

In The Matter Of:

*Carol J. Cooper, Admr., etc. v.
Geauga Community Hospital, et al.*

*Donald C. Mann, M.D.
Vol. 1, October 27, 1997*

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[1] IN THE COURT OF COMMON PLEAS
[2] CUYAHOGA COUNTY, OHIO
[3] CAROL J. COOPER,)
Admr., etc.,)
[4] Plaintiff,)
[5] -vs-) CASE NO. 301205
[6] GEAUGA COMMUNITY)
[7] HOSPITAL, et al.,)
[8] Defendants.)
[9]
[10] Deposition of DONALD C. MANN, M.D., taken as
[11] if upon cross-examination before Susan M.
[12] Cebron, a Registered Professional Reporter and
[13] Notary Public within and for the State of Ohio,
[14] at the offices of Jacobson, Maynard & Tuschman,
[15] 1001 Lakeside Avenue, Suite 1600, Cleveland,
[16] Ohio, at 10:00 a.m. on Monday, October 27, 1997,
[17] pursuant to notice and/or stipulations of
[18] counsel, on behalf of the Plaintiff in this
[19] cause.
[20]
[21] MEHLER & HAGESTROM
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[5]
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[6]
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On behalf of the Defendant
[21] Vichai Duangjak, M.D.
[22]
[23]
[24]
[25]

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[1] DONALD C. MANN, 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,
[5] as hereinafter certified, deposed and said as
[6] follows:

[7] CROSS-EXAMINATION OF DONALD C. MANN, M.D.

[8] BY MS. HIRSHMAN:

[9]
[10] (Thereupon, Plaintiff's Exhibit 1,
[11] Mann, Curriculum Vitae of Donald D. Mann, M.D.,
[12] was marked for purposes of identification.)

[13]
[14] (Thereupon, Plaintiff's Exhibit 2,
[15] Mann, Calendar page dated November 17, 1993, was
[16] marked for purposes of identification.)

[17]
[18] (Thereupon, Plaintiff's Exhibit 3,
[19] Mann, five-page document containing records from
[20] Geauga Community Hospital concerning Nichol
[21] Cooper, was marked for purposes of
[22] identification.)

[23]
[24] Q: Would you please state your full name?

[25] A: Donald Charles Mann.

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[1] Q: And what is your profession?

[2] A: Physician.

[3] Q: And your specialty?

[4] A: Neurology.

[5] Q: Dr. Mann, have you ever had your deposition
[6] taken before?

[7] A: I have.

[8] Q: Can you tell me on approximately how many
[9] occasions?

[10] A: I would have to guess. Many times.

[11] Q: More than 10 times?

[12] A: Oh, yes.

[13] Q: More than 20 times?

[14] A: Yes.

[15] Q: Can you tell me what documents, materials,
[16] anything that you reviewed in preparation for
[17] your deposition, independent of when you
[18] actually reviewed it, whether it be today or
[19] prior to today?

[20] A: My office chart and the Geauga Hospital
[21] admission for the 17th of November.

[22] Q: Okay. Just prior to starting this morning your
[23] attorney handed me this document, and I have
[24] marked it as Plaintiff's Exhibit 3. Can you
[25] tell me what that is, please?

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[1] A: That's the handwritten note rendered at the time
[2] I saw the patient in the hospital and part of
[3] the chart.

[4] MR. KWARCANY: Doctor, there are
[5] a number of pages there.

[6] Q: Yes. There is actually five pages in Exhibit
[7] 3.

[8] A: There is a typewritten dictated consultation of
[9] the same date. There is an office memo note,
[10] November 18th, and a demographic sheet
[11] identifying birth date, address, that kind of
[12] thing.

[13] Q: Dr. Mann, does Exhibit 3 comprise your office
[14] chart for this patient, Nichol Cooper?

[15] A: It does.

[16] Q: Okay. You just looked at an original chart in
[17] order to answer that question, correct?

[18] A: Yes.

[19] Q: Was that the original office chart of which
[20] Exhibit 3 was copied?

[21] A: Yes.

[22] MS. HIRSHMAN: May I see that,
[23] please?

[24] MR. KWARCANY: Let me make sure
[25] there is no attorney/client correspondence

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[1] in here.

[2] Q: Doctor, when I sent out a Notice to take your
[3] deposition I asked that some documents be
[4] brought to your deposition.

[5] Number one asked for a copy of any and all
[6] office charts and/or medical records that you
[7] maintained regarding the decedent, Nichola
[8] Cooper. In other words, any records you may
[9] have generated with regard to her treatment in
[10] addition to those records maintained in the
[11] actual Geauga Hospital chart for this patient.

[12] Would your original hospital chart which we
[13] marked as Exhibit 3 answer that request?

[14] A: Yes.

[15] Q: So this is everything that you would have
[16] generated as a result of you seeing this
[17] patient?

[18] A: Correct.

[19] Q: And you would not have any other little
[20] handwritten notes about the telephone call you
[21] received when asked to see this patient?

[22] A: Correct.

[23] Q: Okay. The second request I had made was to
[24] receive a copy of any and all calendars, day
[25] sheets, patient scheduling information which

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[1] would reflect your personal schedule for
[2] Wednesday, November 17th, 1993, and in response
[3] to that request your attorney handed me what's
[4] been marked as Plaintiff's Exhibit 2.
[5] Now, would that be the only documents you
[6] have to produce in response to that request?
[7] A: Yes.
[8] Q: Can you tell me what Exhibit 2 is?
[9] A: It's a copy of an office calendar for Wednesday,
[10] November 17th.
[11] Q: Okay. And looking at the document, anywhere on
[12] it does it say 1993?
[13] A: It doesn't.
[14] Q: Okay. Can you tell us how we can be sure that
[15] that actually reflects your calendar for
[16] Wednesday, November 17th, 1993?
[17] A: Well, you can determine that the 17th was I
[18] guess a Wednesday. It probably isn't a
[19] Wednesday every year. That would be one way.
[20] You could look at the original.
[21] Q: Now, who actually obtained that copy?
[22] A: I did.
[23] Q: Okay. So you actually went to your 1993
[24] calendar and copied this page?
[25] A: I did.

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[1] Q: And it was the 1993 calendar?
[2] A: Yes.
[3] Q: What is the name of the document that you copied
[4] this sheet out of?
[5] A: Office calendar.
[6] Q: You call it an office calendar?
[7] A: Yes.
[8] Q: And in addition to an office calendar, do you
[9] maintain any other professional calendars which
[10] would reflect your schedule for the day?
[11] A: No.
[12] Q: Back in 1993 you did not?
[13] A: Correct.
[14] Q: Can you tell me - do you have a copy of Exhibit
[15] 2?
[16] A: I do.
[17] Q: Would you follow along with me and then I will
[18] look at my copy.
[19] Now, you have covered over some information
[20] on the top portion of this calendar, correct?
[21] A: Yes.
[22] Q: And would you tell me why you did that?
[23] MR. KWARCIA: At my advice.
[24] Q: Is that because you had patient names on there?
[25] A: Correct.

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[1] Q: Okay. Can you tell me where you were and what
[2] you were doing at 9:00 in the morning?
[3] A: I would have been in my office seeing the first
[4] patient.
[5] Q: As a matter of routine back in November of 1993
[6] on Wednesdays, did you see patients in your
[7] office?
[8] A: I did.
[9] Q: Okay. And do those numbers that are circled
[10] there, 9:00, 9:30, 9:45, 10:00, 10:15, 10:30 and
[11] 10:45, does that reflect the fact that you had
[12] patients who were scheduled to be seen in your
[13] office?
[14] A: Correct.
[15] Q: And what you covered up next to those times are
[16] the actual names of patients you saw in the
[17] office?
[18] A: Yes.
[19] Q: Okay. And can you tell me at which office you
[20] were seeing your patients that morning?
[21] A: The office was in Middlefield on High Street.
[22] Q: Okay. Can you give me the address, please?
[23] A: 16030..
[24] Q: Do you still maintain an office on High Street?
[25] A: No.

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[1] Q: Can you tell me the time frame in which you
[2] maintained an office on High Street?
[3] A: Around three years, ending in 1994.
[4] Q: And as a matter of routine back in November of
[5] 1993, on which day or days of the week did you
[6] see patients in that office?
[7] A: Wednesdays.
[8] Q: Wednesday mornings?
[9] A: Yes.
[10] Q: Did you see patients in that office on Wednesday
[11] afternoons as well?
[12] A: No.
[13] Q: So what were the morning hours at that office
[14] back in that time frame?
[15] A: 9:00 to 12:00.
[16] Q: Back in November of 1993 where else did you
[17] maintain offices?
[18] A: 1611 South Green Road.
[19] Q: Is that at the Suburban Center?
[20] A: It is.
[21] Q: And can you tell me what your office number was
[22] in that facility?
[23] A: 203.
[24] Q: For what period of time have you had an office
[25] at Suburban Health Center there on Green Road?

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[1] A: Since 1974.
[2] Q: Okay. And you continue to maintain an office in
[3] that building?
[4] A: I do.
[5] Q: Back in November of 1993 did you maintain that
[6] office with any other practitioners?
[7] A: No.
[8] Q: At present do you maintain that office with any
[9] other practitioners?
[10] A: No.
[11] Q: Can you tell me whether or not you had a routine
[12] back in November of 1993 as to the times of the
[13] week or days of the week that you were
[14] ordinarily scheduled to see patients in that
[15] Green Road office?
[16] A: I did.
[17] Q: Okay. And what were those dates and times?
[18] A: Monday, Tuesday, some Wednesday afternoons,
[19] irregularly, Thursdays and Fridays from 9:00 or
[20] 10:00 to around 5:00.
[21] Q: Just so I'm clear, back in November of '93 you
[22] would routinely see patients at the Green Road
[23] office on Mondays and Tuesdays starting around
[24] 9:00 or 10:00 in the morning until 5:00 in the
[25] afternoon?

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[1] A: Approximately.
[2] Q: And the same thing with Thursdays and Fridays?
[3] A: Correct.
[4] Q: However, your routine in that time frame would
[5] be to see patients in the Middlefield office on
[6] Wednesday mornings?
[7] A: Right.
[8] Q: And sometimes you would see patients Wednesday
[9] afternoons in the Green Road office?
[10] A: Correct.
[11] Q: Do you know if you had any patients scheduled on
[12] Wednesday, November 17th, 1993 at the Green Road
[13] office?
[14] A: I did not.
[15] Q: And how do you know that?
[16] A: There is none listed on the schedule.
[17] Q: Now, this Exhibit 2, your office calendar, would
[18] it routinely show all of your appointments
[19] independent of where you were seeing the
[20] patients?
[21] A: Yes.
[22] Q: So this isn't just a Middlefield office calendar
[23] that you copied for me?
[24] A: No. That's the total.
[25] Q: Okay. Now, back in November of 1993 can you

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[1] tell me the name of the hospital or hospitals
[2] where you admitted patients?
[3] A: University and that's about it.
[4] Q: Okay. You had courtesy privileges at Geauga?
[5] A: Yes.
[6] Q: But as a matter of routine you did not admit
[7] patients to Geauga?
[8] A: Correct.
[9] Q: Now, as a matter of routine back in November of
[10] 1993, did you maintain a routine by which you
[11] would go to round on the patients you had
[12] admitted to the hospital?
[13] A: Yes.
[14] Q: Can you tell me what your routine was in that
[15] regard?
[16] A: It would be ordinarily in the morning.
[17] Q: Can you tell me the time frame in the morning?
[18] A: Oh, 7:00 to 8:00, 6:30 to 7:30, depending on the
[19] numbers, but it would be in the morning before
[20] office hours.
[21] Q: Now, are you able to tell me whether or not you
[22] actually had patients, in-patients admitted to
[23] University Hospitals back on November 17th,
[24] 1993?
[25] A: I am not.

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[1] Q: You have no recollection?
[2] A: I don't recall. I don't believe I did, but I
[3] can't say for certain.
[4] Q: As a matter of - strike that.
[5] Can you tell me on the average how many
[6] patients you would have in the hospital on the
[7] average back in that time frame?
[8] A: None.
[9] Q: And why is that?
[10] A: I don't admit very much.
[11] Q: What was the nature of your practice as a
[12] neurologist back in November of 1993?
[13] A: Office based.
[14] Q: Okay. And can you tell me, describe for me the
[15] nature of your office based practice back in
[16] that time frame?
[17] A: See patients on a scheduled basis five days a
[18] week, travel to Geauga County on Wednesday, some
[19] hospital work, but mostly office patients who
[20] come in for care.
[21] Q: Okay. You said you would travel to Geauga
[22] County on Wednesdays. Can you tell me what you
[23] are referring to when you say that, sir?
[24] A: I would maintain an office in the county and do
[25] testing after office hours in the hospital.

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[1] Q: Which hospital is that?
[2] A: Geauga Hospital.
[3] Q: Okay. So as a matter of routine back then you
[4] had the morning office hours in your Middlefield
[5] office in Geauga County, and then you would do
[6] some testing at Geauga County Hospital in the
[7] afternoons?
[8] A: Correct.
[9] Q: And you said you would also do some other
[10] hospital work. What were you referring to when
[11] you said that?
[12] A: There were patients I would see at University
[13] Hospital that I might meet there or I might do a
[14] consultation at Geauga Hospital.
[15] Q: That just depended on what requests were made of
[16] you in that regard?
[17] A: Correct.
[18] Q: Back in November of 1993 were you on an on call
[19] sheet at University Hospitals?
[20] A: No.
[21] Q: Okay. Is that something you chose not to be on?
[22] A: I am not sure there is such a thing.
[23] Q: Okay. How about at Geauga Hospital, do you know
[24] if there is an on call sheet at Geauga Hospital
[25] for a neurologist, if a practitioner feels that

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[1] they need to consult with a neurologist?
[2] A: There was no such thing for me at that time.
[3] Q: And you don't know if such a document even
[4] existed at Geauga?
[5] A: As far as I am concerned there was no such
[6] document.
[7] Q: Okay. And back in November of 1993 do you know
[8] if there was routinely an on call neurosurgeon
[9] at Geauga Hospital, if a practitioner felt the
[10] need to consult with a neurosurgeon?
[11] A: I don't know that.
[12] Q: Okay. Do you know whether or not there were any
[13] neurosurgeons on staff with admitting privileges
[14] at Geauga Hospital back in November of 1993?
[15] A: I would have to look. I don't know offhand.
[16] Q: As you sit here today do you know of any
[17] neurosurgeons who have admitting privileges at
[18] Geauga Hospital?
[19] A: I don't believe. I would have to make further
[20] inquiry. I could be wrong.
[21] Q: You are not certain?
[22] A: Right.
[23] Q: Back in November of 1993, if you felt that it
[24] was important to consult with a neurosurgeon
[25] regarding one of your patients, can you tell me

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[1] the name or names of the neurosurgeons with whom
[2] you would consult?
[3] A: University Hospitals for the most part.
[4] Q: If you were consulting on a patient at Geauga
[5] Hospital back in November of 1993 and felt it
[6] was important to consult a neurosurgeon
[7] regarding one of your patients over at Geauga
[8] Hospital, can you tell me who you would have
[9] consulted with back in that time frame?
[10] A: I am not sure what you mean consult with.
[11] Q: Well, let me ask you this. In all - strike
[12] that.
[13] For how many - strike that.
[14] When was the first time you started
[15] consulting or working out of Geauga Hospital?
[16] A: 1976.
[17] Q: Okay. And you continue to consult at Geauga
[18] Hospital at the present time?
[19] A: I do.
[20] Q: Okay. At any time since 1976 have you ever
[21] consulted with a neurosurgeon regarding a
[22] patient with whom you are consulting at Geauga
[23] Hospital?
[24] A: Again, I am not sure what you mean by that.
[25] Q: In all the times you have been seeing patients

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[1] over at Geauga Hospital, have you ever had to
[2] call up a neurosurgeon to also see a patient for
[3] whom you are treating over at Geauga Hospital?
[4] A: I have never done that.
[5] Q: Have you ever had to call a neurosurgeon to see
[6] one of your patients who is being treated in
[7] University Hospitals?
[8] A: I have.
[9] Q: Okay. Can you tell me the names of any of the
[10] neurosurgeons you can recall that you have
[11] consulted with at University Hospitals?
[12] A: Over a long time?
[13] Q: Just say over the last five years.
[14] A: Drs. Ratcheson, Gaines, Selman.
[15] Q: Any others that you can recall?
[16] A: That's all.
[17] Q: Okay. Now, at present are you familiar with
[18] what the relationship is between Geauga Hospital
[19] and University Hospitals?
[20] A: Only what I have read in the papers.
[21] Q: Okay. And what is your understanding based upon
[22] what you have read in the papers?
[23] MR. KWARCANY: Objection. You
[24] may answer.
[25] A: That they have an affiliation ownership

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[1] arrangement.

[2] Q: Do you know whether or not there was an
[3] affiliation ownership type relationship between
[4] University Hospitals and Geauga Hospital back in
[5] November of 1993?

[6] MR. KWARCANY: Objection.

[7] A: I don't believe there was.

[8] Q: Looking again at Exhibit 2, the calendar, are
[9] you able to tell me at what time on November
[10] 17th, 1993 you were done seeing patients in your
[11] Middlefield office?

[12] A: I would say between 11:00 and 12:00.

[13] Q: Okay. Are you able to tell me whether or not
[14] what you did once you completed with your
[15] patients in your office that day?

[16] A: I went to the hospital.

[17] Q: Do you know what time you arrived at Geauga
[18] Hospital that day?

[19] A: I would say between 11:30 and 12:30.

[20] Q: Okay. Other than seeing Nichol Cooper on that
[21] afternoon, do you know if you had any other
[22] business at Geauga Hospital on that date?

[23] A: I did.

[24] Q: Okay. Can you tell me what else you did, other
[25] than seeing Nichol Cooper, what else you did at

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[1] Geauga Hospital on that date?

[2] A: I did EMG testing.

[3] Q: Okay. Would that have been routine on Wednesday
[4] afternoons to conduct EMG testing at Geauga
[5] Hospital?

[6] A: Yes.

[7] Q: Are you able to tell me - strike that.

[8] First of all, is there a specific area of
[9] the hospital where you conduct the EMG testing?

[10] A: Yes.

[11] Q: And where is that?

[12] A: It's in the EKG cardiology section.

[13] Q: And where was that located back in November of
[14] '93?

[15] A: I believe it's in the same place where it is
[16] now, near radiology.

[17] Q: On which floor?

[18] A: First.

[19] Q: Do you actually recall the time frame you were
[20] in the EMG lab on that date?

[21] A: The minutes that I was there I can't tell you.

[22] Q: Are you able to tell me, give me an estimate or
[23] based upon your routine how long you were in the
[24] EMG department on that day?

[25] A: Approximately from 12:00 to 2:00, 12:30 to 1:30,

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[1] something of that order.

[2] Q: Now, here on Exhibit 2 around the time of, it
[3] looks like around the time of 2:00 there is
[4] something written on that line. Can you tell me
[5] what that says?

[6] A: Last EMG.

[7] Q: Whose handwriting is that?

[8] A: Mine.

[9] Q: So does that mean that probably your last EMG of
[10] the day was scheduled for 2:00?

[11] A: Correct.

[12] Q: How long does it take to conduct an EMG?

[13] A: Anywhere from 20 to 40 minutes.

[14] Q: Okay. Would that mean that your last EMG was
[15] scheduled to begin at 2:00 on that date?

[16] A: Yes.

[17] Q: Okay. So if everything was going on schedule,
[18] you probably started your last EMG around 2:00
[19] and finished around 2:30 or 2:40?

[20] A: If there were, correct.

[21] Q: You can't actually recall whether or not you
[22] conducted that last EMG and at what time it
[23] started and what time it ended?

[24] A: Well, I didn't do an EMG at 2:00.

[25] Q: Okay. How do you know that?

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[1] A: Because I was seeing the patient then.

[2] Q: The patient, you mean Nichol Cooper?

[3] A: Yes.

[4] Q: How was it that you know you were seeing Nichol
[5] Cooper at 2:00?

[6] A: Because I made note of it.

[7] Q: Okay. Can you tell me where you made note that
[8] you saw her at 2:00?

[9] A: In my office chart.

[10] Q: Okay. And can you show me where in your office
[11] chart you make reference to that?

[12] Doctor, could you follow the original then
[13] and I could follow the marked exhibit, if you
[14] don't mind, then we can each have a copy we can
[15] look on together. Thank you.

[16] A: The sheet dated November 18th, 1993 I wrote that
[17] I had seen her in the ICU around 2:00.

[18] Q: Okay. So based upon that dictated note of
[19] November 18th, 1993, that's where you get this
[20] time of 2:00?

[21] A: Yes.

[22] Q: Okay. Can you tell me when you dictated this
[23] note dated November 18th, 1993?

[24] A: On the 18th.

[25] Q: And can you tell me why you dictated this note?

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[1] A: So that I can record what exactly happened.
[2] Q: And is the reason you wanted to record exactly
[3] what happened because of what happened to the
[4] patient that evening?
[5] A: Well, there was quite a bit of change and it was
[6] nowhere in the record where it happened. So I
[7] thought it was important to make a record of
[8] what transpired.
[9] Q: So it was because of the events that happened
[10] after you had seen her and the fact that she had
[11] gone downhill, you wanted to make sure that what
[12] happened, based on your understanding, was
[13] recorded somewhere in your chart?
[14] A: I did it so I can tell exactly what I had done
[15] the day before, if it ever came up.
[16] Q: Other than your handwritten consultation note of
[17] November 17th in the Geauga Hospital chart and
[18] this dictated note of November 18th, 1993, a
[19] copy of which is in your office chart, are there
[20] any other notes that you authored or you
[21] generated or you wrote regarding Nichol Cooper?
[22] A: No.
[23] Q: And other than your office chart and the
[24] 11/17/93 hospital chart for Nichol Cooper, you
[25] have not looked at any other documents before

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[1] coming to your deposition?
[2] A: No.
[3] Q: You have not done any medical literature
[4] research or read any literature textbooks?
[5] A: Well, I do that all the time anyway.
[6] Q: Specifically with regard to this case?
[7] A: Not specifically.
[8] Q: Okay. Other than speaking with your attorney,
[9] and I don't want to know what you talked with
[10] him about because I am not entitled to that,
[11] have you spoken with anybody else regarding this
[12] matter, Nichol Cooper, since you treated her?
[13] A: No.
[14] Q: Have you spoken with any of the other doctors
[15] involved as defendants in this lawsuit?
[16] A: I have not.
[17] Q: Okay. Now, looking at your calendar again,
[18] Exhibit 2, as a matter of routine, how long
[19] would you be at Geauga Hospital on Wednesdays in
[20] November of '93?
[21] A: As long as there were patients booked for EMG
[22] testing.
[23] Q: Do you know approximately what time you left
[24] Geauga Hospital on November 17th, 1993?
[25] A: Around 2:30, approximately.

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[1] Q: After you saw Nichol Cooper?
[2] A: Yes.
[3] Q: Okay. On Exhibit 2, the calendar, on the line
[4] where it says 4:00, can you tell me what that
[5] says?
[6] A: Sherry -
[7] MR. KWARCANY: The line above
[8] that.
[9] A: Oh, Peggy.
[10] Q: And what does that reflect?
[11] A: I don't know.
[12] Q: Okay. Is that your printing or writing?
[13] A: My secretary's.
[14] Q: Okay. And you don't know what Peggy refers to
[15] at all?
[16] A: I do not.
[17] Q: Can you tell me, the circle at 4:30 and then the
[18] line after that, what does that say?
[19] A: That says Sherry Velolin or something of that
[20] nature.
[21] Q: Can you tell me if this reflects your activity
[22] at 4:30 or a scheduled appointment?
[23] A: It reflects that.
[24] Q: Okay. Can you tell me, I don't need to know the
[25] patient's name, what you did at 4:30 on that

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[1] date?
[2] A: I had a meeting with those people, but I
[3] couldn't tell you what it was about.
[4] Q: Okay. I don't want to know what it was about.
[5] Was it professional reasons, a patient?
[6] A: No. I think this was some sort of
[7] administrative meeting.
[8] Q: Can you tell me where that meeting at 4:30 took
[9] place?
[10] A: In my office.
[11] Q: On Green Road?
[12] A: Yes.
[13] Q: And then under that, can you tell me what it
[14] says on the line timed 5:00?
[15] A: That's an address and a birth date of a patient
[16] identifying information, probably one of the
[17] patients I had seen that morning.
[18] Q: Okay. The fact that this information is there,
[19] can you tell us what it was you did with that
[20] information or why that's there?
[21] A: It is there for billing.
[22] Q: And that was written by your secretary?
[23] A: Yes.
[24] Q: So you didn't have an appointment or meeting
[25] with this person around that time?

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[1] A: No.
[2] Q: Can you tell me what is, it is difficult to see
[3] down around the 6:30 time frame. Do you know
[4] what that says?
[5] A: I don't.
[6] Q: It looks like there is two letters and then
[7] under that it looks like 7:30 or something like
[8] that?
[9] A: It looks like two C's at 7:30, but that's as
[10] much as I can make of it.
[11] Q: Does it look like your writing?
[12] A: It does.
[13] Q: Did you go to a country club, could CC be
[14] country club or no?
[15] A: I don't go to such places. I mean, I do go.
[16] Q: At someone else's invitation?
[17] A: Correct. That's some sort of evening
[18] commitment.
[19] Q: And you don't know what that was?
[20] A: I do not.
[21] Q: And then as a matter of routine the next time
[22] you would have seen patients would have been
[23] Thursday, November 18th, in your Green Road
[24] office, around 9:00 or 10:00 in the morning?
[25] A: Correct.

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[1] Q: Doctor, could you tell me your date of birth
[2] please?
[3] A: June 1, 1947.
[4] Q: In Indianapolis?
[5] A: Yes.
[6] Q: And your Social Security number?
[7] A: 309-44-2257.
[8] Q: I am going to hand you what we have marked as
[9] Plaintiff's Exhibit 1, which consists of two
[10] pages. Could you please look at that and tell
[11] us what that is?
[12] A: My curriculum vitae as of 1996.
[13] Q: Your lawyer handed me a copy of that curriculum
[14] vitae this morning and I just want to make sure
[15] that you have taken the opportunity or take the
[16] opportunity to look at it and make sure it is
[17] current. If not, tell us if there is any
[18] additions, changes, deletions that need to be
[19] made.
[20] A: I no longer edit the Neurology Newsletter.
[21] Everything else is the same.
[22] Q: Okay. Can you describe what the practice of
[23] neurology entails for you in your practice?
[24] A: Seeing patients, interviewing patients, taking
[25] histories, conducting the appropriate physical

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[1] examination, recommending tests, whatever those
[2] might be, and the treatment thereafter.
[3] As far as the office patients who walk in,
[4] some have chronic illnesses, some do not. There
[5] is the group in-between. I see largely adults,
[6] and I do that five days a week.
[7] Q: All right. Back in November of 1993 did you
[8] have a contractual relationship with Geauga
[9] Hospital?
[10] A: No.
[11] Q: Can you tell me the nature of the relationship
[12] you had with Geauga Hospital?
[13] A: I'm a medical staff member like any other such
[14] individual applying for privileges every two
[15] years or whatever it is, and being so granted or
[16] permitted by the bylaws.
[17] Q: Can you tell me - you told me earlier that
[18] routinely you would do testing at Geauga
[19] Hospital Wednesday afternoons, like EMG
[20] testing. Can you tell me whether or not you had
[21] a formal arrangement with Geauga Hospital and
[22] they understood that you would do that type of
[23] testing on Wednesday afternoons?
[24] A: I think they knew it, but it doesn't come as any
[25] sort of written agreement. It has just sort of

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[1] been established by time and past practice.
[2] Q: And for how long had you been doing that type of
[3] testing on Wednesday afternoons there?
[4] A: Well, since sometime in the Eighties.
[5] Q: You continue to do that at present?
[6] A: I do.
[7] Q: Okay. Other than yourself - strike that.
[8] What type of privileges did you have at
[9] Geauga Hospital back in November of '93?
[10] A: Courtesy.
[11] Q: Okay. If you were asked to consult on a
[12] patient, as you were with Nichol Cooper, back on
[13] November 17th, 1993 with courtesy privileges, do
[14] you have the ability to order testing that you
[15] deem is appropriate?
[16] A: I am not sure what is spelled out, but I suspect
[17] that that could be done by a courtesy physician.
[18] Q: And in all the years you have been practicing at
[19] Geauga Hospital, can you tell me with what
[20] frequency you would be asked to see a patient at
[21] Geauga Hospital?
[22] A: Once a month some months, sometimes in a month I
[23] don't see patients at all. In the Seventies and
[24] early Eighties I saw more patients when it was a
[25] larger hospital, but over time I see very few

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[1] in-patients at Geauga Hospital.
[2] **Q:** In all the years you have been treating at
[3] Geauga Hospital, have you ever been asked to
[4] consult and see a patient at Geauga Hospital by
[5] an attending there and then you yourself arrange
[6] transfer of that patient to another facility for
[7] further care?
[8] **A:** I don't think that has ever happened.
[9] **Q:** In all the years you have been practicing at
[10] Geauga Hospital, have you ever been asked to
[11] consult on a patient by an attending at Geauga
[12] Hospital and then you yourself order a head CT
[13] scanning or testing on that patient on whom you
[14] are consulting?
[15] **A:** That has happened.
[16] **Q:** Do you know back in November of '93 if they had
[17] the capacity to perform cerebral angiography
[18] over at Geauga Hospital?
[19] **A:** I think not.
[20] **Q:** Do you know if they have that capability at
[21] present?
[22] **MR. KWARCANY:** Objection.
[23] **A:** I don't.
[24] **Q:** They do have that capability at University
[25] Hospitals?

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[1] **A:** Yes.
[2] **Q:** And they had that capability back in November of
[3] 1993?
[4] **A:** Yes.
[5] **Q:** Have you ever at any time, either when you were
[6] treating Nichol or any time up through today,
[7] have you ever looked at any of her CT scans?
[8] **A:** No.
[9] **Q:** Have you ever looked at her Metro records?
[10] **A:** No.
[11] **Q:** Have you ever looked at the CT scans which were
[12] taken on her at Metro?
[13] **A:** No.
[14] **Q:** Okay. As we sit here today you don't have any
[15] opinions as to what any of her CT scans may
[16] show?
[17] **A:** Correct.
[18] **Q:** As we sit here today you have no opinion as to
[19] whether or not the care that was provided to
[20] Nichol at Metro was within acceptable standards
[21] of care?
[22] **A:** I don't know anything about that.
[23] **Q:** So you have no such opinions on that?
[24] **A:** Right. I am completely in the dark.
[25] **Q:** Okay. And I need to know if you have any

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[1] opinions.
[2] **A:** Well, I don't think I could have an opinion
[3] about something of which I know nothing.
[4] **Q:** Thank you.
[5] **MR. KWARCANY:** That doesn't stop
[6] some people.
[7] **MS. HIRSHMAN:** That's why we need
[8] to hear those words.
[9] **A:** I have no opinion.
[10] **Q:** It's my understanding you played absolutely no
[11] role in the treatment that Nichol received when
[12] she was seen in the emergency room on November
[13] 11, 1993, is that correct?
[14] **A:** Correct.
[15] **Q:** In fact, you have never even looked at those
[16] records from that 11/11/93 ER visit at Geauga
[17] Hospital?
[18] **A:** Correct.
[19] **Q:** And since you don't practice as an ER physician,
[20] you don't have any opinions to render as to
[21] whether or not the care that was provided on
[22] that first ER visit on 11/11/93 was within
[23] acceptable standards of care?
[24] **A:** Correct.
[25] **Q:** Now, you have looked at the ER records from the

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[1] second visit, which was November 17th, 1993?
[2] **A:** Yes.
[3] **Q:** But since you don't practice in the area of
[4] emergency medicine, you don't have any opinions
[5] as to whether or not the care provided in the
[6] emergency room on 11/17/93 was within acceptable
[7] standards of care?
[8] **A:** Well, as far as emergency room physicians, I
[9] cannot comment on their performance standards,
[10] but I can talk about neurologic cases.
[11] **Q:** Okay. We'll get into this.
[12] Dr. Mann, would you tell me when was the
[13] first time you were ever consulted or called
[14] about this patient, Nichol Cooper?
[15] **A:** The morning of the 17th of November.
[16] **Q:** Okay. Are you able to tell me the time of day
[17] that you received the first call?
[18] **A:** Between 7:30 and 8:00.
[19] **Q:** And that's the time that you reflected in your
[20] dictated note of November 18th, 1993?
[21] **A:** Correct.
[22] **Q:** Is that something as we sit here today you can
[23] actually recall the time, or are you relying
[24] upon your November 18th note to come up with
[25] that time?

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[1] A: I recall it.
[2] Q: Okay. And how is it that you recall that, sir?
[3] A: I remember this case.
[4] Q: Where were you when you received that call
[5] around 7:30 or 8:00 in the morning on November
[6] 17th, 1993?
[7] A: I don't know.
[8] Q: Back in that time frame did you carry a beeper
[9] with you?
[10] A: Yes.
[11] Q: And did you also use a portable phone?
[12] A: Yes.
[13] Q: Do you know whether or not you received the call
[14] and spoke with someone about this patient on
[15] your portable phone?
[16] A: That's a possibility.
[17] Q: Have you looked at any records, telephone
[18] records to see whether or not a phone call was
[19] made in that time frame from your cellular
[20] phone?
[21] A: I have not.
[22] Q: Are you able to tell me based upon your routine
[23] for Wednesday mornings back in that time frame
[24] as to where you might have been?
[25] A: I would have been at University Hospitals or in

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[1] a meeting someplace at that hour.
[2] Q: Okay. You would not have been at home, you
[3] would already have been well on your way to
[4] starting your day?
[5] A: Correct.
[6] Q: Can you tell me from whom you received that
[7] phone call?
[8] A: Someone on the obstetrics floor.
[9] MS. HIRSHMAN: You know, before we
[10] go any further, I want to make sure it is
[11] clear, I don't think we said anything on
[12] the record before we got started today,
[13] this deposition was scheduled by agreement
[14] of counsel at Dr. Mann's convenience
[15] through Dale Kwarciany's office. Everybody
[16] received a letter acknowledging the day,
[17] time and place of the deposition back in
[18] September, and then after they received
[19] that letter I mailed out a Notice of
[20] Deposition with duces tecum on September
[21] 26, 1997 to all counsel of record that we
[22] were about to begin this morning at 10:00.
[23] Steve Walters, who is counsel of
[24] record for the hospital, was not present
[25] when we wanted to begin this morning, and

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[1] we did begin just after 10:00. It is now
[2] 10:46 and he is still not present, nor is
[3] anyone from his office present.
[4] MR. KWARCANY: And the record
[5] should also reflect that I personally
[6] telephoned Mr. Walter's office, spoke to a
[7] substitute secretary, who indicated to me
[8] that Mr. Walters had not come into the
[9] office. She did not know where he was at
[10] the time. So we went ahead with the
[11] deposition.
[12] MS. HIRSHMAN: I just want to make
[13] sure it is clear, not only was he noticed,
[14] but we did attempt to make sure where his
[15] whereabouts are and we were unable to do
[16] so, and so we have proceeded since he did
[17] receive ample notice.
[18] Q: Okay. Doctor, you just told me that the phone
[19] call you received on that morning around 7:30 or
[20] 8:00 in the morning was received from someone on
[21] the obstetric floor?
[22] A: Yes.
[23] Q: Can you tell me anything more about the person
[24] with whom you spoke to that morning?
[25] A: No.

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[1] Q: Can you tell me if it was a man or a woman?
[2] A: I believe it was a woman.
[3] Q: Okay. Although you can't tell me specifically
[4] who it was, do you know if the person identified
[5] themselves?
[6] A: They might have.
[7] Q: Based on what you are telling me, are you
[8] certain it wasn't Dr. Duangjak?
[9] A: I am certain.
[10] Q: Before November 17th of '93 you knew Dr.
[11] Duangjak?
[12] A: I did.
[13] Q: Had you ever met him before?
[14] A: Yes.
[15] Q: Had you worked with him on consulting with
[16] patients?
[17] A: Yes.
[18] Q: And you know that you did not speak with him
[19] that morning?
[20] A: Correct.
[21] Q: Okay. Now, you say you spoke with a woman. Do
[22] you know if it was a nurse or a doctor?
[23] A: It was probably a nurse.
[24] Q: And why do you say it was probably a nurse?
[25] A: That was my recollection from my notes, although

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[1] I can't vividly recall it was a nurse. It
[2] certainly was not a physician.
[3] Q: Why do you say that?
[4] A: I know I didn't talk to a physician that
[5] morning.
[6] Q: And how is it you know you didn't talk to a
[7] physician that morning?
[8] A: I would have remembered.
[9] Q: Okay. Can you tell me where it is in your note
[10] that you reflect it was probably a nurse?
[11] A: "A consult was called on November 17th from
[12] Geauga Hospital, obstetric nurse, around 7:30 or
[13] 8:00".
[14] Q: And you are reading from your dictated note of
[15] November 18th?
[16] A: Yes.
[17] Q: Are you able to tell me from your memory how
[18] long of a conversation this was?
[19] A: A minute or two.
[20] Q: Are you able to tell me whether or not you
[21] directly received the call and spoke with the
[22] obstetrical nurse or whether or not you had to
[23] return a page and call them back?
[24] A: That I am not sure of.
[25] Q: In any event, eventually you two were connected

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[1] and had a discussion?
[2] A: Correct.
[3] Q: Did you speak with anyone other than the
[4] obstetrical nurse at the time of that first
[5] contact in the morning at 7:30 or 8:00?
[6] A: No.
[7] Q: And based on your memory, can you tell me what
[8] was discussed?
[9] A: There was a patient who had had a seizure that
[10] morning that had come in through the emergency
[11] room, was 20 some months pregnant, there was a
[12] question of overdose, and would I see the
[13] patient.
[14] MR. KWARCANY: Did you say 20
[15] months or 20 weeks?
[16] A: Twenty some months - 20 some weeks.
[17] Q: Can you recall any other information being given
[18] to you about the patient at that time?
[19] A: That was all.
[20] Q: Did you ask for any additional information?
[21] A: Only the room number, if anything else.
[22] Q: I am sorry?
[23] A: That's all I recall asking.
[24] Q: For a room number?
[25] A: Yes.

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[1] Q: Okay. As of that point in time, when you
[2] received that phone call in the morning, what
[3] did you perceive to be your role in the medical
[4] management of this patient?
[5] A: To conduct a routine consultation and evaluation
[6] of a seizure problem in a young woman who was
[7] pregnant.
[8] Q: Now, back in that time frame, with what
[9] frequency would you receive a call to consult on
[10] a patient at Geauga or University Hospitals?
[11] A: Low frequency. It varies quite a bit, but some
[12] months there are none, some months there are at
[13] Geauga one or two, but there are not very many.
[14] Q: However, when you do receive those calls, would
[15] you routinely ask at the time of the initial
[16] telephone contact, would you ask about the
[17] urgency of the matter, how quickly the
[18] consultation was needed?
[19] A: I would indicate when I would be there or that I
[20] couldn't be there at all for whatever reason, so
[21] they would know when to expect me.
[22] Q: So you specifically wouldn't say how urgent is
[23] this, but you would tell them when you could be
[24] there?
[25] A: Yes. I would say as a matter of routine I am

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[1] here and I will do this because I only do it one
[2] day a week, and that I will be there this
[3] afternoon at a certain time to see the patient.
[4] Q: When you received this call about Nichol, you
[5] were probably given her name?
[6] A: Yes.
[7] Q: And you were given her room number?
[8] A: Yes.
[9] Q: And you were told she had had a seizure, she had
[10] come in through the emergency room, she was 20
[11] weeks present?
[12] MR. KWARCANY: Some weeks.
[13] Q: Twenty some weeks pregnant and there was a
[14] question of an overdose, and would you see the
[15] patient?
[16] A: Correct.
[17] Q: And your response was yes, I'll be there this
[18] afternoon?
[19] A: Correct.
[20] Q: Other than that, did you receive any other
[21] information about this patient?
[22] A: No.
[23] Q: Other than that, did you request any other
[24] information about this patient?
[25] A: No. I don't recall asking anything further.

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[1] Q: Okay. So as of that morning did you have some
[2] responsibility for the medical management of
[3] this patient?
[4] A: No.
[5] Q: Why not?
[6] A: I hadn't seen the patient.
[7] Q: At any point in time did you have a
[8] responsibility or play a role in the medical
[9] management of this patient?
[10] A: I did.
[11] Q: Okay. And when did that responsibility begin?
[12] A: When I saw her.
[13] Q: So that would have been around 2:00 in the
[14] afternoon?
[15] A: Correct.
[16] Q: And what was your responsibility as of 2:00 in
[17] the afternoon?
[18] A: To make a diagnosis and suggest treatment to the
[19] attending physician.
[20] Q: The attending was Dr. Duangjak?
[21] A: Yes.
[22] MS. HIRSHMAN: Am I pronouncing
[23] his name right, Steve?
[24] MR. HUPP: Yes.
[25] Q: When did your responsibility end?

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[1] A: After consulting with Dr. Duangjak on the phone.
[2] Q: And when did you consult with Dr. Duangjak on
[3] the phone?
[4] A: Around 2:30.
[5] Q: Now, when you received the call from the
[6] obstetrical nurse, I take it she did not tell
[7] you that the patient was lethargic?
[8] A: No.
[9] Q: Did she tell you that the patient had come in
[10] with head and neck pain?
[11] A: No.
[12] Q: Did anybody tell you that there is a question as
[13] to whether or not she had suffered a seizure at
[14] home before she came to the ER?
[15] A: No.
[16] Q: Did anyone tell you that she had been slurring
[17] her words when at the hospital?
[18] A: No.
[19] Q: You did know she was pregnant?
[20] A: I did.
[21] Q: You were told that there was a question of a
[22] drug overdose?
[23] A: Yes.
[24] Q: Were you given an impression as to whether or
[25] not that was a likely diagnosis or that was a

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[1] very questionable diagnosis or how certain of a
[2] diagnosis that was?
[3] A: I don't think any of those things was conveyed.
[4] Q: So you didn't have an impression as to whether
[5] or not this was most likely an overdose
[6] situation or whether that it was less likely,
[7] you didn't have an understanding one way or the
[8] other?
[9] A: Right.
[10] Q: Were you made aware or did you ask any questions
[11] to find out the type of seizure activity the
[12] patient had experienced which prompted the call
[13] for a consultation with you?
[14] A: I may have been told it was a tonic seizure, but
[15] I don't recall any other specifics about the
[16] seizure.
[17] Q: And what is a tonic seizure?
[18] A: Stiffening of the arms and legs.
[19] Q: Did you have an understanding one way or another
[20] as to whether or not she lost consciousness?
[21] A: I believe she had and, also, she had recovered
[22] fairly quickly.
[23] Q: Okay. Were you given an understanding that she
[24] had been unconscious for 15 minutes?
[25] MR. KWARCANY: Objection.

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[1] A: No.
[2] Q: Again, we are talking about during the time of
[3] this first phone call to you.
[4] A: I was not.
[5] Q: And when you received that, again, the first
[6] phone contact in the morning from the
[7] obstetrical nurse, were you aware that it was
[8] Dr. Duangjak's patient?
[9] A: Yes.
[10] Q: You knew that Dr. Duangjak was the attending for
[11] this patient?
[12] A: Yes.
[13] Q: And you knew at that time that Dr. Duangjak was
[14] an OB/GYN?
[15] A: I did.
[16] Q: Were you aware at that time that a tox screen
[17] had already been ordered on the patient?
[18] A: No.
[19] Q: Back in November of 1993 do you know whether or
[20] not stat or emergency tox screening was
[21] available at that hospital, Geauga Hospital?
[22] A: I don't know that.
[23] Q: Do you know if it is available at present?
[24] MR. KWARCANY: Objection.
[25] A: I couldn't tell you what the availability of

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[1] that test is, the time and so on.
[2] **Q:** Have you ever ordered tox screening on a patient
[3] at Geauga Hospital?
[4] **A:** No.
[5] **Q:** Was there any further communication between you
[6] and anybody else about this patient, Nichol
[7] Cooper, from the time you had that first phone
[8] call from the obstetrical nurse at 7:30 or 8:00
[9] in the morning and the time you actually saw
[10] Nichol around 2:00 in the afternoon?
[11] **A:** No.
[12] **Q:** And you did not make any other calls and inquire
[13] about her in that time frame, did you?
[14] **A:** No.
[15] **Q:** At any time whatsoever did you speak with a
[16] neurosurgeon about this patient?
[17] **A:** No.
[18] **Q:** When you told the obstetrical nurse at the time
[19] of the first phone conversation, when you told
[20] her you would be there in the afternoon, was
[21] there any comment made by the nurse as to the
[22] urgency with which she felt the patient needed
[23] to be seen?
[24] **A:** No.
[25] **Q:** If the nurse or the admitting doctor expected

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[1] this patient to be seen more urgently than 2:00
[2] in the afternoon, would you expect them to make
[3] that known to you?
[4] **A:** I would.
[5] **Q:** When you were being asked to consult on this
[6] patient, Nichol Cooper, was it your
[7] understanding that you were to see the patient
[8] to just evaluate her and make recommendations,
[9] or were you to manage her along with the
[10] attending physician, Dr. Duangjak?
[11] **A:** To evaluate and make recommendations and not to
[12] co-manage.
[13] **Q:** And where did you get that understanding?
[14] **A:** Well, I am only in that location one day a
[15] week. So my capacity to manage cases at a
[16] distance makes it impossible for me to do so.
[17] **Q:** So based upon the fact that you are really only
[18] there one afternoon a week, when a request would
[19] come from Dr. Duangjak, you would assume he
[20] knows that you are not able to consult in a
[21] co-managing type of role?
[22] **A:** Correct.
[23] **Q:** Had you ever consulted with Dr. Duangjak before
[24] that date?
[25] **A:** I have.

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[1] **Q:** And was the arrangement, to the best of your
[2] knowledge, was the arrangement always as to
[3] consult, see the patient and make
[4] recommendations and not to co-manage?
[5] **A:** That's hard to answer. There was a time I spent
[6] more hours at the hospital and it's a case by
[7] case issue. So there is no hard line about that
[8] over long periods of time, but that certainly is
[9] my practice in the Nineties and late Eighties.
[10] **Q:** And in November of '93?
[11] **A:** Yes.
[12] **Q:** Okay. Back on November 17th, 1993 did you
[13] consider Dr. Barnett-Rico to have any role in
[14] managing this patient once she was admitted to
[15] the hospital?
[16] **MR. KWARCANY:** Objection. Do you
[17] know who that is?
[18] **A:** Who is that?
[19] **Q:** Okay. So you don't know who Dr. Barnett-Rico
[20] even is?
[21] **A:** No.
[22] **Q:** You have never met her, you haven't seen her
[23] name in the records, you don't know who that is?
[24] **A:** I have seen Barnett as the emergency room
[25] physician.

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[1] **Q:** Okay. And other than seeing it in the records,
[2] you had no knowledge on that date who Dr.
[3] Barnett or Dr. Barnett-Rico was?
[4] **A:** Correct.
[5] **Q:** Okay. Back on November 17th of 1993 you told me
[6] that Geauga did have the ability to perform head
[7] CT scanning?
[8] **A:** They did.
[9] **Q:** Assume for the moment that back when you
[10] received the call that morning from the
[11] obstetrical nurse that you had been told that
[12] Dr. Barnett-Rico, the emergency room doctor who
[13] had evaluated this patient, upon learning that
[14] the patient had suffered a seizure then at 7:30
[15] in the morning felt it was important that the
[16] patient undergo head CT scanning as soon as
[17] possible, if that information had been related
[18] to you, would you then have made the
[19] recommendation at that time to make sure head CT
[20] scanning was performed on this patient?
[21] **MR. KWARCANY:** Objection.
[22] **A:** That's a lot of if's. If by ordering a head CT
[23] scan you mean that there is something about this
[24] patient that isn't just ordinary and routine,
[25] then my advice would be to do something besides

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[1] just wait until I get there. I myself would not
[2] order the test, but if others had felt the case
[3] needed more investigation, my advice would be to
[4] proceed forthwith, don't wait for me, do what
[5] you feel you need for the patient.
[6] Q: Why would you not order the test yourself in
[7] that situation?
[8] A: I had not seen her.
[9] Q: Have you ever ordered head CT scanning on a
[10] patient at Geauga Hospital?
[11] A: I have.
[12] MR. KWARCANY: You are assuming a
[13] patient that he has seen?
[14] A: On a patient I have seen I have ordered head CT
[15] scans.
[16] Q: Let's talk about your actual evaluation of
[17] Nichol Cooper on that date. Where did you
[18] perform your examination of Nichol Cooper on
[19] that date?
[20] A: In her room.
[21] Q: And she was in the ICU?
[22] A: Correct.
[23] Q: When you saw her, was anybody else present?
[24] A: I don't believe so.
[25] Q: According to your November 18th dictated notes,

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[1] there was no family members or friends present
[2] at the time?
[3] A: There was nobody there. There may have been a
[4] nurse, but I think it was just the patient and
[5] I.
[6] Q: Do you remember speaking with the nurse at all?
[7] A: I am sure I did.
[8] Q: But you don't recall that?
[9] A: I would have said hello, I am here to see the
[10] patient, that kind of thing.
[11] Q: As a matter of routine you would have said
[12] something to the nurse, but you just don't
[13] recall it?
[14] A: Correct.
[15] Q: Now, according to your November 18th dictated
[16] note, you refer to the fact that you spoke with
[17] Dr. Duangjak around 2:30 or 2:45, correct?
[18] A: Yes.
[19] Q: Refer to that, if you need to, please. And you
[20] make the comment that I saw only the emergency
[21] room note in the chart.
[22] Can you tell me what that refers to?
[23] A: That the intake information, nursing
[24] observations were all that I had in the chart.
[25] Q: When you saw Nichol in the ICU at 2:00, there

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[1] was a chart with the patient?
[2] A: Yes.
[3] Q: As a matter of routine the patient's chart is
[4] kept right near their bed in the ICU there?
[5] A: It is.
[6] Q: And what was in Nichol's chart, based on your
[7] recollection, what was in her chart when you saw
[8] her?
[9] A: The emergency room notes, nursing notes, and
[10] maybe an order sheet and that's it.
[11] Q: As a matter of routine would there usually be
[12] more than those items in a patient's chart?
[13] A: Physician progress notes might be there, if they
[14] were there, other nursing notes, certain
[15] obstetrical forms, perhaps.
[16] Q: You saw no physician progress notes at that time
[17] when you saw her?
[18] A: Right.
[19] Q: Did you see an admission history and physical?
[20] A: Only what was in the emergency room notes.
[21] Q: Okay. So you saw notes from the emergency room,
[22] but you did not see an actual reflection that an
[23] admission history and physical examination had
[24] been performed on the patient?
[25] A: Correct.

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[1] Q: Did you see your role, as a consultant to Dr.
[2] Duangjak, did you see your role as performing
[3] the admission history and physical?
[4] A: No.
[5] Q: Did you actually review the emergency room chart
[6] which was in Nichol's chart there by her bed?
[7] A: I did.
[8] Q: Did you review it in detail?
[9] A: In some detail, yes.
[10] Q: Since there wasn't an admission history and
[11] physical you would have wanted to look at that,
[12] since it was one of the few pieces of
[13] information it had?
[14] A: Well, depending on what was it in, yes.
[15] Q: Do you recall if you also looked at the run
[16] sheet, the ambulance run sheet information?
[17] A: I don't believe so.
[18] Q: Okay. Do you recall for sure one way or the
[19] other?
[20] A: Most likely I didn't see the ambulance run
[21] sheet.
[22] Q: But you can't recall?
[23] A: With specificity and certainty, no.
[24] Q: Would you please turn to your handwritten
[25] consultation note? I would like to look at that

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[1] with you.
[2] Now, in your original office chart for
[3] Nichol you actually have a yellow copy of this
[4] handwritten note, correct?
[5] A: I do.
[6] Q: And can you tell me why you have the yellow
[7] copy?
[8] A: That's the color of the noncarbon copy
[9] underneath the original.
[10] Q: And as a matter of routine would that yellow
[11] copy be sent to the doctor who actually
[12] generates that consultation note?
[13] A: I take it with me.
[14] Q: So right after you are done writing it you
[15] actually took it with you?
[16] A: I did.
[17] Q: And then you made sure it found its way to your
[18] chart in the office?
[19] A: I did.
[20] Q: Now, at the very top portion of the sheet where
[21] it says date, 11/17/93, is that your printing?
[22] A: No.
[23] Q: And then under that where it says consulting
[24] physician, Dr. Mann, and then it says n-o-t it
[25] looks like, is that your writing?

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[1] A: No.
[2] Q: Is the rest of this sheet in your handwriting?
[3] A: It is.
[4] Q: And can you tell me when you wrote this note?
[5] A: Right after I evaluated her.
[6] Q: Would it have been right at Nichol's bedside?
[7] A: It probably was at a desk close by.
[8] Q: Okay. When you were done writing this
[9] consultation note, would you have gone back to
[10] see the patient or is this when you were totally
[11] done seeing her?
[12] A: When I was finished.
[13] Q: Okay. Would you please start reading your note
[14] for me?
[15] A: "Dictated 11/17, brief tonic seizure around 7:30
[16] this a.m. associated with decreased
[17] consciousness from possible overdose. Had CT
[18] head for injury in accident. Exam, somnolent,
[19] but rousable and oriented".
[20] Q: So that is e-x-a-m there?
[21] A: Yes.
[22] Q: Go on, exam?
[23] A: "Somnolent, but rousable and oriented".
[24] Q: Somnolent?
[25] A: Somnolent.

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[1] Q: How do you spell that?
[2] A: S-o-m-n-o-l-e-n-t.
[3] Q: And what does that mean?
[4] A: Tends to fall asleep.
[5] Q: Somnolent, but rousable and oriented?
[6] A: Yes.
[7] Q: Could you continue, please.
[8] A: "EOM, positive nystagmus. Upper neck pain with
[9] all head movement. No focal findings.
[10] Impression, one, seizure disorder, question
[11] mark, associated with withdrawal. Two,
[12] decreased alertness postictal or associated with
[13] medication. Three, neck pain. Suggest, one,
[14] head CT; two, cervical spine films; three,
[15] metabolic workup, will discuss".
[16] Q: What's a nystagmus?
[17] A: Abnormal eye movements.
[18] Q: Can you tell me what your physical examination
[19] of Nichol on that date consisted of?
[20] A: I talked to her, I took her history. I tested
[21] her strength, I tested feeling, reflexes, the
[22] eye movements. I looked into the eyes of the
[23] optic nerve. I moved her neck, flexed her neck
[24] and turned her head side to side or had her do
[25] that or both.

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[1] Q: Is that --
[2] A: Yes.
[3] Q: Okay. You say you talked to Nichol, and that's
[4] part of the assessment?
[5] A: Yes.
[6] Q: And when you spoke with her, she did exhibit the
[7] fact that she was drowsy, would fall asleep once
[8] in a while, get groggy?
[9] A: Yes.
[10] Q: And that was abnormal?
[11] A: Yes.
[12] Q: You took a history from her?
[13] A: I did.
[14] Q: What history did you receive from her?
[15] A: That she never had any kind of attack such as
[16] the one that had occurred that morning. She had
[17] no history of a seizure problem.
[18] Q: That morning, you mean that seizure at 7:30 in
[19] the morning?
[20] A: Yes.
[21] Q: Okay.
[22] A: She told me she had had neck pain and had seen
[23] her obstetrician for that, and that she had been
[24] in an automobile accident a year earlier, was
[25] seen in the emergency room and had some kind of

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[1] follow-up treatment, but didn't give me or
[2] wasn't able to give me any further details, and
[3] that she had had a head scan at some facility in
[4] Mentor, and she was taking vitamins.
[5] Q: Okay. So that information you just read was
[6] from your dictated note?
[7] A: Yes.
[8] Q: When you spoke with Dr. Duangjak then after your
[9] examination, did you tell him about the history
[10] that you had elicited from Nichol, the history
[11] being the information you just read for me from
[12] your dictated note?
[13] A: Parts of it.
[14] Q: What parts did you tell him?
[15] A: I don't recall.
[16] Q: Okay. Because as of that point in time this
[17] dictated note would not have been typed up,
[18] correct?
[19] A: That's correct.
[20] Q: Do you know when it would have been typed up?
[21] A: That day, according to their records.
[22] Q: But timewise you can't tell us that?
[23] A: I can't.
[24] Q: Okay. And you can't tell me, what portion of
[25] that history you told Dr. Duangjak?

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[1] A: I would have told him the essentials, that this
[2] was a new problem and that she had had a head
[3] injury in the past.
[4] Q: What's the importance of this being a new
[5] problem in a patient with head and neck pain?
[6] A: That it's a new consideration and a new issue as
[7] opposed to say someone with epilepsy.
[8] Q: Would you agree that a patient who has suffered
[9] a seizure, as this patient did, finding out that
[10] this is a unique new condition or situation for
[11] this patient, that the standard of care would
[12] require head CT scanning or some type of imaging
[13] to assess whether or not there was an organic
[14] cause for the seizure?
[15] MR. KWARCANY: Objection.
[16] A: That would be part of a proper evaluation of an
[17] examination with a seizure.
[18] Q: And the standard would require conducting such
[19] imaging?
[20] MR. KWARCANY: Objection.
[21] A: Unless there were some possibility, including
[22] chemical derangements, drugs.
[23] Q: Unless there are other reasonable explanations
[24] such as chemical drugs, would you agree that
[25] they would have to be reasonable explanations?

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[1] A: Yes.
[2] Q: In this patient, was a possible drug overdose a
[3] reasonable explanation for this patient's
[4] symptoms, seizure and physical findings?
[5] MR. KWARCANY: Objection.
[6] A: No.
[7] Q: Why not?
[8] A: Well, pretty far out from an overdose.
[9] Q: Assuming it existed, correct?
[10] MR. KWARCANY: Objection.
[11] A: Yes.
[12] Q: Why else?
[13] A: And it wouldn't produce the neck findings.
[14] Q: Any other reason that you can think of?
[15] A: Basically her mental status.
[16] Q: And what was it about her mental status which
[17] made that an unlikely explanation, that is an
[18] overdose being an unlikely explanation?
[19] MR. KWARCANY: Objection.
[20] A: She was not getting better and was still not
[21] alert.
[22] Q: Were you able to determine whether or not she
[23] was actually getting worse in terms of her
[24] mental status?
[25] A: That's hard to say. It is clear that she did

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[1] not improve.
[2] Q: What is it about the physical findings on your
[3] examination which make a drug overdose an
[4] unlikely explanation -
[5] MR. KWARCANY: Objection.
[6] Q: - for her clinical symptoms?
[7] A: The propensity to fall asleep and need to be
[8] aroused for conversation and the neck pain that
[9] she exhibited.
[10] Q: The nystagmus as well?
[11] A: That can be seen with medication, even after the
[12] fact.
[13] Q: Given Nichol's mental status at the time you saw
[14] her, did you conclude the history that you were
[15] able to obtain from her would most probably not
[16] be totally accurate given her mental status?
[17] MR. KWARCANY: Objection.
[18] A: She wouldn't - she wouldn't be considered a
[19] totally reliable historian.
[20] Q: Other than speaking with Dr. Duangjak then after
[21] your evaluation of this patient, did you ever
[22] speak with anybody else regarding this patient?
[23] A: No.
[24] Q: Did you ever attempt to speak with her OB/GYN,
[25] Dr. Iafelice?

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[1] A: No.
[2] Q: Did you ever speak with Dr. Barnett-Rico about
[3] the course of events which led up to the time
[4] you saw the patient in the afternoon?
[5] A: No.
[6] Q: Did you ever speak with anyone about what had
[7] happened at Metro or what was the history over
[8] at Metro?
[9] A: No.
[10] Q: Did you feel you had responsibility to do any of
[11] those things?
[12] A: At that time, no.
[13] Q: And why is that?
[14] A: Those weren't important as other things were to
[15] her care.
[16] Q: What was important to her care as of the time
[17] you completed your examination?
[18] A: That she be transferred to a tertiary facility.
[19] Q: Did you feel that was essential?
[20] A: I did.
[21] Q: Why did you feel it was essential that she be
[22] transferred to a tertiary care facility?
[23] A: She had a significant neurologic problem
[24] undiagnosed, which needed monitoring in a
[25] neurologic facility, and she needed obstetrical

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[1] care.
[2] Q: The chief presenting problem was not her
[3] obstetrical problem, it was this neurological
[4] problem, correct?
[5] A: Yes.
[6] Q: But the fact that she was pregnant was another
[7] complicating factor?
[8] A: Complicating -
[9] Q: Was it complicating at all in making an
[10] assessment of this patient?
[11] A: For the assessment that I did?
[12] Q: Yes.
[13] A: No.
[14] Q: Okay. Once you completed your evaluation of
[15] this patient you felt it was imperative that the
[16] patient be transferred to a tertiary care center
[17] because she had a significant neurological
[18] problem?
[19] A: Yes.
[20] Q: You felt it was more likely than not that she
[21] had some underlying organic problem as the cause
[22] of her neurological problems?
[23] A: I did.
[24] Q: And included in that would be a brain lesion?
[25] A: Yes.

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[1] Q: What are the other possibilities?
[2] A: Infection, meningitis, hemorrhage,
[3] hydrocephalus, brain tumor, arterio and venous
[4] disease of the brain that occurred from
[5] pregnancy.
[6] Q: You yourself did not order head CT scanning on
[7] this patient, did you?
[8] A: No.
[9] Q: If you felt it was necessary, did you have the
[10] capability to do that at Geauga Hospital on that
[11] date?
[12] A: I did.
[13] Q: Why did you not do that?
[14] A: The time to do that would have delayed any
[15] transfer, and no matter what it showed, the
[16] treatment following the results of that study
[17] would still require a tertiary facility.
[18] Q: In your mind, what a head CT scan would show at
[19] that point in time, essentially, you already
[20] knew that there was some pathology there?
[21] A: Correct.
[22] Q: You felt that why delay by doing the head CT
[23] scanning when you knew in all probability she
[24] had some organic problem which was causing her
[25] neurological symptoms?

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[1] A: I thought the first thing to do was to get her
[2] to a facility where whatever you found on
[3] studies could be handled.
[4] Q: Did you have the capability on that date in the
[5] role that you played for this patient, did you
[6] have the capability to effectuate that transfer
[7] to a tertiary care center for Nichol Cooper?
[8] A: No.
[9] Q: Why not?
[10] A: The attending physician's family notification,
[11] family or patient wishes for treatment at
[12] certain places or others, which would be brought
[13] into the formula.
[14] Q: You could not do that?
[15] A: If you are asking me physically could I transfer
[16] a patient?
[17] Q: Yes.
[18] A: Write the orders and that kind of thing?
[19] Q: Yes, sir.
[20] A: I could, yes.
[21] Q: Why did you not do that with this patient?
[22] A: Dr. Duangjak agreed to do that.
[23] Q: When did Dr. Duangjak agree to do that?
[24] A: In our phone conversation.
[25] Q: When did you have this phone conversation with

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[1] Dr. Duangjak?
[2] A: Around 2:30.
[3] Q: Do you actually remember that conversation you
[4] had with him or are you basing this upon the
[5] dictated note you have of November 18th?
[6] A: I remember it.
[7] Q: Okay. Can you tell me where you were when you
[8] had this discussion with Dr. Duangjak?
[9] A: No.
[10] Q: Were you still at Geauga Hospital?
[11] A: Probably.
[12] Q: Okay. Was this discussion over the phone?
[13] A: Yes.
[14] Q: Did you place the call to Dr. Duangjak?
[15] A: I did.
[16] Q: And how long of a discussion was it?
[17] A: Minutes.
[18] Q: Less than five minutes?
[19] A: Maybe. Maybe a bit more, not 10 minutes.
[20] Q: Can you tell me what it is you actually recall
[21] about the conversation you had with Dr. Duangjak
[22] that afternoon?
[23] A: That the patient had certain findings that
[24] indicated a brain problem, and because of her
[25] state and the findings that it was imperative to

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[1] have her in a tertiary facility that could
[2] monitor her and do whatever testing was
[3] appropriate and neurologically manage her case
[4] and, also, to secondarily manage her pregnancy.
[5] Q: Did you actually step through with Dr. Duangjak
[6] and tell him what your findings were, or did you
[7] just summarize it by saying she has got serious
[8] neurologic impairments or findings which make it
[9] imperative to have her in a tertiary care
[10] center?
[11] A: I am not sure how detailed my findings were that
[12] I conveyed to him. I may have told him that she
[13] was not fully alert and that I was worried about
[14] her neck, but I am not sure about that.
[15] Q: In your mind, whatever, you used words that made
[16] it clear that it was imperative to have her
[17] transferred as soon as possible?
[18] A: I did.
[19] Q: What were your expectations with respect to what
[20] Dr. Duangjak should have done at that point in
[21] time in order to follow-up, carry out your
[22] suggestion that she be transferred to a tertiary
[23] care center?
[24] A: An effort to discuss this with whatever family
[25] members could be found and then a move

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[1] immediately thereafter.
[2] Q: I may have asked you this earlier, I think I
[3] asked you if you had ever effectuated the
[4] transfer of a patient from Geauga to a tertiary
[5] care center in your history of working out
[6] there, and I believe you told me no. Is that
[7] correct?
[8] A: Correct.
[9] Q: If the records reflect that - strike that.
[10] Did you know that this patient had been
[11] seen in the ER at Geauga Hospital back in
[12] December of '92 following a car accident?
[13] A: I didn't know that she had been at the Geauga
[14] emergency room.
[15] Q: Well, if we assume she had been seen in the
[16] Geauga emergency room back in December of 1992
[17] and at that time was Life Flighted to Metro from
[18] Geauga, and that from the time that transfer was
[19] requested to the time she actually arrived at
[20] Metro was approximately one hour, would you
[21] agree with me it would be safe to say that from
[22] the moment a decision is made to transfer this
[23] patient, she reasonably could have been
[24] transferred to a tertiary care center in one
[25] hour?

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[1] MR. KWARCANY: Objection.
[2] Q: Assuming that's true.
[3] A: Are you talking about travel time? Yes, I think
[4] an hour. Just the travel part?
[5] Q: Well, just assume these things are true. Assume
[6] that from the time the decision was made to
[7] transfer the patient back in December of '92 to
[8] the time that she was physically over at a
[9] tertiary care center, Metro, was one hour. If
[10] that's true, then it would be safe to state that
[11] that could have been done as well for her in
[12] November of 1993, 11 months later?
[13] MR. KWARCANY: Objection.
[14] MR. HUPP: Objection.
[15] A: Well, it's a far different set of circumstances,
[16] and there were family members there in the
[17] emergency room. They certainly weren't in the
[18] hospital when I was there. There is a trauma
[19] flow scheme that is in place that may make it a
[20] little faster.
[21] Q: What do you mean by a trauma flow scheme?
[22] A: Well, there are certain people who make certain
[23] calls and alert personnel.
[24] Q: Is that at Geauga?
[25] A: It's at both ends.

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[1] Q: Do you know what the rules were at Geauga back
[2] in that time frame, this trauma flow scheme?
[3] A: I do not.
[4] Q: In any event, once you told Dr. Duangjak during
[5] your conversation that it was imperative to have
[6] Nichol transferred to a tertiary care center,
[7] what was his response?
[8] A: He would take care of it.
[9] Q: And he understood the importance of having this
[10] done as soon as possible?
[11] A: Yes.
[12] Q: And he is someone you had dealt with in the past
[13] and you felt that he understood the importance
[14] of having her transferred as soon as possible
[15] and that he would make sure it was done?
[16] A: Correct.
[17] Q: Did you discuss anything else with him during
[18] the course of that conversation other than what
[19] you have told me?
[20] A: I may have asked him questions about what he
[21] knew, but I can't tell you specifically what
[22] further transpired in that conversation.
[23] Q: Do you remember if he gave you any information
[24] about the patient?
[25] A: I don't recall any specifics.

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[1] Q: Okay. Well, if you look with me at your
[2] dictated note of November 18th, in the third
[3] paragraph of that note, on the third line you
[4] state, and I quote, "And to find out what he
[5] knew about the case and her status as a minor
[6] since I saw only the emergency room note in the
[7] chart."
[8] Can you tell me what you are referring to
[9] when you made that comment in your note?
[10] A: That the - whether he had known her as a
[11] patient or had received phone calls from her
[12] family as to what was wrong or what he intended,
[13] whether there was any specific interest in which
[14] tertiary facility she might go to, any
[15] background things of that nature.
[16] Q: And do you remember if you received any
[17] information in response to that request?
[18] A: I don't recall.
[19] Q: Okay. What is the next contact you had
[20] regarding this patient, Nichol Cooper?
[21] A: About an hour later.
[22] Q: And what happened one hour later?
[23] A: I was called at my office on Green Road from a
[24] resident, Cynthia Bamford, asking about my
[25] examination of the patient.

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[1] Q: You were at your Green Road office when you
[2] received the call?
[3] A: Yes.
[4] Q: How long does it usually take you to get from
[5] Geauga Hospital to your Green Road office, on
[6] average?
[7] A: Oh, about 40 minutes, depending on weather and
[8] traffic.
[9] Q: In any event, you were in your office by 3:00 or
[10] 3:30?
[11] A: Correct.
[12] Q: And how long of a discussion was this you had
[13] with Cynthia Bamford?
[14] A: Well, it was minutes. I can't tell you exactly
[15] how many.
[16] Q: Do you know her other than that one discussion
[17] you had with her on that date?
[18] A: I may have known her, but not well.
[19] Q: And how is that?
[20] A: She's either a neurology resident or surgery
[21] resident, as I recollect, but I am not sure
[22] about that.
[23] Q: And how is it that you may have encountered her
[24] in that capacity?
[25] A: Well, through patients that I would have had at

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[1] University or some of the teaching I do there.
[2] Q: What is the nature of your teaching at UH?
[3] A: Well, now it is medical students, but I was
[4] supervising residents at the MetroHealth Clinic
[5] back then and may have ran into residents at
[6] that location.
[7] Q: And can you describe for me in greater detail
[8] what you were doing at MetroHealth Clinic back
[9] in that time training with residents and the
[10] frequency with which you did it?
[11] A: About once a month supervising the neurology
[12] clinic for two or three hours, seeing cases with
[13] residents.
[14] Q: Are you still doing that?
[15] A: No.
[16] Q: In what time frame did you do that?
[17] A: It started sometime in the Eighties and ended
[18] around '94.
[19] Q: And at present what is the nature of the
[20] teaching you do with residents, I mean, medical
[21] students?
[22] A: I give lectures.
[23] Q: How often?
[24] A: Oh, two or three times a year.
[25] Q: And how long have you been doing that?

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[1] A: For three years.
[2] Q: So Cynthia Bamford you believe was a resident at
[3] University Hospitals. She called you at your
[4] office to get more information on Nichol Cooper?
[5] A: Yes.
[6] Q: Did she tell you why she was calling or how it
[7] is she came to get your name and call you?
[8] A: I don't recall that part.
[9] Q: Okay. What did you tell her?
[10] A: That I had examined the patient and found her to
[11] have neck findings and not to be fully alert and
[12] had a seizure, and I couldn't make any more out
[13] of her primary neurologic diagnosis other than
[14] the exam and her state at the time I had seen
[15] her an hour or two earlier.
[16] Q: Did you communicate to Cynthia Bamford what it
[17] was you had already communicated to Dr.
[18] Duangjak, the fact that you felt the patient had
[19] some significant findings and it was imperative
[20] to have her in a tertiary care center for a
[21] neurological management?
[22] A: Yes.
[23] Q: How is it that you remembered her name to
[24] dictate it in your note of November 18th?
[25] A: Well, she gave me her name and I remembered it.

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[1] Q: You didn't write it down anywhere, you just
[2] remembered it one day later?
[3] A: I probably remembered. I don't think I
[4] scribbled it down. I sometimes do, but I don't
[5] think I did this time.
[6] Q: Okay. So you don't recall having the
[7] information as to how Cynthia Bamford came to
[8] get your name and request information about this
[9] patient?
[10] A: I can't tell you specifically how she came with
[11] that information.
[12] Q: I mean, have you learned since then as to how
[13] she got your name and the patient's name?
[14] A: No.
[15] Q: Okay. Do you have any knowledge as to whether
[16] or not there was any communication between
[17] Geauga Hospital and University Hospitals between
[18] the time you talked to Dr. Duangjak and the time
[19] this patient hemorrhaged around 5:15 in the
[20] afternoon?
[21] A: Well, there must have been some contact since
[22] the hospital called me. So some information was
[23] transferred to the University staff and with my
[24] name in there, hence the call.
[25] Q: But you don't know anything other than what you

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[1] assumed happened since she called you?
[2] A: Right.
[3] Q: In any event, you left Cynthia Bamford with the
[4] impression that it was imperative that this
[5] patient get transferred to a tertiary care
[6] center?
[7] A: I did.
[8] Q: Did she say anything further to you that you
[9] recall from that conversation as to whether or
[10] not that was going to happen or anything about
[11] the patient?
[12] A: Something to the effect that this was in place
[13] or going to happen and they were in process.
[14] Q: So based on the discussion you had with her it
[15] sounded like this patient was being transferred?
[16] A: It did.
[17] Q: Okay. The last paragraph in your dictated note,
[18] can you read that for me, please?
[19] A: "I then received a call from Geauga Hospital ICU
[20] around 5:10 from the nurse, anesthesiologist,
[21] and Dr. Duangjak, describing her seizure and
[22] arrest, then again at 6 and around 8:00 from Dr.
[23] DeMarco, the last concerning her pulmonary
[24] status and further measures".
[25] Q: Okay. So based on this paragraph you had three

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[1] more phone calls about this patient on that day?
[2] A: Yes.
[3] Q: Okay. The first contact following your
[4] discussion with Cynthia Bamford would have been
[5] around 5:10, is that correct?
[6] A: Yes.
[7] Q: And that was a call you got from whom?
[8] A: Geauga Hospital, Dr. Duangjak and the
[9] anesthesiologist.
[10] Q: Did you speak with all three of them?
[11] A: Yes.
[12] Q: You say Geauga Hospital, you mean the nurse?
[13] A: Yes.
[14] Q: So you spoke with the nurse, the
[15] anesthesiologist and Dr. Duangjak at the time of
[16] that 5:10 telephone conversation?
[17] A: Yes.
[18] Q: How long would the conversation have been in
[19] total?
[20] A: I couldn't tell you that.
[21] Q: More than 10 minutes or less, do you have any
[22] idea?
[23] A: It might have been more.
[24] Q: Can you recall what was discussed during this
[25] phone conversation?

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[1] A: Not specifically.
[2] Q: Can you tell me in general what you recall being
[3] discussed?
[4] A: That she had an arrest and required intubation
[5] and the situation had gotten extremely worse and
[6] that they were doing various things to attend to
[7] her care.
[8] Q: Any other information that you recall being
[9] discussed?
[10] A: I don't recall any of it other than the update
[11] kind of thing, and I can't tell you any more
[12] specifics.
[13] Q: When you saw the patient around 2:00 in the
[14] afternoon, was there an ICU doctor in attendance
[15] in the ICU?
[16] A: At the time I was there?
[17] Q: Yes.
[18] A: I don't recall seeing anybody. I don't know
[19] that there is such a person, but if there is
[20] such a person and he is available, then I stand
[21] corrected.
[22] Q: Okay. You did not certainly speak with an ICU
[23] doctor, intensivist when you saw her that day?
[24] A: No.
[25] Q: And you weren't aware that if there was one, who

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[1] that person was?
[2] A: To my knowledge, there is no such person.
[3] Q: Okay. Did you make any suggestions when you
[4] received the call or had the conversation at
[5] 5:10?
[6] A: I don't recollect exactly other than probably
[7] restating the earlier recommendations that she
[8] be transferred, if I said that.
[9] Q: So you are not sure if you did even say that?
[10] A: No. It may have been pretty obvious at that
[11] point that such was necessary.
[12] Q: Do you know or was it stated why they were
[13] calling you at 5:10?
[14] A: No.
[15] Q: Were you asked at any time to come back and see
[16] the patient?
[17] A: No.
[18] Q: Were you asked for advice at any time during the
[19] course of that conversation?
[20] A: No.
[21] Q: It says here - strike that.
[22] Following that conversation at 5:10 was the
[23] next contact you had at 6:00?
[24] A: Yes.
[25] Q: And what was the nature of that contact?

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[1] A: A phone call.
[2] Q: From whom did you receive that phone call?
[3] A: I don't know.
[4] Q: Was it, again, someone who was involved in the
[5] situation with Nichol?
[6] A: Yes.
[7] Q: And do you remember how long the discussion was?
[8] A: No.
[9] Q: Was it more brief than the 5:10 discussion?
[10] A: I can't recall.
[11] Q: Okay. And you can't recall any of the specifics
[12] about the discussion?
[13] A: No.
[14] Q: Do you recall anything even in general about
[15] that 6:00 call?
[16] A: No.
[17] Q: Do you recall whether you were asked at that
[18] time to come and see the patient?
[19] A: I was not.
[20] Q: Were you asked at any time during that phone
[21] call to provide advice regarding the patient?
[22] A: No.
[23] Q: You did not see that as your role?
[24] A: Only a restatement of what I had said earlier in
[25] the day, if that's what the inquiry was.

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[1] Q: So if the question was placed to you about
[2] caring for the patient, you again would have
[3] repeated that it was imperative to have her seen
[4] at a tertiary care center?
[5] A: Yes.
[6] Q: What's the next contact you had regarding this
[7] patient?
[8] A: A phone call, Dr. DeMarco.
[9] Q: It states here in your November 18th note that
[10] that was around 8:00?
[11] A: Yes.
[12] Q: You know Dr. DeMarco?
[13] A: I do.
[14] Q: And his specialty is what?
[15] A: Pulmonary medicine.
[16] Q: He's a pulmonologist intensivist?
[17] A: Yes.
[18] Q: And do you recall whether you spoke with him
[19] directly during that time?
[20] A: Directly.
[21] Q: Did you speak with anyone else other than Dr.
[22] DeMarco?
[23] A: No.
[24] Q: Do you remember how long the conversation was?
[25] A: No.

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[1] Q: Do you remember where you were?
[2] A: I don't.
[3] Q: And what was your understanding as to where Dr.
[4] DeMarco was?
[5] A: At the hospital.
[6] Q: With Nichol?
[7] A: Yes.
[8] Q: And can you tell me what was discussed during
[9] that conversation?
[10] A: Vaguely I recall that she developed pulmonary
[11] problems. He was going to do some pulmonary
[12] things, obtain a head scan and transfer her.
[13] Q: Anything else that you recall?
[14] A: No.
[15] Q: As of the time you talked with Dr. DeMarco had
[16] CT scanning not been performed on her?
[17] A: I don't know.
[18] Q: You just said he was going to perform or get
[19] head CT scanning. So I am just going based on
[20] what you told me that it sounded like it hadn't
[21] been done yet?
[22] A: I am not sure that it had or hadn't been done.
[23] It may not have been done.
[24] Q: What is the next contact you had about this
[25] patient?

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[1] A: In the mail.
[2] Q: When you got notice about the lawsuit?
[3] A: Yes.
[4] Q: Did you ever find out the next day as to what
[5] happened with Nichol?
[6] A: No.
[7] Q: Did you ever have any discussions with anybody
[8] about gee, what happened with Nichol, did you
[9] ever get her over, did she survive, anything
[10] like that?
[11] A: No.
[12] Q: So when this lawsuit was filed, that's the first
[13] time you found out what happened to her?
[14] A: Correct.
[15] Q: Have you ever looked at any of the records over
[16] at University Hospitals for Nichol or her child?
[17] A: No.
[18] Q: Have you ever spoken with any of her doctors who
[19] treated her over there?
[20] A: No.
[21] Q: Have you ever spoken with Dr. DeMarco since that
[22] one call and discussion you had with him on that
[23] evening?
[24] A: No.
[25] Q: Doctor, have you had a chance to look through

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[1] the orders and progress notes in Nichol's
[2] 11/17/93 hospital chart to see whether or not
[3] you authored any notes or ordered anything for
[4] this patient?
[5] A: I have.
[6] Q: And did you generate any orders for this
[7] patient?
[8] A: No.
[9] Q: Did you write any progress notes, or I
[10] understand your two consultation notes, but did
[11] you write any progress notes for this patient?
[12] A: No.
[13] Q: Do you know the name of the anesthesiologist who
[14] was involved in that 5:10 phone call?
[15] A: No.
[16] Q: I am going to hand you a progress note from
[17] Nichol's chart. It is dated 11/17/93 and there
[18] is two notes on this chart, and the top one is
[19] timed 5:00 p.m. and the second one is 7:15 p.m.
[20] Would you look at that, please? Do either
[21] of those notes appear to be your notes?
[22] A: No.
[23] Q: Okay. Do you know whose notes those are?
[24] A: I do not.
[25] Q: Okay. At any time when you were in ICU with

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[1] Nichol you did not see any other doctors in
[2] attendance?
[3] A: Correct.
[4] Q: And I believe you told me before you were
[5] probably there 20 to 30 minutes?
[6] A: About 30 minutes.
[7] Q: Okay. Earlier in your deposition you advised me
[8] that you don't have an opinion about the
[9] emergency room physician's care that was
[10] provided, but you did have some impressions
[11] about the neurological aspects of this patient
[12] in the emergency room, correct?
[13] A: Yes.
[14] Q: Can you tell me if you reviewed the emergency
[15] room information for this patient?
[16] A: I did.
[17] Q: And that was in preparation for your deposition?
[18] A: Correct.
[19] Q: And, also, when you actually saw Nichol in the
[20] ICU the emergency room sheet was one of the few
[21] bits of information you had available and you
[22] did review that?
[23] A: Yes.
[24] Q: Based upon your review of that emergency room
[25] record, Dr. Mann, can you tell me if Nichol had

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[1] some significant neurological symptoms and
[2] findings when she was seen in the ER on that
[3] morning?
[4] **MR. KWARCANY:** Objection.
[5] **Q:** And by all means, refer to the record.
[6] **A:** She did.
[7] **Q:** Can you tell me what they are?
[8] **A:** Neck pain, 12 midnight, the vomiting and
[9] disorientation, the slurred, incomprehensible
[10] speech, again, neck pain, lethargic,
[11] disoriented, uncooperative, lethargic on
[12] neurologic examination, incomprehensible speech,
[13] complaining of pain, quiet for Foley catheter,
[14] drowsy, but rousable. That's all I see.
[15] **Q:** Okay. Would complaints of neck and head pain in
[16] this patient in the emergency room be reasonably
[17] explained by a possible accidental drug
[18] overdose?
[19] **MR. LEAK:** Objection.
[20] **MR. KWARCANY:** Objection.
[21] **A:** No.
[22] **Q:** Why not?
[23] **A:** Well, the presence of drugs that influence
[24] alertness and treat pain would be expected to
[25] diminish or lower complaints of pain, not

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[1] necessarily to eliminate them, but you expect
[2] less of that.
[3] **Q:** If we assume that you had been consulted
[4] regarding this patient when she was in the
[5] emergency room that morning, would you have
[6] ordered head CT scanning on this patient?
[7] **MR. LEAK:** Objection.
[8] **MR. KWARCANY:** Objection.
[9] **A:** Well, that depends on how she looked to me.
[10] **Q:** If she was slurring her speech and still had the
[11] head and neck pain, assuming that, would you
[12] have ordered the head CT scan on this patient?
[13] **MR. HUPP:** Objection.
[14] **A:** I might have sent her right on at that point.
[15] **Q:** On to a tertiary care center?
[16] **A:** Yes.
[17] **Q:** So assuming that, you may have just foregone the
[18] head CT and just sent her right to a tertiary
[19] care center?
[20] **MR. LEAK:** Objection.
[21] **A:** Again, depending on what her mental status was,
[22] how alert she was.
[23] **Q:** What if her mental status was the same as it was
[24] when you saw her, you certainly would have had
[25] her transferred to a tertiary care center?

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[1] **MR. LEAK:** Objection.
[2] **A:** Particularly with the neck findings that I
[3] found, yes, I would.
[4] **Q:** Are you able to access the nurses' progress
[5] notes starting at 11/17/93 timed 0725 hours? Do
[6] you have that in front of you, doctor?
[7] **A:** Here it is.
[8] **Q:** You got lucky, right there.
[9] Have you ever looked at these nurses' notes
[10] before today?
[11] **A:** I am not sure whether these were in the chart or
[12] not when I saw her.
[13] **Q:** It is possible that they were, but you are not
[14] sure?
[15] **A:** Yes.
[16] **Q:** If you follow with me here, 0725 it says patient
[17] diaphoretic, unresponsive, labored
[18] respirations. Do you see that?
[19] **A:** I do.
[20] **Q:** Do you see at 0735 patient remains unresponsive,
[21] do you see that note?
[22] **A:** Yes.
[23] **Q:** And then it says 0740, patient slightly
[24] responsive to ABG stick. Patient moaned in
[25] response to name. Do you see that note?

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[1] **A:** I do.
[2] **Q:** Does it appear just from these notes, doctor,
[3] that between 7:25 and 7:40 the patient was
[4] unresponsive?
[5] **A:** Yes.
[6] **Q:** If you had been told when you were first called
[7] in the morning that this patient was in an
[8] unresponsive state for 15 minutes, would you
[9] have acted differently at that point in time?
[10] **A:** I probably would have.
[11] **Q:** And can you tell me how you would have acted had
[12] you been given that information?
[13] **A:** It's a little bit more of a seizure and post
[14] seizure recovery suggesting perhaps a more
[15] serious underlying reason for it in the first
[16] place, and it's not just a brief, short-lived
[17] kind of attack.
[18] **Q:** And if you had received this information, would
[19] you probably have suggested more prompt
[20] consultation?
[21] **MR. KWARCANY:** Objection.
[22] **Q:** Or more urgent consultation?
[23] **A:** I would have suggested that something be done on
[24] her behalf before I could get there, which would
[25] be hours later.

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[1] Q: In other words, you couldn't get there for
[2] hours?
[3] A: Correct.
[4] Q: And if you had been given that information, you
[5] probably would have suggested that somebody else
[6] needed to see her as soon as possible?
[7] A: There are many ways, other neurologists, the
[8] testing can be done by anybody who is connected
[9] with the patient, but it might not be
[10] appropriate to wait six hours for me.
[11] Q: It would not have been appropriate to wait,
[12] would it?
[13] MR. HUPP: Objection.
[14] A: Depending on other features and a long seizure,
[15] yes.
[16] Q: If at the time you got the call from the
[17] obstetrical nurse at 8:00 in the morning, if you
[18] had been told that the patient had been
[19] unresponsive for 15 minutes, plus if you assume
[20] you had been given the additional information
[21] that Dr. Barnett-Rico, who was an emergency room
[22] doctor who had seen the patient in the emergency
[23] room that morning, and who went up and saw her
[24] on the floor when she heard of this seizure was
[25] now under the impression after the patient had

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[1] the seizure that a head CT scan had to be
[2] performed and needed to be done as soon as
[3] possible, if you had been given that
[4] information, can you tell me how you probably
[5] would have proceeded?
[6] MR. KWARCANY: Objection.
[7] MR. HUPP: Objection.
[8] A: I would have suggested they get another
[9] neurologist who could come more quickly, or if
[10] that wasn't working, to do studies or send or
[11] transfer her.
[12] Q: To a tertiary care center?
[13] A: Yes.
[14] Q: Dr. Mann, if we assume that Dr. Barnett-Rico
[15] told Dr. Duangjak that morning before you were
[16] called that a head CT scan had to be performed
[17] now, in her estimation, and that it needed to be
[18] done as soon as possible, wouldn't you expect
[19] Dr. Duangjak to communicate that information to
[20] you?
[21] MR. HUPP: Objection.
[22] A: I don't know that he would tell me that somebody
[23] else had suggested a CT scan. He probably would
[24] have done it himself. If there were clinical
[25] information that he got as to the need for CT

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[1] scan, that's different.
[2] Q: So you wouldn't necessarily expect him to
[3] communicate that to you, but you would expect -
[4] he could order it himself, correct?
[5] A: He could.
[6] Q: And if we assume that that information was
[7] provided to him, if he wasn't going to
[8] communicate that to you, then he should have
[9] went ahead and made sure head CT scanning was
[10] performed?
[11] MR. HUPP: Objection.
[12] A: Well, I am not able to tell whether he should
[13] have done something or another. That all
[14] depends on the clinical picture that she
[15] demonstrated that morning plus this period of
[16] seizure and less responsiveness thereafter, but
[17] a head CT scan is one way to evaluate further
[18] right then and there.
[19] Q: As a matter of routine in your practice, Dr.
[20] Mann, you do not interpret CT scans?
[21] A: For the purpose of rendering a report, no.
[22] Q: Do you ever look at CT scans?
[23] A: I do.
[24] Q: Have you looked - you have already told me you
[25] haven't looked at any of Nichol Cooper's CT

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[1] scans, correct?
[2] A: Correct.
[3] Q: And you won't be rendering any opinions about
[4] what those CT scans show?
[5] A: Not on the basis of what I know now or what is
[6] in the record on the 17th.
[7] Q: You will not be providing any testimony about
[8] what those CT scans show?
[9] MR. KWARCANY: I don't know. I
[10] don't have the CT scans myself.
[11] Q: Do you have any opinions to render in this case,
[12] Mr. Mann, to a reasonable medical probability as
[13] to what was the underlying lesion which
[14] ultimately caused Nichol Cooper's hemorrhage and
[15] her death?
[16] A: I don't know what the specific lesion was.
[17] Q: You don't have an opinion on that?
[18] A: I could only give you a list of things, but I
[19] can't say which one it was.
[20] Q: You don't have an opinion as to what probably
[21] was the underlying cause?
[22] A: Of the hemorrhage?
[23] Q: Yes, sir.
[24] A: I cannot tell you that.
[25] Q: What are the list of possibilities in your mind?

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[1] A: Aneurysm, vascular malformation, tumor that
[2] hemorrhages, subdurals that are there already
[3] and bleed.
[4] Q: Subdural what?
[5] A: Hematoma.
[6] Q: Anything else or did we cover it?
[7] A: That's it.
[8] Q: Okay. Have you looked at Nichol's autopsy?
[9] A: No.
[10] Q: Do you have any explanations as to why her
[11] autopsy doesn't actually identify a specific
[12] lesion in her brain?
[13] MR. KWARCIAKY: Objection.
[14] A: What's the question?
[15] Q: Do you have any explanation to offer as to why
[16] her autopsy does not identify specific lesion in
[17] her brain?
[18] A: It may have been damage from the primary or the
[19] secondary effects of the primary removed any of
[20] the identifiable sources.
[21] Q: Did you know that Nichol was on life support -
[22] A: Yes.
[23] Q: - for a number of weeks before her child was
[24] delivered? And how did you receive that
[25] information?

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[1] MR. KWARCIAKY: Objection. I told
[2] him.
[3] Q: Do you have any opinions to render in this case
[4] regarding the care that you provided to Nichol?
[5] A: Other than what I have already offered, no.
[6] Q: You have no opinion as to whether or not Dr.
[7] Duangjak's care was appropriate or Dr.
[8] Barnett-Rico's care was appropriate, correct?
[9] A: No opinion.
[10] Q: Any opinion about the nurses and the way they
[11] managed this patient's nursing care?
[12] A: None. No opinion.
[13] Q: Okay. Give me just one more minute. I just
[14] have to look at my notes, okay?
[15] Dr. Mann, when was the last time you looked
[16] at a head CT?
[17] A: Yesterday.
[18] Q: And what was the purpose for looking at the CT
[19] scan?
[20] A: Oh, this was a case of comparing an older scan
[21] with a newer scan.
[22] Q: And for purposes of deciding on what treatment
[23] may or may not be necessary or appropriate for
[24] the patient based on the CT scan, do you rely on
[25] your own interpretation of those scans or

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[1] looking at those scans?
[2] A: In part.
[3] Q: And do you rely upon anyone else in addition to
[4] your own review of those scans?
[5] A: Radiologists.
[6] Q: Okay. I am going to ask you to look at some
[7] scans I brought with me today.
[8] MR. KWARCIAKY: Have all counsel
[9] been provided with copies of those because
[10] I have never seen them?
[11] MS. HIRSHMAN: Well, first of all,
[12] the one from '93 is in the Geauga records.
[13] MR. KWARCIAKY: Well, that doesn't
[14] mean anything.
[15] MS. HIRSHMAN: I myself have been
[16] provided them, but no one has asked me for
[17] them.
[18] MR. HUPP: I will ask you for
[19] them. Send me copies.
[20] MS. HIRSHMAN: There you go.
[21]
[22] (Thereupon, Plaintiff's Exhibit 4
[23] through 9, CT scans of Nichola Cooper, were
[24] marked for purposes of identification.)
[25]

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[1] Q: Dr. Mann, I am going to hand you some sheets of
[2] CT scans for Nichol Cooper that we have marked
[3] as Exhibits 4, 5 and 6.
[4] MR. KWARCIAKY: Are those the
[5] Geauga or Metro?
[6] Q: These are dated December 10, 1992 from Metro,
[7] and I am going to hand those to your attorney to
[8] look at, and ask, you have the view box here, if
[9] you would place those up so we could look at
[10] those.
[11] MR. KWARCIAKY: Just show my
[12] objection.
[13] Q: Dr. Mann, if you had a history of a 19-year old
[14] girl being involved in a motor vehicle accident
[15] and with a head injury, can you tell me what
[16] significant findings you see on these three CT
[17] scans that we have just placed on the view box,
[18] Exhibits 4, 5 and 6?
[19] MR. KWARCIAKY: Objection.
[20] A: It looks like there is a right frontal
[21] hemorrhage or contusion right under the skull,
[22] which extends deep to the anterior extent of the
[23] lateral ventricle. There is also probably
[24] hemorrhage there as well or whatever is causing
[25] the uptake, it could be a tumor, but it is

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[1] probably hemorrhage.

[2] There is also a question of blood at the
[3] base of the brain, but it could be a high angle
[4] on the cella. So we may be seeing bone there
[5] instead of blood, but there is something from
[6] the right frontal region and with trauma it is
[7] probably contusion and hemorrhage.

[8] Q: I am going to ask you to look at Exhibits 7 and
[9] 8, which are CTs for Nichol from Metro dated
[10] January 13, 1993. Would you look at those for a
[11] minute, please?

[12] MR. LEAK: What are those exhibit
[13] numbers, again?

[14] MR. HUPP: 7 and 8.

[15] Q: Dr. Mann, can you tell me what is it you see on
[16] Exhibits 7 and 8?

[17] MR. KWARCANY: Objection. Go
[18] ahead.

[19] A: I still see right anterior fossa lateral
[20] hemorrhage and motion artifact in the slice it
[21] is best seen in. There is still some blood or a
[22] lesion at the anterior extent of the lateral
[23] ventricle and compressing it somewhat. It is
[24] slightly smaller than the counterpart on the
[25] left.

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[1] Q: And can you tell me which slices you see that
[2] on?

[3] A: They are numbered. 2406-5, 2406-6, dash 7, dash
[4] 8.

[5] Q: Doctor, I am going to ask you to look at what
[6] has been marked as Exhibit 9, which is a CT for
[7] Nichol Cooper for, I think it is November 17th,
[8] 1993.

[9] Can you tell me what it is you see on
[10] Exhibit 9, the November 17th, 1993 CT?

[11] A: I think there is blood within the ventricular
[12] system actually filling it, the lateral
[13] ventricle, the third ventricle, and I think some
[14] blood between the hemispheres and, also, at the
[15] base of the brain outlining the brain stem.

[16] Q: I just want to make sure I am clear. In your
[17] practice, you do rely upon radiologists to
[18] assist you in interpreting CT scans before you
[19] treat patients?

[20] A: I do.

[21] Q: Do you discuss with radiologists findings on
[22] CTs?

[23] A: I do.

[24] Q: With what group of radiologists do you routinely
[25] consult with in your practice?

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[1] A: It would tend to be University Radiologists or
[2] Hill & Thomas.

[3] Q: At which facility do you encounter the Hill &
[4] Thomas radiologists?

[5] A: At Green Road and occasionally at Geauga
[6] Hospital, at East Side Imaging.

[7] Q: Do you have any opinion as to whether or not
[8] findings on Nichol's CTs back in December of '92
[9] or January of '93 are in all probability
[10] probably related to any findings on her November
[11] 17th, 1993 CTs?

[12] MR. KWARCANY: Objection. Go
[13] ahead.

[14] A: They are separate kinds of findings in my
[15] opinion. There may be a relation. I can't draw
[16] it, but that doesn't mean it isn't there.

[17] MS. HIRSHMAN: Okay. I don't have
[18] any other questions. Thank you.

[19] MR. HUPP: No questions.

[20] MR. LEAK: No questions.

[21] MR. KWARCANY: Okay. We will
[22] read.

[23] MS. HIRSHMAN: Just for the
[24] record, do you want one set of copies of
[25] the CTs?

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[1] MR. HUPP: Yes, do it that way.

[2] MS. HIRSHMAN: And we will
[3] incorporate the exhibits with the depo
[4] transcript so everybody has them.

[5] MR. KWARCANY: With the exception
[6] of the CT scans.

[7]
[8] DONALD C. MANN, M.D.
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CERTIFICATE
[4]
[5] The State of Ohio,) SS:
County of Cuyahoga.)
[6]
[7]
I, Susan M. Cebon, a Notary Public within
[8] and for the State of Ohio, authorized to
administer oaths and to take and certify
[9] depositions, do hereby certify that the
above-named DONALD C. MANN, M.D., was by me,
[10] before the giving of their deposition, first
duly sworn to testify the truth, the whole
[11] truth, and nothing but the truth; that the
deposition as above-set forth was reduced to
[12] writing by me by means of stenotypy, and was
later transcribed into typewriting under my
[13] direction; that this is a true record of the
testimony given by the witness, and was
[14] subscribed by said witness in my presence; that
said deposition was taken at the aforementioned
[15] time, date and place, pursuant to notice or
stipulations of counsel; that I am not a
[16] relative or employee or attorney of any of the
parties, or a relative or employee of such
[17] attorney or financially interested in this
action.
[18]
IN WITNESS WHEREOF, I have hereunto set my
[19] hand and seal of office, at Cleveland, Ohio,
this ____ day of _____, A.D. 19 ____.
[20]
[21]
Susan M. Cebon, Notary Public, State of Ohio
[22] 1750 Midland Building, Cleveland, Ohio 44115
My commission expires August 17, 1998
[23]
[24]
[25]

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