think they mentioned before Dr. Muakkassa
15 notified Dr. Enlow, talked to by surgical resident.

16 MR. BEST: No, there is a
17 5:30 a.m., 5:00 a.m. and 12:20.

18 THE WITNESS: It's a 5:30. I'm
19 not sure, the print is not clear.

20 MISS KOLIS: could be 3:30.

21 THE WITNESS: could be 3:30.

22 MR. SIMON: Yes, 3:30, that is
23 what threw me.

24 Q. Doctor, you see a note in the chart from Dr. Enlow
25 showing he came in?

1 A. I got that.

2 Q. Fair enough, just asking.

3 MR. SIMON: To make things
4 clearer, in the note we were looking at 7-1-95,
5 Dr. Enlow is mentioned again, which would have preceded
6 that.

7 Q. Doctor, in the spring of 1995, again we can point
8 out some dates in a few minutes, did you come to have an
9 impression that Kristopher might be suffering from a
10 shunt malfunction?

11 A. I think he got admitted a couple of times before
12 the last admission. If I remember correctly the April
13 admission he came in with seizures and migraines, at the
14 time the question of shunt problem was there. In May
15 also was admitted for headaches, that's mainly for bad
16 headaches at that time, that is also questionable shunt
17 problem at that time.

18 Q. Tell me your perspective as a pediatric
19 neurologist of the signs and symptoms of a shunt
20 malfunction?

21 A. shunt malfunctions present with headache,
22 vomiting, drowsiness and sleepiness, could be swelling
23 along the shunt which is usually persistent until you
24 replace the shunt or take care of the problem from the
25 shunt.

1 Q. Kristopher presented to you with that
2 constellation of symptoms in the Spring of 1995?

3 A. ■ think he presented with symptoms of headache and
4 vomiting. At that time ■ was not sure what was going on
5 so people with shunt malfunction usually have persistent
6 headache and vomiting as I mentioned before. They
7 continue to have symptoms until you replace the shunt or
8 take care of the problem with the shunt.

9 Q. when you use the word persistent, was there
10 something in Kristopher's presentation to you that
11 mitigated against or made you think that maybe he didn't
12 have a shunt malfunction?

13 A. well, I'm not sure whether he had -- I know at
14 that time he didn't have shunt malfunction, persistent
15 malfunction. ■ wasn't sure if it was intermittent shunt
16 malfunction.

17 Q. You acknowledge intermittent malfunction does
18 exist?

19 A. Yes. I'm not the person to comment on that, I'm
20 not the neurosurgeon.

21 Q. You think that is best left to a neurosurgeon to
22 comment upon?

23 A. I agree.

24 Q. In the final hospitalization for Kristopher, were
2s you aware or did you became aware that Dr. Muakkassa

1 performed an externalization of the shunt?

2 A. Yes, in review of the notes, yes, he did perform
3 that.

4 Q. Based upon the information contained in the chart,
5 do you have an opinion as to whether or not the result
6 of that externalization proved there was not a shunt
7 malfunction?

8 MR. CULLEN: I'm going to object
9 to that question because he just said this is better
10 left to a neurosurgeon. Go ahead, Doctor.

11 Q. ■ If you feel you cannot answer that question. I
12 asked a different question, ■ asked about an
13 intermittent malfunction.

14 MR. CULLEN: Maybe ■ wasn't
15 following.

16 A. I'm sorry, repeat the question.

17 Q. My question was this: Based on the information
18 contained in the chart subsequent to externalizing the
19 shunt, do you feel that that supplied evidence that
20 there was not a shunt malfunction?

21 A. I'm not the surgeon, ■ don't think I can answer
22 that question.

23 Q. Did you tell Mrs. Vargo you couldn't tell whether
24 or not that proved there was shunt malfunction?

25 A. I said I'm not sure what is going on, it was not

1 clear what caused the problem.

2 Q. Do you believe based upon your examination of
3 Kristopher, feel free to look at your chart, in April,
4 May and June of 1995 that Kristopher was actively
5 experiencing a seizure disorder? If you want to go
6 through it visit by visit that is okay with me.

7 -w- Do you have an opinion based upon your
8 office records of April, May and June of 1995, whether
9 at that time Kristopher was actively experiencing his
10 seizure disorder?

11 A. Yes, I have an opinion.

12 Q. what is that opinion?

13 A. He does not have any seizure at that time.

14 Q. I would like to go through a couple of your office
15 notes from the Spring of 1995 if you don't mind.

16 I'm trying to do this in some sort of
17 chronological fashion.

18 MR. CULLEN: starting in April?

19 Q. Yes, because that is what we want to look at.

20 You've got your notes now, I'm going to
21 be talking about hospital notes too. If you want to
22 help him out, I don't know. The records that I have
23 show that on April 16, 1995 Kristopher presented to the
24 emergency room at children's Hospital; does your chart
25 contain summaries of hospitalizations?

1 MR. CULLEN: Yes, I gave him the
2 one I copied. what is the date?

3 MISS KOLIS: April 16, 1995, an
4 ER visit.

5 Q. You did not attend Kristopher at this ER visit; is
6 that a fair statement?

7 e-
A. Yes.

8 Q. The hospital however notified your office that the
9 child was there, is that also an accurate statement?

10 A. I don't know.

11 Q. Second page says Dr. Timmons called before patient
12 arrival, request Compazine be given. I have a better
13 copy than you do, that's where it is.

14 A. Timmons was on call that day, they must have
15 notified him.

16 Q. He presented with complaints of headache and
17 vomiting, correct?

18 A. Correct.

19 Q. Prior to April of 1995 had Kristopher had
20 difficulty with headaches?

21 A. I don't think so. I think previous in the
22 hospital, the office visit --

23 MR. CULLEN: she is asking you
24 about --

25 Q. I'm not asking you to know his whole history.

1 Headaches that you were aware of based on office visits?

2 A. He didn't have any headaches before that.

3 Q. So he presents to the emergency room with a
4 headache and vomiting. They do a very brief workup **it**
5 appears, I'm just saying what **it** appears to be, he was
6 told to come and see you the next day, the next visit is
7 April 17th?

8 A. Right.

9 Q. Tell me what evaluation you did of Kristopher on
10 April 17, 1995 and what conclusion you drew about his
11 probable or possible medical condition at that time?

12 A. At that time I pumped and the shunt was pumping
13 well. He has a migraine headache for the past two days.

14 Q. Let me ask you about the pumping the shunt, **if** you
15 do not feel qualified to answer, say so.

16 when you say pump the shunt, you are
17 pushing in to see **if** when you push in **it** refills with
18 ease, that's what you are describing?

19 A. Correct.

20 Q. Do you know or do you have an opinion as to
21 whether or not **it** is possible to have a shunt
22 malfunction but to be able to depress **it**, to have the
23 pump release easily?

24 A. say again, you lost me please.

25 Q. Too many words in that sentence.

1 standing by itself, the fact you were
2 able to pump well on the shunt, does that mean that
3 there is not a shunt malfunction?

4 A. Correct.

5 Q. It does mean there is not a shunt malfunction?

6 A. Correct.

7 Q. At the time you felt perhaps he was having
8 migraine headaches?

9 A. Correct.

10 Q. what did you prescribe for the migraines?

11 A. Periactin given for migraine, half a tablet twice
12 a day.

13 Q. If he had a migraine headache, what period of time
14 would you expect the Periactin to be effective in, if
15 you know what ■ asked?

16 A. I think the Periactin takes at least three or four
17 days to effectively control migraine.

18 Q. If it is a true migraine, you begin to take
19 Periactin, you should experience relief in three to four
20 days?

21 A. Generally three to four days time.

22 Q. Subsequent to that do you use Periactin to control
23 the onset of migraines?

24 A. Correct.

25 Q. If it was a migraine, consistent usage of

1 Periactin would control symptoms of migraine?

2 A. Correct.

3 Q. That was the sum total of what your conclusion was
4 at that time, correct?

5 A. Correct.

6 Q. Did you want the Vargos to see Dr. Muakkassa, can
7 you tell from your chart?

8 A. I don't remember telling them to see Muakkassa at
9 that time. I don't remember that.

10 Q. Were you aware that Kristopher was seeing
11 Dr. Muakkassa in the Spring of 1995?

12 A. Yes.

13 Q. You were getting some consult letters?

14 A. Correct.

15 Q. The next hospitalization was an emergency room
16 visit of May 6, 1995?

17 A. Right,

18 Q. Once again, Kristopher presents to the emergency
19 room at Children's Hospital with complaints of headache
20 and vomiting, correct?

21 A. Correct.

22 Q. It also adds hurts when swallows. Does that mean
23 anything to you, a child is experiencing with headache
24 and vomiting some sensation of hurting when swallowing,
25 head hurts when swallowing?

1 A. I don't know.

2 Q. I'm asking, it's something that was reported.

3 once again you were not present at the
4 hospital at that time; am I right?

5 A. Correct.

6 Q. But the patient then did come to your office and
7 see you the next day; is that right?

8 A. Right.

9 Q. Two days later actually. Also Kristopher had a
10 shunt series relatively close in time to when he was
11 there at the hospital on the 6th.

12 Did you get a copy of a shunt series?

13 A. I don't have it with me at this time.

14 Q. That's fine. So he comes in on the 8th, he's been
15 on Periactin for two and a half, three weeks; is that
16 right, maybe two and a half?

17 A. Yes.

18 Q. when you examine him, what conclusion did you draw
19 on that visit?

20 A. He gets migraines, one or two a day for the past
21 three days. That means continued to have migraines,
22 despite Periactin. I decided probably Periactin is not
23 working for the migraine, I started him on Inderal at
24 that time.

25 Q. The Inderal was prescribed for potential coverage

1 for the migraine headache?

2 A. Correct.

3 Q. At that point did you suspect -- I never like to
4 use that word, I will withdraw it.

5 Did you have any other thoughts as to
6 what might be going on medically that would cause
7 Kristopher to have headaches and vomiting?

8 A. Mostly migraine I think.

9 Q. At what point in time, you can look at your
10 records, what point in time did you begin to suspect
11 this might not be migraines but a shunt malfunction?

12 MR. BEST: can I interrupt? On
13 my copy it's not clear this is the May 8th record,
14 Inderal at the bottom?

15 MISS KOLIS: Is your date
16 obliterated? Yes.

17 MR. BEST: My date is
18 obliterated, right. I'll put it in, thanks.

19 A. what was the question?

20 Q. I know you had a series of visits with Kristopher,
21 April and a lot of May, at what point in time did you
22 reach the conclusion or come to a belief I suppose that
23 this might not be migraine headaches, there might be a
24 shunt malfunction?

25 A. I think he had been followed by Muakkassa, I was

1 comfortable he is a competent pediatric neurosurgeon,
2 he's following for the shunt, He will be following on a
3 regular basis. He was following at that time on a
4 regular basis. I'm following for headache, for
5 migraine. I didn't understand the question.

6 Q. Maybe I didn't ask it too well.

7 Did you come to have a belief or concern
8 that there was a shunt malfunction, this was not a
9 migraine headache?

10 A. I'm not sure the cause of the headache at the
11 time.

12 Q. Did you tell Mrs. Vargo you were concerned this
13 might be a shunt malfunction?

14 A. At that time, I don't remember I talked to mom at
15 that time or not, I don't remember a visit where I told
16 mom about it.

17 Q. You just don't remember?

18 A. I don't remember.

19 Q. Let's take a look at the admission then on
20 5-31-1995, Kristopher comes back to the emergency room;
21 do you have that one?

22 MR. CULLEN: 5-31-95?

23 MISS KOLIS: Yes.

24 Q. I can let you look at mine, it's probably just as
25 easy.

1 Kristopher comes in, says chief
2 complaint is migraine headache, lethargic today per mom,
3 that is essentially the exam. It says to see Dr. TK,
4 correct? Seen in ER, referred to TK?

5 MR. BEST: I'm sorry to
6 interrupt, I apologize, I thought you said that
7 lethargic today is the exam. The exam is on the next
8 page, says alert, talks.

9 MISS KOLIS: I'm referring him to
10 in the nursing triage history, that is what he and I are
11 looking at at the moment.

12 MR. BEST: So there is no -- so
13 there is no misunderstanding, you called it an exam, the
14 chief complaint.

15 MISS KOLIS: I'm sorry, it says
16 chief complaint.

17 A. 9 year old white male, no apparent distress.

18 Q. The clinical record indicates he was referred to
19 you at this point?

20 A. Yes, referred to TK.

21 Q. It says admit, yes, on it; is that right? was
22 that your decision to admit him based on the present
23 symptoms or exam?

24 A. I don't remember.

25 Q. suffice it to say this ends up being an admission,

1 right?

2 A. Right.

3 Q. Do you have the admission?

4 MR. CULLEN: 5-31-95?

5 MISS KOLIS: Right.

6 Q. You probably have the summary; is that right?

7 -e-

8 A. Correct,

9 Q. Are you and ■ looking at the same discharge
10 summary? Great. You might want to take a moment and
11 read this or you might know the answer, depending on how
thoroughly you looked at this this morning.

12 Do you agree with me that the principal
13 diagnosis that you arrived at at that point was migraine
14 headache with history of myelomeningocele and
15 hydrocephalus?

16 A. Right.

17 Q. Over the course of that hospitalization that
18 lasted from 5-31 through 6-3 did you have an opinion
19 about Kristopher's headaches, what was causing them?

20 A. At that time probably the diagnosis still was
21 migraine at that time.

22 Q. what was your medical explanation to yourself,
23 obviously you just told me the diagnosis, why do you
24 believe he continued to have headache? Let me refer to
25 the way you wrote this, the patient was admitted in

April -- did you write this?

MR. CULLEN:

Did you write that?

3 A. No.

4 Q. Did someone else write this?

5 A. Internal medicine resident on the floor wrote the
6 discharge summary.

7 Q. Did you write a summary of this confinement?

8 A. I don't think ■ wrote -- ■ may have written a note
9 on a daily basis in the hospital chart.

10 Q. Let me look in the hospital chart.

11 A. 6-1-95.

12 Q. I don't have that one. There it is, tucked in the
13 wrong place.

14 Your note of 6-1-95 on admitting he had
15 a headache and vomiting almost on a continuous basis for
16 one week. Kristopher was on medication for the
17 migraine, correct?

18 A. Correct.

19 Q. what was your explanation as to why he was on the
20 medication, he continued to have the headache and
21 vomiting on a continuous basis?

22 A. Well, I think patients with migraines, sometimes
23 they go through exacerbation of symptoms. Migraines can
24 get worse despite being on medicine.

25 Q. You continued to carry a diagnosis of migraine?

1 A. Correct.

2 Q. Did you have any conversations with Dr. Muakkassa
3 that you recall during the time that Kristopher was in
4 the hospital from May 31st through June I thought it was
5 the 2nd or 3rd?

6 A. I don't remember.

7 Q. You didn't call him in for consultation or
8 anything?

9 A. I think looking at the records he was seen by his
10 associate who happened to be on call, was signed by
11 Dr. Khayyat on 5-31-95. Was seen by him, seen by a
12 resident and countersigned by Dr. Khayyat.

13 Q. Is that in the consult?

14 A. consult sheet.

15 MR. BEST: Looks like this.

16 Q. Did you request this consult?

17 A. Yes.

18 Q. why did you request the consult?

19 A. Because of any child with a headache you always
20 worry about a shunt malfunction, you want a
21 neurosurgical opinion for the headache.

22 Q. Did you see after he was discharged on 6-3 you saw
23 Kristopher again on 6-15-95?

24 MR. SIMON: Back to the office
25 notes?

1 MISS KOLIS: Back to the office
2 notes. I have to go back and forth to do this
3 chronologically.

4 MR. BEST: There is one for
5 Muakkassa's partner saw this child as well.

6 MISS KOLIS: other than this
7 consult now?

8 MR. BEST: Yes, Dr. Lax, shunt
9 pumps down easily, refills with minimal delay, shunt
10 tract okay, 6-3-95.

11 MISS KOLIS: whose signature is
12 that?

13 MR. BEST: Dr. Lax, he's also a
14 neurosurgeon, was at that time.

15 Q. You see him back in the office on 6-15?

16 A. Correct.

17 Q. what is this for?

18 A. He comes for a checkup because he was in the
19 hospital.

20 MR. BEST: Can I interrupt
21 again? I apologize. Again, I don't have dates, this is
22 the 6-15 one?

23 MISS KOLIS: 24476 in handwriting
24 above his name. They are on all of them.

25 MR. BEST: I don't know why on

1 my copy only a few of the dates came through. what was
2 the date?

3 MISS KOLIS: 6-15-95.

4 Q. So he was set to come in for follow-up because he
5 had been in the hospital?

6 A. Correct.

7 Q. what were his problems on that day?

8 A. At that time he didn't have severe headache, he
9 had some daily headache, was taking Tegretol started in
10 the hospital two weeks ago, he was sleeping well, had no
11 vomiting.

12 Q. That seemed to be controlling the symptoms?

13 A. Correct.

14 Q. You had him scheduled to come back in about a
15 month or so?

16 A. correct.

17 Q. You ended up admitting him on 6-28-95?

18 A. That's correct.

19 Q. He presented with complaints, the patient's
20 complaints were headache, correct, low heart rate?

21 A. correct.

22 Q. was this the first time you were made aware of the
23 low heart rate?

24 A. That's what I think,

25 Q. Can you tell, if you can't that is all right, can

1 you tell who saw him in the emergency room on the next
2 page for the objective exam?

3 A. I can't tell because I don't know.

4 Q. It could have been an ER physician, correct?

5 A. Yeah, I don't know. could have been ER physician
6 or resident or attending, I don't know.

7 Q. Does neurology have residents at the hospital?

8 A. Neurology has pediatric residents.

9 Q. People who are in pediatrics who are rotating
10 through a neurology section; is that right?

11 A. Correct.

12 Q. So, when you admit him, what do you think the
13 problem is, if you had an opinion at that point?

14 A. At that time he was admitted mainly for headaches
15 and lethargy, low heart rate, ■ wasn't sure if you're
16 dealing with a cardiac problem or shunt problem.

17 Q. In the time that Kristopher was your patient
18 before this hospitalization, did you have any indication
19 that he had a heart problem of any sort?

20 A. On the previous admission, without reviewing the
21 records, one of the residents noted irregular heart rate
22 by the resident, so I got an EKG done at that time in
23 the hospital. EKG was normal. short sinus arrhythmia
24 which is a normal finding in children.

25 Q. Did you yourself examine his heart?

1 A. I don't remember examining the heart at the time.
2 Q. The resident picked it up by listening?
3 A. one of the ER physicians noted in the chart
4 irregular heart rate.
5 Q. The EKG indicated it was a normal sinus rhythm?
6 A. Correct.
7 Q. Prior to this particular admission nothing in his
8 medical history that suggested a heart problem that you
9 were aware of?
10 A. Correct.
11 Q. Did you write those admit notes in the order
12 section?
13 A. I think the resident wrote the admitting orders.
14 Q. would the resident have called you to confirm this
15 is what you would want done if he's admitted to your
16 service?
17 MR. BEST: Can you show me what
18 you are referring to?
19 MISS KOLIS: I'm sorry.
20 MR. BEST: Sorry.
21 MISS KOLIS: In the order
22 section.
23 MR. BEST: Thank you.
24 A. Yes.
2s Q. Go through this: Diagnosis is headaches,

1 bradycardia, can you tell me what this says, connected,
2 I don't know what that is?

3 A. connected, 6-30-95.

4 Q. Do you know whose initials those are?

5 A. My feeling they are connected, the heart leads,
6 because of bradycardia.

7 MR. CULLEN: Let's not guess. Do
8 you know whose initials those are? we will find out by
9 the person.

10 Q. Do you have any clue for me who JS might be?

11 A. I don't know.

12 Q. You can't tell me what connected means?

13 A. I don't know.

14 Q. whether you assume that says headache or
15 bradycardia are connected or something else?

16 A. I don't know.

17 Q. Fair enough.

18 At that point it's indicated that a
19 cardiology consult is being requested, correct?

20 A. Correct.

21 Q. Doctor, do you know if that was your suggestion?

22 A. Correct.

23 Q. You wanted that because he's got the low heart
24 rate?

25 A. Correct.

1 Q. ■ gather that you came in and saw him then on the
2 28th?

3 A. Correct.

4 Q. what did your physical examination reveal to you?
5 It's a pretty brief note, see what you can remember.

6 MR. CULLEN: Read from his note.

7 Q. Typed note 7-29-95?

8 A. At this time headache, was admitted to -- headache
9 and low heart rate, heart rate around 48, no vomiting or
10 fever, CT normal, neurosurgeon to see today, will have a
11 cardiology consult for low heart rate.

12 Q. why did you want the neurosurgeon to see Kris?

13 A. Any kid with a headache, persistent headache is
14 always worried about shunt malfunction.

15 Q. Do you remember talking to Mrs. Vargo that day
16 about that you were going to have some consult to try to
17 sort out these issues?

18 A. Yes, I talked to her the morning of admission,
19 yes.

20 Q. If I follow the history, at that point you were
21 getting ready to go out of town; is that correct?

22 A. Right.

23 Q. Based on the order section, was it your decision
24 to transfer him to Dr. Muakkassa's service?

25 A. Correct.

1 Q. Can you explain in the easiest terms as possible
2 why you thought he should be on the neurosurgery service
3 at that time?

4 A. At that time I thought the problem probably was
5 the shunt at the time. I thought Muakkassa has been
6 following the patient for a long time, he knows the
7 ~~e-~~ patient very well, at that time a diagnosis probably
8 shunt malfunction, that would be the best person to take
9 it up at the time was Dr. Muakkassa.

10 Q. Did you talk with the cardiologist after the fact?
11 I guess you left town, unfortunately while you were out
12 of town Kristopher passed away; is that correct?

13 A. Yes, I think.

14 Q. Did you after the fact talk to the cardiologist?

15 A. I don't remember, sorry. I don't remember talking
16 to the cardiologist.

17 Q. Doctor, in the meetings that occurred between
18 yourself, Dr. Timmons and the vargos and then yourself,
19 Mr. consadine, and then at one meeting Dr. Muakkassa;
20 did I get that right?

21 A. correct.

22 Q. At any time did the vargos ever demand money from
23 the hospital or the doctors in those meetings?

24 A. No, I don't think so.

25 Q. Their purpose as you stated much earlier in the

1 deposition was to try to find out what happened; is that
2 correct?

3 A. That's right.

4 MISS KOLIS: Doctor, I do not
5 have any further questions to ask you.

6 MR. CULLEN: we'll read it if
7 @-
it's typed up.

8 -----

9 (Deposition concluded; signature not waived.)

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NOTATION

PAGE/LINE

■ have read the foregoing transcript and
the same is true and accurate.

THIRUVENGADA KULASEKARAN, M.D.

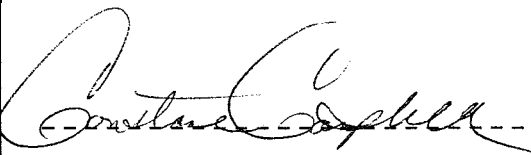
1 The State of Ohio,

2 County of Cuyahoga. : CERTIFICATE:

3 I, Constance Campbell, Notary public within and for
4 the State of Ohio, do hereby certify that the within
5 named witness, THIRUVENGADA KULASEKARAN, M.D. was by me
6 first duly sworn to testify the truth in the cause
7 aforesaid; that the testimony then given was reduced by
8 me to stenotypy in the presence of said witness,
9 subsequently transcribed onto a computer under my
10 direction, and that the foregoing is a true and correct
11 transcript of the testimony so given as aforesaid.

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

17 IN WITNESS WHEREOF, I have hereunto set my hand and
18 affixed my seal of office at Cleveland, Ohio,
19 this 5th day of May, 1999.

20 
21 -----

22 Constance Campbell, stenographic Reporter,
23 Notary Public/State of Ohio.

24 Commission expiration: January 14, 2003.

25

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