1 (Pages 1 to 4)

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	The State of Ohio,	1	SHARON MIKOL, M.D., of lawful age,
	County of Cuyahoga.	2	having been first duly sworn, as hereinafter
	IN THE COURT OF COMMON PLEAS	3	certified, deposes and says as follows:
	Holly Hutchinson, Plaintiff,	3	certified, deposes and says as follows: CROSS-EXAMINATION
	-vs- Case No. 05-553884		
	Fairview General Judge Ann T. Mannen	5	BY MR. BECKER:
	Hospital, et al.,	6	Q. Good morning, Doctor.
	Defendants.	7	A. Good morning.
		8	Q. Would you tell me your full name,
	au au .	9	please.
	Videotaped Deposition of SHARON MIKOL,	10	A. Sharon J. Mikol.
	M.D., the Witness herein, being called by the		Q. And what is your professional or
	Plaintiffs as if upon cross-examination under	12	business address?
	the statute, and taken before Kristin A. Beutler, RPR and Notary Public for the State	13	A. 1450 Belle Avenue, Suite 300,
	of Ohio, pursuant to the further stipulations	14	Lakewood.
	of counsel herein contained, on Tuesday, the 29th of November, 2005, at 8:00 a.m. at	15	Q. Are you a solo practitioner, or are
	Lakewood Hospital, Detroit Road, City of	16	you a member of a group?
	Lakewood, County of Cuyahoga, and State, of	17	A. I'm solo.
	Ohio.	18	Q. How long have you been solo?
		19	A. Fourteen-and-a-half years.
		20	Q. What hospitals do you have privileges
		21	at?
		22	A. Currently, at Lakewood and Fairview.
		23	Q. I know you've had your deposition
		24	taken before, I just want to review the
		25	ground rules with you. This is a question
	2		4
1	APPEARANCES:	1	and answer session under oath. It's very
2	On behalf of the Plaintiff:	2	important you understand the question that
3	Michael F. Becker, Esq.	3	I ask; if the question doesn't make sense
4	Becker & Mishkind Co., L.P.A. 134 Middle Avenue	4	or is unartfully phrased, I want you to
-	Elyria, Ohio 44035	5	stop me, tell me so, and I'd be more than
5	440-323-7070	6	pleased to attempt to rephrase or restate
6	On behalf of the Defendants:	7	the question. Fair enough?
7	Julie Callsen, Esq. Tucker, Ellís & West, LLP	8	A. Yes.
8	1100 Huntington Building	9	Q. However, unless you indicate
~	925 Euclid Avenue	10	otherwise to me, I'm going to assume that
9	Cleveland, Ohio 44115 216-592-5000	11	you have fully understood the question that
10		12	I posed and you have given me your best and
<u>.</u> .	ALSO PRESENT:	13	most complete answer today. Fair enough?
11	David Tackla Videographer	14	A. Yes.
12	David Tackla, Videographer	15	Q. What have you reviewed in preparation
13		16	for today's deposition?
14		17	A. The patient's chart, as provided by
15 16		18	my attorneys.
10		19	Q. Anything else?
18		20	A. No.
19		21	Q. Have you done any research in
20		22	preparation for today's deposition?
121			• • ··································
21 22		23	A. No. I haven't.
22 23		23 24	A. No, I haven't.O. Pursuant to a subpoena duces tecum or
22		23 24 25	 A. No, I haven't. Q. Pursuant to a subpoena duces tecum or a notice duces tecum, did you bring a copy

2 (Pages 5 to 8)

1	5	Yes a second sec	/
1	of the collaborative agreement with	1	Q. Okay. What hospital were you
2	midwives?	2	associated with over there?
3	MR. BECKER: Is this my copy?	3	A. Torbenson Medical Associates was
4	MS. CALLSEN: Yes.	4	based mainly at Booth Hospital.
5	MR. BECKER: Okay, thanks. Why	5	Q. Okay.
6	don't we just mark that.	6	(A short break was taken.)
7	(Plaintiff's Exhibit 1 marked.)	7	(Record read.)
8	Q. Doctor, for the record, I'm going to	8	BY MR. BECKER:
9	hand you what's been marked as Plaintiff's	9	Q. Doctor, will you describe for me your
10	Exhibit 1. Would you identify it for me	10	current obstetrical practice.
11	and tell me how many pages it consists of.	11	A. Currently, I personally do about 10
12	A. It's a Standard Care Arrangement, and	12	to 15 deliveries a month.
13	it has seven pages.	13	Q. And are there any type of patients
14	Q. Backing up a moment relative to your	14	that you refer out to other obstetricians,
15	education and training, where did you go to	15	whether maternal-fetal or otherwise?
16	medical school?	16	A. I frequently refer patients for
17	A. I went to Ohio State.	17	consultation with fetomaternal specialists.
18	Q. And then your residency?	18	Q. Okay. Could you give me some
19	A. Riverside in Columbus.	19	examples?
20	Q. And was that a four year program?	20	A. For example, an insulin-dependent
21	A. Yes, it was.	21	diabetic who is pregnant; a patient who is
22	Q. Did you do a fellowship?	22	over 35 or who has an abnormal quad
23	A. No.	23	screening and wants to have an
24	Q. So you would be considered a general	24	amniocentesis or wants to be counseled as
25	obstetrician/gynecologist?	25	to her options; a patient who has an
	6		8
1	A. Yes.	1	ultrasound that shows twins or other
. 2	Q. As compared to a maternal-fetal	2	multiples; a patient who on ultrasound has
3	specialist, correct?	3	some abnormality of the fetus detected and
4	A. Correct.	4	needs further evaluation; patients in
5	Q. When you finished your training, did	5	preterm labor; patients with preterm
6	you come back to Cleveland?	6	ruptured membranes.
7	A. Yes, I did.	7	Q. Do you deliver twins yourself?
8	Q. Were you originally from the	8	A. Oh, yes.
9	Cleveland area?	9	Q. And do you manage gestational
10	A. Yes.	10	diabetics yourself?
11	Q. All right. And then you started in a	11	A. Yes, I do.
12	group, or did you start solo?	12	Q. What causes one to place a
13	A. I was in a group initially.	13	gestational diabetic on insulin, what's the
14	Q. What was the name of the group?	14	criteria?
15	A. It was called Torbenson Medical	15	A. If the sugars are not properly
16	Associates.	16	managed with diet alone.
17	Q. Okay. And that group is dissolved?	17	Q. Do you look for just high sugars at
18	A. Yes.	18	one event, two events of high sugar?
19	Q. How long were you with that group?	19	A. I generally look for a consistent
20	A. About three years.	20	pattern; one or two isolated incidents is
21	Q. As I recall, you've generally been	21	not enough.
22	based around the Lakewood or Fairview area	22	Q. I want to understand the relationship
23	for your care; is that accurate?	23	- between you and the Lakewood Midwifery
24	A. Initially, no, I was on the east side	24	Services. If you could kind of give me an
25	the first five years I practiced.	25	overview of that history, first of all,
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3 (Pages 9 to 12)

9 11 between that group and yourself. weekly meeting? 1 1 Fridays at 8:00, currently. 2 Α. Currently, I have been the consultant 2 А. 3 for this group for about three years. 3 Now, what does the midwifery group do Ο. when you're unavailable? 4 Okay. 4 ο. I'm called Clinical Director of 5 Δ. There are other physicians that -5 Α. Midwifery, I think, is my title. 6 provide backup. 6 7 So they also have a similar contract? 7 And what does that mean? Ο. ο. 8 It means I'm handling the clinical 8 We have a -- I don't know what their Α. 9 contracts say, I have never seen them. 9 issues in the practice. They have a business-type manager who directs that sort 10 Q. 10 Okav. 11 of stuff, who is a hospital administrator. 11 We have a call schedule and they call Α. 12 Are you an employee? 12 the physician who is scheduled to be their ο. backup on any given day. 13 Α. I have a contract, I am not 13 specifically a hospital employee. I have a And how does the -- so it would 14 14 ο. 15 service contract and am paid a stipend for 15 simply be if you are unavailable they would 16 it 16 call your backup, the midwives? 17 You have a service contract with the 17 It's their backup, it's the physician ο. Α. that the hospital has designated as their 18 midwifery group? 18 backup. I don't hire these people, they 19 To provide -- not with the midwifery 19 Α, 20 group, with the Cleveland Clinic System to 20 were hired by Cleveland Clinic to provide provide consultation and services to the 21 backup services. There are three of us and 2122 midwives. 22 we split the call. 23 23 But they're hired to provide backup Ο. So the contract is between you and Q. 24 the hospital --24 service for obstetrical patients or for the 25 Α. Right. 25 midwives? 10 12 1 ο. -- association --1 Α. For midwives specifically. 2 2 Okay. And just give me a couple Α. Correct. ο. 3 -- whether it's Lakewood or the 3 names of obstetricians that might be ο. Cleveland Clinic? potentially backups. 4 4 I believe it's Cleveland Clinic, Currently, it's Dr. Gitiforooz and 5 Α. 5 Α. 6 Western Region, specifically. 6 Dr. Miller, however, neither one of them 7 Okay. 7 were working here three years ago, two ο. 8 That's what it says on the contract, 8 years ago. Α. 9 and it is for this and for other services. 9 o., At the time of this particular birth, 10 So as the consultant, what are your 10 who was the backup? ο. duties and responsibilities? I don't even remember. We used 11 11 Α. My -- I -- we have a weekly session multiple house doctors and I can't even 12 12 remember who it all was. It was 13 where the midwives bring questions or 13 problems with patients. We have a clinical Dr. Christian, Dr. Light, Dr. Arora, there 1414 15 meeting, in other words, every week, where 15 was some, multiple doctors. 16 we discuss individual patients and their 16 Doctor, do you have any idea why this ο. 17 17 patient, Holly Hutchinson, was sent over to problems. During the day I am available 18 for consultation with the midwife, while 18 Fairview for an NST rather than have it 19 she -- either while she's seeing a patient 19 done at Lakewood? or about a phone call or other issues. In MS. CALLSEN: Objection to the 20 20 21 addition, when a patient is in labor, if 21 extent that any of the information 22 I'm on call for them, then I am also 22 comes from me. 23 present and/or can be called to for any 23 Ά. Yeah, I was not involved in that 24 issues that might arise. 24 decision at the time, so no, I don't know 25 Is there a set day and time for this 25 specifically. ο.

4 (Pages 13 to 16)

13 15 Is it fair for me to conclude that 1 ο. So you have no knowledge? 1 ο. 2 Δ I know what the midwife told me. 2 you were never aware that this mom, Holly 3 Other than -- I'm not interested in Hutchinson, was diagnosed by the midwives ο. 3 4 what your counsel told you, but if your 4 as having gestational diabetes? 5 midwife told you something --I believe we did discuss her at a ς Α. The midwife the next day told me why meeting, because she had declined to do the 6 Α. 6 7 the patient was sent to Fairview. 7 three-hour GTT. I recall that there was a 8 That's what I want to hear. patient who had declined at that point that Ο. 8 9 The reason was because there was no we talked about. I cannot specifically say Ά 9 10 house pediatrician in Lakewood that night, for certain it was Holly, however, I don't 10 11 I don't know the reason. Normally there is know of any other patient who had declined 11 12 a pediatrician in Lakewood 24 hours, but 12 to do a three-hour test, so I think it was 13 there was some emergent issue occurred, the 13 probably her. house doctor was not there. And so her 14 14 Why do you think it was probably? Q. 15 concern was if the patient needed delivered 15 Because I don't know of any other Α. 16 that there wasn't a pediatrician at 16 patient of the midwifes in the last three 17 Lakewood, and so she sent her to Fairview, 17 years who's refused to do the three-hour 18 so that if the baby needed delivered 18 test other than Holly, so I think it was 19 emergently there would be a pediatrician 19 probably her we talked about. 20 present. 20 Well, is there any indication in Q. 21 Q. Then which midwife would that have 21 Holly's chart that she refused a three-hour 22 been? 22 GTT? 23 23 Α. That was Joy Naughton. Α. Well, the only indication is that it 24 Showing you what's been marked as 24 wasn't done, that it was -- there's a ο. 25 Plaintiff's Exhibit 1, did I have you 25 midwifery note that it was, she should have 14 16 identify this yet? 1 1 one, but yet it wasn't done. 2... A. Yes. 2 Q. You're presuming she refused it 3 Okay. And did I ask you whether or 3 versus it wasn't ordered? ο. 4 not this was in existence at the time of 4 Α. The midwife has a note that she was 5 the Hutchinson child's birth? going to order it, so I have to presume 5 6 I don't think you did, but I think it that she was intending to order it, but I Α. 6 7 was. 7 don't specific -- I was not present at any 8 ο. It was? 8 of these conversations, I do not know any 9 It's dated March of 2003. 9 of the details of this. Α. 10 ο. Okay. Does this document spell out 10 Q. In your experience with these midwives, if there is ever a circumstance 11 under what circumstances you are to be 11 12 consulted? 12 where a patient refuses a recommendation, 13 Ά. Some of them, yes. 13 isn't that generally charted? 14 Okay. And as I skim through this, 14 MS. CALLSEN: Objection. ο. 15 what do you recall about this particular 15 Not always, no. Α. 16 pregnancy or delivery? 16 Generally? ο. 17 I don't really recall anything about 17 I wouldn't say generally even. Α. Α. 18 Mrs. Hutchinson's pregnancy, I never saw 18 Do you have a recollection that the ο. 19 her during the pregnancy except for a bad 19 midwife said she refused a three-hour GTT? 20 Pap smear, which I vaguely recall I have a recollection of discussing a 20 Α. 21 performing a colposcopy on her for. And as 21 patient at conference, I do not recall the 22 far as the delivery, I was never called, so 22 name. The patient, I was told the patient 23 I don't recall anything about the delivery, did a one-hour Glucola, it was abnormal. 23 24 and I didn't hear about it until the next 24 The patient wanted to repeat the test, 25 day. 25 which I told them I didn't think was

5 (Pages 17 to 20)

1 neccessary, but it was repeated and was 1 gestational diabetes? 2 still abnormal. And I was told that the 3 patient did not want to do the three-hour 3 patient did not want to do the three-hour 3 Q. You're not familiar with any 4 test and therefore we talked about how that 5 A. Not in a non-insulin-dependent 5 supply be treated as though she was 6 gestational diabetic, no. 7 7 diabetic without the test, that, if 7 Q. Do you know whether or not the 8 andyou, make as the midwives 1 necestational 1 10 diabetes, the she should be treated as if 1 gestational 1 11 sugars, to err on the side of caution. 12 Q. Absolutely. And when you we can 11 12 Q. Absolutely. And when you we can 12 placenta is impacted by gestational 14 13 agree that once you make a, the midwives 13 average baby. 14 2. Do you know whether or not a 15 diabetes, the she should be treated as if 16 gestational diabetic? 16 gestational diabetic?
2still abnormal. And I was told that the patient did not want to do the three-hour 4 test and therefore we talked about how that 5 would be managed, and I suggested she 6 simply be treated as though she was 6 diabetic without the test, that, if 8 anything, we should do then more than we 9 would normally do, which is to get her 10 diabetic counseling and have her test her 11 sugars, to err on the side of caution. 12 Q. Absolutely. And when you we can 13 agree that once you make a, the midwives 14 and you, make a diagnosis of gestational 15 diabetes, then she should be treated as if 16 she has gestational diabetes?2A. No, I don't think there is. 30. You're not familiar with any 4 literature to that effect? 5 A. Not in a non-insulin-dependent 6 gestational diabetic, no.13agree that once you make a, the midwives 1310 habetic -: gestational diabetic's placenta is 14 Q. Do you know whether or not a 15 diabetes, then she should be treated as if 16 she has gestational diabetes?11 A. They can have a larger than typical 12 placenta, they could have a larger than 13 average baby.14Q. Absolutely. And when you we can 15 diabetes, then she should be treated as if 16 she has gestational diabetes?1616She has gestational diabetes?1717A. Well, in this case, the diagnosis 16 couldn't be made because the test wasn't 19 done, but yes, she was treated as if she 20 had gestational diabetes.171820And how is the care to a gestational 21 placenta.2121Q. And how is the care to a gestational 22200 not he issue of surveillance, then, 2321Q. And how is the care to a gestational 24 A. She is put on
3 patient did not want to do the three-hour 3 Q. You're not familiar with any 4 test and therefore we talked about how that 5 A. Not in a non-insulin-dependent 6 simply be treated as though she was 6 gestational diabetic, no. 7 7 diabetic without the test, that, if 7 Q. Do you know whether or not the 8 anything, we should do then more than we 9 placenta is impacted by gestational 9 would normally do, which is to get her 9 diabetic counseling and have her test her 10 10 diabets, then she should be treated as if 10 A. They can have a larger than typical 12 Q. Absolutely. And when you we can 12 placenta, they could have a larger than typical 13 agree that once you make a, the midwives 13 average baby. 14 14 Q. Do you know whether or not a 15 gestational diabetic's placenta is 16 15 she has gestational diabetes? 16 generally considered not as functional as 17 15 diabetic different than a nongestational 12 No, that would usually be not they 20 16
4 test and therefore we talked about how that 1 4 test and therefore we talked about how that 4 5 would be managed, and I suggested she 5 6 simply be treated as though she was 6 7 diabetic without the test, that, if 7 8 anything, we should do them more than we 9 9 would normally do, which is to get her 9 10 diabetic counseling and have her test her 10 11 sugars, to err on the side of caution. 11 12 Q. Absolutely. And when you we can 12 13 agree that once you make a, the midwives 13 14 diabetes, then she should be treated as if 15 16 she has gestational diabetes? 16 17 A. Well, in this case, the diagnosis 17 18 couldn't be made because the test wasn't 18 19 diabetic different than a nongestational 20 20 had gestational diabetes. 20 21 Q. Absolu wis the care to a gestational 21 22 Ab we is put on a diet 22 </td
6 simply be treated as though she was 6 gestational diabetic, no. 7 diabetic without the test, that, if 7 Q. Do you know whether or not the 8 anything, we should do then more than we 8 placenta is impacted by gestational 9 would normally do, which is to get her 9 diabetic conseling and have her test her 9 11 sugars, to err on the side of caution. 11 A. They can have a larger than typical 12 Q. Absolutely. And when you we can 12 placenta, they could have a larger than 13 agree that once you make a, the midwives 14 20. Do you know whether or not a 14 and you, make a diagnosis of gestational 14 20. Do you know whether or not a 15 diabetes, then she should be treated as if 16 generally considered not as functional as 16 she has gestational diabetes? 18 A. No, that would not usually be not they 20 had gestational diabetes. 20 out usually be not they 21 Q. And how is the care to a gestational 21 placenta. 22 Q. Okay. 20 On the issue of surveillance, then,
6 simply be treated as though she was 6 gestational diabetic, no. 7 diabetic without the test, that, if 7 Q. Do you know whether or not the 9 would normally do, which is to get her 9 diabetic counseling and have her test her 9 10 diabetic counseling and have her test her 9 11 A. They can have a larger than typical 12 Q. Absolutely. And when you we can 12 placenta, they could have a larger than typical 13 agree that once you make a, the midwives 14 Q. Do you know whether or not a 14 and you, make a diagnosis of gestational 14 Q. Do you know whether or not a 15 diabetes, then she should be treated as if 16 generally considered not as functional as 16 she has gestational diabetes? 16 2 0 you know whether or not a 16 she has gestational diabetes? 16 generally considered not as functional as 17 A. Well, in this case, the diagnosis 17 nongestational diabetic? 18 20 had gestational diabetes. 20 would usually be not they would usually be not they 21 Q. And how i
7diabetic without the test, that, if7Q. Do you know whether or not the8anything, we should do then more than we9diabetic ounselly do, which is to get her910diabetic counseling and have her test her10negative way?11sugars, to err on the side of caution.11A. They can have a larger than typical12Q. Absolutely. And when you we can13agree that once you make a, the midwives14and you, make a diagnosis of gestational14Q. Do you know whether or not a15diabetes, then she should be treated as if16generally considered not as functional as16she has gestational diabetes?17A. No, that would not usually be the19done, but yes, she was treated as if she19case, they would usually be not they20had gestational diabetes.200. On the issue of surveillance, then,21Q. Abahow is the care to a gestational22Q. On the issue of surveillance, then,23diabetic?23unless there is an insulin-dependent24A. She is put on a diet25Q. Okay.25Q. Okay.18A. Correct.2Q. Okay.20Q. Okay. We can agree that if a woman3sugars.3fails a one-hour GTT, the standard of care
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3 sugars. 3 fails a one-hour GTT, the standard of care
4 Q. And which dietitian is generally 4 for obstetrical care is to proceed to a
5 used? 5 three-hour GTT?
6 A. It would be the hospital's dietitian, 6 A. Absolutely.
7 and they've got multiple, whoever is 7 Q. And we can agree that once the
8 available for the counseling. 8 obstetrical care giver makes a diagnosis of
9 Q. Is the surveillance, fetal 9 gestational diabetes, he or she is then
10 surveillance, increased 10 bound to treat the patient as if she has
11 A. No. 11 gestational diabetes?
12 Q in any way with gestational 12 A. Correct.
13 diabetes? 13 Q. On the issue of when to place someone
14 A. Not routinely in a gestational 14 on insulin, it's when they have greater
15 diabetic who does not need, who does not 15 than, I guess, multiple high sugars?
16 need insulin, no. 16 A. Correct.
17 Q. What are the concerns about 17 Q. After
18 gestational diabetic from risk factors? 18 A. A consistent pattern of high sugars.
19 A. The Major risk factor that can occur 19 Q. After consultation with a dietitian?
20 in a diabetic is that her baby may be 20 A. Well, the patient, yeah, after the
21 unusually large, over nine pounds at birth. 21 patient's been placed on the diet, is that
22 Q. Macrosomia? 22 what you mean?
23 A. Exactly. 23 Q. Yes.
24 Q. Now, is there a risk, is there a 24 A. Yes, yes, she would be placed on the
25 greater risk of sudden fetal death in 25 diet first, unless her three-hour GTT was

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	21		23
1	so completely out of whack that it was	1	A. No.
2	obvious a diet wasn't going to be enough.	2	MS. CALLSEN: Objection.
3	Q. Now, is it your general practice to	3	Q. Can we agree that a midwife who
4	try to deliver gestational diabetics at	4	doesn't have privileges at a hospital
5	term?	5	should not be calling in orders to that
6	A. Generally, yes.	6	hospital?
7	Q. Why?	7	MS. CALLSEN: Objection.
8	A. Because the large baby risk.	8	A. No.
9	Q. Can we agree that when a gestational	9	Q. Do you think nurses should accept
10	diabetic is at or near term and has	10	orders from midwives or physicians who
11	complaints of decreased fetal movement and	11	don't have privileges at a particular
12	her cervix is ripe, standard of care is to	12	hospital?
13	get her delivered?	13	MS. CALLSEN: Objection.
14	A. Not in all cases, no.	14	A. I don't work at Fairview Hospital, I
15	Q. In some cases?	15	don't know as a nurse, and I don't know
16	A. In some cases, yes.	16	what their rules are for or against
17	Q. What cases?	17	receiving orders from outside physicians, I
18	A. In some cases where the patient is	18	really don't. I couldn't speak to what
19	agreeable to doing it, where I'm sorry,	19	their standards are for their employees.
20	could you repeat the specifics?	20	Q. Relative to an induction, if there's
21	Q. Yeah, we have a gestational diabetic	21	a nonreassuring fetal heart tone, or heart
22	that's at or near term, has complaints of	22	strips, can we agree that it is not prudent
23	decreased fetal movement, she has a ripe	23	to begin Pitocin?
24	cervix.	24	A. If a strip is nonreassuring, I would
25	A. If the movement remains decreased,	25	be reluctant to begin Pitocin.
		S	
	22		24
1		1	······································
1	yes, you could do that. If in fact she	1	Q. And, in fact, if someone is started,
	yes, you could do that. If in fact she then has normal movement and a reactive		Q. And, in fact, if someone is started, induced with Pitocin, and the strips become
2	yes, you could do that. If in fact she	2	Q. And, in fact, if someone is started,
2 3	yes, you could do that. If in fact she then has normal movement and a reactive strip and she prefers to wait for the onset	2 3	Q. And, in fact, if someone is started, induced with Pitocin, and the strips become nonreassuring, the appropriate prudent care would be then to discontinue the Pitocin?
2 3 4	yes, you could do that. If in fact she then has normal movement and a reactive strip and she prefers to wait for the onset of labor, I don't see anything wrong with	. 2 3 4	Q. And, in fact, if someone is started, induced with Pitocin, and the strips become nonreassuring, the appropriate prudent care
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7 (Pages 25 to 28)

	25		27
1	Q. Okay. And that guideline applies to	1	for breathing and muscle tone and things
2	you as well as midwives when interpreting	2	like that.
3	the NST?	3	Q. You said that you currently deliver,
4	A. Yes, as well as to labor and delivery	4	I think you said, 10 to 15 a month?
5	nurses.	5	A. Roughly, yeah.
6	Q. Now, have you heard the phrase	6	Q. And was that the same back at the
7	equivocal, where an NST is equivocal?	7	time of Holly Hutchinson's delivery?
8	A. Yes.	8	A. It was probably about the same, yeah.
9	Q. What does that mean?	9	Q. And between the two hospitals,
10	A. It means that there are, the NST	10	Lakewood and Fairview, where were you
11	technically meets the criteria, but there	11	delivering most of your babies?
12	may be something on there that is not	12	A. Lakewood, by far.
13	standard, for example, a variable	13	Q. If you had a choice, you would prefer
14	deceleration that makes one think that	14	to deliver at Lakewood?
15	perhaps further assessment might be needed.	15	MS. CALLSEN: Objection.
16	Q. Okay. And when in fact an NST is	16	A. What do you mean by "a choice"?
17	equivocal, prudent care is to continue the	17	Q. Well, let's assume one of your
18	NST to get a further evaluation of the mom	18	patients for whatever reason ended up at
19	at that time?	19	Fairview?
20	A. That would certainly be one option.	20	A. If a patient ended up at Fairview for
21	Q. Well, and what other options are	21	some reason, then certainly I would have to
22	there?	22	deliver her there, it's not an option.
23	A. Well, you might want to do an	23	Q. Okay. Well, what if it what if it
24	ultrasound, for example, if you see a	24	wasn't an urgent delivery but you wanted to
25	variable. You could look to see how much	25	start an induction, would you start the
	<u>.</u>	1	
	26	1	28
3	fluid is around the behy. If there is		28
1	fluid is around the baby. If there's	1	induction at Fairview, or would you
2	fluid is around the baby. If there's decreased fluid, then that might be a	1	induction at Fairview, or would you transfer the patient to Lakewood?
2	fluid is around the baby. If there's decreased fluid, then that might be a better test than continuing the nonstress.	1 2 3	<pre>induction at Fairview, or would you transfer the patient to Lakewood? A. I have been doing this for 14 years</pre>
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8 (Pages 29 to 32)

	29		31
1	A. A patient who is consistently	1	A. Not that I recall.
2	abnormal sugars, yes, I should be notified.	2	Q. Doctor, what I'd like to do now is go
3	Q. And do you know what the routine is,	3	through your entries in the prenatal chart,
4	whether or not the, I call it the GD	4	Fairview records, and then the ultimate
5	patient, gestational diabetic patient, is	5	labor and delivery chart, okay.
6	given like a form to track her sugars and	6	A. Alrighty.
7	then drop a copy off at the office, or	7	Q. I don't know if I brought enough
8	what's, what's	8	copies with me. Do you have a copy of the
9	A. Generally, they bring it in with them	9	chart right there? I want you to know that
10	at each visit.	10	anytime, I probably should have said this
11	Q. And what's the office's, to your	11	when we started, anytime during this
12	knowledge, the group's practice relative to	12	deposition you're more than free to look at
13	that form, do they make a copy of it, or	13	the records before responding to any
14	do	14	questions I ask.
15	A. I believe they usually make a copy	15	When did you first meet Holly?
16	and put it in the chart.	16	A. I believe I met her when she had a
17	Q. Okay. That would be a good thing,	17	colposcopy, which I think was in January,
18	because that would give you an opportunity	18	maybe, of that year. I have to look at the
19	to look at it at a later time if you're not	19	chart.
20	there, in the event they consult you on	20	MS. CALLSEN: Don't guess.
21	this mom's sugars, correct?	21	A. Let me look at the chart.
22	A. Of course.	22	Q. Feel free to look at the chart.
23	Q. Doctor, to your knowledge, did you	23	A. And that is the only time I met Holly
24	have occasion to look at the NST strips	24	before she delivered. I met her on January
25	from Fairview as well as the, and/or, the	25	22nd, 2003. January 22nd, 2003, she had a
	30		32
1	strips from the labor and delivery at any	1	colposcopy done by me, and that is the only
	time with any other person other than	[time_I_believe_I_ever met her during this
3	counsel?	3	pregnancy.
4	A. I have never looked at those strips	4	Q. All right. Can you tell based on the
5	with anyone else, except I may have looked	5	
6	with Kathy after the baby was born at the		chart what her, what the destational ade
7		6	chart what her, what the gestational age
	fetal monitoring done at the time of the	6	was of the child?
8	fetal monitoring done at the time of the labor.	7	was of the child? A. Just a second, I'll look back. On
8 9	labor.	7 8	<pre>was of the child? A. Just a second, I'll look back. On January 22nd she would have been about nine</pre>
9	labor. Q. Can you tell me that one more time?	7 8 9	<pre>was of the child? A. Just a second, I'll look back. On January 22nd she would have been about nine weeks pregnant.</pre>
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9 10 11 12 13 14 15 16 17 18 19 20 21	<pre>labor. Q. Can you tell me that one more time? A. Okay. After the baby was born and I was told that there was, the baby was not doing well, I believe that Kathy and I went to labor and delivery and looked at the monitor strips briefly and went over them, and that is the only time I have ever. Q. Would it have been the next day, likely, been 24 hours? A. It would have been within a day or two, I don't remember the exact date. I vaguely recall doing it, going over those strips with her.</pre>	7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	 was of the child? A. Just a second, I'll look back. On January 22nd she would have been about nine weeks pregnant. Q. And so she had an abnormal Pap and then you did a colposcopy? A. Correct. Q. And is there any dangers of doing a colposcopy to a pregnant lady? A. No, not particularly, we do them all the time. Q. Okay. Clearly at that time she had not been diagnosed yet by the midwives as gestational diabetic, correct? A. No, that would have been too early. Q. Too
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9 (Pages 33 to 36)

	33		35
1	A. Yes.	1	Fairview and I recall getting a phone call
2	Q. That's the only time you had hands-on	2	from the nurse that it looked great and she
3	care to this mother during this pregnancy?	3	was sent home and I did not see her there,
4	A. Yes.	4	no.
5	Q. And that includes the induction,	5	Q. So you never went to Fairview to
6	labor and delivery?	6	assess her?
7	MS. CALLSEN: Objection. I	7	A. There would be no reason to if the
8	don't think there was an induction.	8	strip was normal and the baby was active.
9	Q. Excuse me. That includes labor and	9	Q. The answer would be no, you never saw
10	delivery?	10	her at Fairview?
11	A. I did not see her in labor and	11	A. No, I did not.
12	delivery, no.	12	Q. Okay. Now, did you ever call in any
13	Q. In fact, based on the chart, was	13	orders to Fairview?
14	there ever a plan for an induction of the	14	A. I this is all vague recollection.
15	gestational diabetic mom?	15	I believe that I was called by a nurse from
16	MS. CALLSEN: Objection.	16	Fairview and told that Joy had sent this
17	A. I don't see it on the chart, but I	17	patient there for a nonstress test, and
18	don't know what the plan was.	18	that because Joy was not on staff there,
19	Q. Does one	19	she wanted to let me know what the details
20	A. I don't recall.	20	were, that the strip was reactive, and
21	Q. Does one engage in estimating fetal	21	could she send the patient home.
22	weight for gestational diabetic?	22	Q. And what was that nurse, do you
23	A. Certainly.	23	remember the name of that nurse?
24	Q. And how is that done?	24	A. Oh, gosh, no. I don't even know
25	A. Well, it can be done a couple of	25	three-quarters of the nurses at Fairview.
	A. Well, it can be done a couple of		CHIECE QUALCEED OF THE HUISES OF FULLY
	34		36
1	different ways. In a thin person like	1	Q. Okay. And did you ever sign off in
2	Holly, you can pretty well tell how big the	2	any orders at Fairview?
3	baby is going to be simply by doing	3	A. I signed them off afterwards, yeah.
4	Leopold's maneuvers, palpating her abdomen.	4	They were to go to medical records.
5	Q. So there's not, with a gestational	5	Q. Can you tell me approximately how
6	diabetic mom, there's no requirement for an	6	many days after the orders were created
7	ultrasound in the last trimester to	7	that you actually signed them off at
8	determine or estimate fetal weight?	8	Fairview?
9	A. Not at all.	9	A. Do you have the chart and I'll tell
10	Q. And you don't have a goal when	10	you?
11		1	
	dealing with a gestational diabetic mom to	11	MS. CALLSEN: I've got it.
12	dealing with a gestational diabetic mom to have her delivered by term?	11 12	-
1		1	MS. CALLSEN: I've got it.
12	have her delivered by term?	12	MS. CALLSEN: I've got it. A. It's generally a goodly period of
12 13	have her delivered by term? A. Unless I am concerned that the baby	12 13	MS. CALLSEN: I've got it. A. It's generally a goodly period of time.
12 13 14	<pre>have her delivered by term? A. Unless I am concerned that the baby is extremely large, not necessarily, no.</pre>	12 13 14	MS. CALLSEN: I've got it. A. It's generally a goodly period of time. MS. CALLSEN: Goodly?
12 13 14 15	<pre>have her delivered by term? A. Unless I am concerned that the baby is extremely large, not necessarily, no. Q. So going back to your contact with</pre>	12 13 14 15	MS. CALLSEN: I've got it. A. It's generally a goodly period of time. MS. CALLSEN: Goodly? A. Somewhere there is a date where I
12 13 14 15 16	 have her delivered by term? A. Unless I am concerned that the baby is extremely large, not necessarily, no. Q. So going back to your contact with this patient, one time, and that was 	12 13 14 15 16	MS. CALLSEN: I've got it. A. It's generally a goodly period of time. MS. CALLSEN: Goodly? A. Somewhere there is a date where I signed. It appears that she was seen there
12 13 14 15 16 17	 have her delivered by term? A. Unless I am concerned that the baby is extremely large, not necessarily, no. Q. So going back to your contact with this patient, one time, and that was performing a colposcopy at, I think you 	12 13 14 15 16 17	MS. CALLSEN: I've got it. A. It's generally a goodly period of time. MS. CALLSEN: Goodly? A. Somewhere there is a date where I signed. It appears that she was seen there on August 25th and I finally signed off on
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12 13 14 15 16 17 18 19	 have her delivered by term? A. Unless I am concerned that the baby is extremely large, not necessarily, no. Q. So going back to your contact with this patient, one time, and that was performing a colposcopy at, I think you said ten weeks A. Nine, I think, it was. Close enough. 	12 13 14 15 16 17 18 19	MS. CALLSEN: I've got it. A. It's generally a goodly period of time. MS. CALLSEN: Goodly? A. Somewhere there is a date where I signed. It appears that she was seen there on August 25th and I finally signed off on it on October 14th. Q. So when did you create this note that
12 13 14 15 16 17 18 19 20	 have her delivered by term? A. Unless I am concerned that the baby is extremely large, not necessarily, no. Q. So going back to your contact with this patient, one time, and that was performing a colposcopy at, I think you said ten weeks A. Nine, I think, it was. Close enough. Q. Nine weeks, correct? 	12 13 14 15 16 17 18 19 20	MS. CALLSEN: I've got it. A. It's generally a goodly period of time. MS. CALLSEN: Goodly? A. Somewhere there is a date where I signed. It appears that she was seen there on August 25th and I finally signed off on it on October 14th. Q. So when did you create this note that says "NST reactive per nurse"?
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12 13 14 15 16 17 18 19 20 21 22 23	 have her delivered by term? A. Unless I am concerned that the baby is extremely large, not necessarily, no. Q. So going back to your contact with this patient, one time, and that was performing a colposcopy at, I think you said ten weeks A. Nine, I think, it was. Close enough. Q. Nine weeks, correct? A. Mm-hmm. Q. Now, you had some other contact with her and that's relative to an NST that was 	12 13 14 15 16 17 18 19 20 21 22 23	 MS. CALLSEN: I've got it. A. It's generally a goodly period of time. MS. CALLSEN: Goodly? A. Somewhere there is a date where I signed. It appears that she was seen there on August 25th and I finally signed off on it on October 14th. Q. So when did you create this note that says "NST reactive per nurse"? A. On October 14th, my signature is dated October 14th. Q. And is that, did you actually look at

		1	
	37		39
1	A. Since I wrote "Per verbal report of	1	back-check their work, they're very good
2	R.N.," my guess is that the nonstress test	2	nurses.
3	was not with the chart at the time, so I	3	Q. So in your mind you don't have an
4	could not look at it.	4	independent responsibility to review that
5	Q. Based on your experience at Fairview,	5	NST on a patient of yours that comes in
6	why wouldn't the NST be with the chart?	6	with complaints of decreased fetal
7	A. You'd to ask medical records there, I	7	movement?
8	don't know. This hospital, often, the	8	A. No, not if there's no concern on the
9	medical records separates the monitor	9	part of the staff who are present.
10	strips from the charts.	10	Q. Now, what did did you know the
11	Q. You certainly were capable of coming	11	nurse, were you comfortable with her
12	to the hospital on the night of the NST at	12	capability or competency?
13	Fairview?	13	A. I don't recall the name of the nurse,
14	A. Absolutely. And if the nurse had any	14	I don't know if I knew her or not.
15	concerns at all, I would have.	15	However, I have generally the nurses at
16	Q. You didn't have any concern for this	16	Fairview are excellent, and they certainly
17	mom or you would have made a personal	17	can interpret a monitor strip. They also
18	appearance; is that what you're saying?	18	have a house physician and a nurse manager
19	MS. CALLSEN: Objection.	19	present on the unit at all times who can
20	Q. Based on what you were told, you	20	help them if there's any concerns at all
21	didn't have any concern for this mom and	21	about a monitor strip. I feel very
22	that's why you didn't appear at Fairview?	22	comfortable that they are very capable,
23	A. I was told by the nurse that the	23	they handle high-risk patients all the time
24	strip was completely reassuring, and, yes,	24	there.
25	I was not worried that there was a problem	25	Q. Doctor, you told me that within a day
	38		40
1	that I needed to address that evening.	1	or so after delivery of this child you had
2	Otherwise, yes, I would have come to the	2	a conversation or an opportunity to review
3	hospital had she had any concerns at all.	3	the L & D strips with Kathleen?
4	Q. Do you feel that you have a	4	A. Yes.
5	responsibility to review strips? First of	5	Q. Okay. And do you recall what
6	all, did you feel that she was your	6	Kathleen may have said to you that led up
7	patient?	7	to you reviewing the strips about this
8	A. She is my patient, sure, when she's	8	particular labor and delivery?
9	at Fairview and I'm signing off on her	9	A. The only thing she told me was that
10	record, of course, she's my patient at that	10	the baby had problems and was transferred
11	moment, yes.	11	to Fairview, and that's all I needed to
12	Q. Do you feel that you have	12	hear. We needed them to review because
13	responsibility to look at the NST within a	13	that is what we do.
14	day or two after it's taken on this mom who	14	Q. Okay. Did you ever ask Kathleen if
15	comes in, near term, with complaints of	15	she was ever concerned about the fetal
16		1	monitoring strips during labor and
4	decreased fetal movement?	16	mome operating to the provide the second
17	decreased fetal movement? A. No, I don't, because the nurses there	16 17	delivery?
17 18			
1	A. No, I don't, because the nurses there	17	delivery?
18	A. No, I don't, because the nurses there are quite capable of assessing nonstress	17 18	delivery? A. We talked about whether she was or
18 19	A. No, I don't, because the nurses there are quite capable of assessing nonstress tests, and if they tell me that the strip	17 18 19	delivery? A. We talked about whether she was or not.
18 19 20	A. No, I don't, because the nurses there are quite capable of assessing nonstress tests, and if they tell me that the strip is completely reactive and normal, I	17 18 19 20	<pre>delivery? A. We talked about whether she was or not. Q. What did she say?</pre>
18 19 20 21	A. No, I don't, because the nurses there are quite capable of assessing nonstress tests, and if they tell me that the strip is completely reactive and normal, I completely believe them. They are	17 18 19 20 21	 delivery? A. We talked about whether she was or not. Q. What did she say? A. She said she felt that the strip was
18 19 20 21 22	A. No, I don't, because the nurses there are quite capable of assessing nonstress tests, and if they tell me that the strip is completely reactive and normal, I completely believe them. They are perfectly capable of making that	17 18 19 20 21 22	<pre>delivery? A. We talked about whether she was or not. Q. What did she say? A. She said she felt that the strip was reassuring.</pre>
18 19 20 21 22 23	A. No, I don't, because the nurses there are quite capable of assessing nonstress tests, and if they tell me that the strip is completely reactive and normal, I completely believe them. They are perfectly capable of making that determination. They have a house doctor	17 18 19 20 21 22 23	 delivery? A. We talked about whether she was or not. Q. What did she say? A. She said she felt that the strip was reassuring. Q. Did you agree with her?

11 (Pages 41 to 44)

	41		43
1	Q. Have we covered all your contact with	1	MS. CALLSEN: Objection,
2	Holly Hutchinson, either directly or	2	objection to the extent that you can
3	indirectly, through the time of delivery of	3	explain that there is a process in
4	her child?	4	place, but no specifics.
5	A. Yes, that's it.	5	A. Yes. Whenever there
6	Q. Is it safe for me to assume that you	6	Q. Excuse me for interrupting you,
7	were not apprised that she came in to	7	because I'm confused.
8	Lakewood for delivery?	8	A. Me too.
9	A. I did not know anything about her	9	Q. So what I want to do is get
10	delivery until the next day.	10	clarified, first of all. In general, when
11	Q. And just for the record, you were not	11	there is a peer review process, there's
12	contacted at any time by Kathleen Philbin	12	proceedings with representatives we're
13	during the labor and delivery?	13	talking generally now, not specifically,
14	A. No, I was not.	14	okay.
15	Q. And to your knowledge did Kathleen	15	A. Right.
16	Philbin contact any other physician during	16	Q. In general, there's proceedings
17	her labor and delivery?	17	before hospital representatives, an
18	A. Based on reviewing the chart, it does	18	investigation, an opportunity for one to
19	not appear that she did.	19	provide input, sometimes there's, there are
20	Q. Have you had an opportunity to	20	physicians that are involved
21	discuss the strips or what you saw on the	21	A. I am not speaking to any of that.
22	strips that was concerning to you with, at	22	MS. CALLSEN: Sharon, just
23	a later date with Megan or Joy? That's the	23	wait.
24	strips of the L & D.	24	Q. Okay?
25	A. Not that I recall.	25	A. Okay. When I use the phrase "peer
<u> </u>	••••••••••••••••••••••••••••••••••••••		
	42		44
1	Q. For example, just to educate them	1	review," that's what I mean.
2	about something you disagreed with Kathleen	2	A. All right.
3	about so that they can learn from it?	3	Q. And you earlier, ten minutes ago,
4	MS. CALLSEN: Objection.	4	referenced that there was a discussion with
5	THE WITNESS: Can I answer	5	the midwives in a general peer review?
6	that?	6	A. Rìght.
7	MS. CALLSEN: To the extent it	7	Q. That's not what you were referring
8	is not peer review or it's not based	8	to?
9	on discussion with you and I.	9	A. No, it was a general discussion.
10	A. There was a peer review process that	10	Q. Okay. I need to hear, I want to know
11	went on because there was an outcome that	11	which of those
12	was not favorable.	12	A. We did not have this chart, we were
13	Q. Sure.	13	not speaking specifically about this
34	A. And only in the context of peer	14	patient.
15	review did I ever discuss any of this with	15	Q. Right, but I need to know who was
16	them.	16	present
17	Q. You say "them"?	17	MS. CALLSEN: Objection. Mike,
18	A. With the midwives. We have a peer	18	if that is part of a peer review or a
19	review process where we all sit down when	19	quality assurance discussion, that is
20	there has been a bad outcome and we discuss	20	privileged, and she is instructed not
21	what might have been done differently.	21	to answer.
22	Q. Well, is this is this explain	22	MR. BECKER: Okay, we're going
23	to me this peer review process that you're	23	to have a fight over this.
24	talking about. It's something different	24	MS. CALLSEN: Then we'll have a
25	than a hospital peer review?	25	fight over it.
5.00000			

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1 .		_	
1	Q. But you have to I'm not going to	1	it says, "Nonstress test for decreased
2	ask what was said, then, we'll talk about	2	fetal movement," and it's a telephone order
3	this later, but I want to know when it	3	from me and I cosigned that.
4	occurred, who was present, and where it	4	Q. When excuse me, I didn't mean to
5	occurred?	5	interrupt you.
6	A. It would have occurred in our	6	A. It's got a nurse's name on it, but I
7	offices.	7	can't read it.
8	Q. Which location?	8	Q. When did you cosign it?
9	A. The Belle Avenue, across the street.	9	A. I don't know. It would not have been
10	And the only people that would have been	10	that night, it would have been probably
11	present would have been the midwives.	11	when I cosigned off on the nonstress test.
12	Q. Okay, but	12	Q. Which is that October date we already
13	A. A private meeting.	13	talked about?
14	Q would it have been all the	14	A. Probably.
15	midwives?	15	Q. Okay. Next entry?
16	A. I believe that all three midwives	16	A. The next entry is, oddly enough,
17	were there when I spoke to fetal	17	another order for a nonstress test for
18	monitoring, yes.	18	decreased fetal movement, but this one is
19	Q. Did you ever have an opportunity to	19	from Joy Naughton, and I also cosigned
20	discuss the Fairview General Hospital	20	that, and that's written by a different
21	nurses' interpretation of the NST on Holly	21	nurse.
22 23	Hutchinson with anyone?	22	Q. Can you explain that?
ļ	MS. CALLSEN: Objection to the	23 24	A. No, I don't know. The only thing I
24 25	extent it was with me.	25	could think of is two different nurses, one
20	A. I have only discussed it with Julie,	20	called me and one called Joy and both got
	4 6		48
1	I've never talked to anyone else about it,	1	the same order.
2	no. I agree with the Fairview Hospital	2	
3	and the second	t	Q. And, again, you cosigned off on that
1	nurses' interpretation of that nonstress	3	Q. And, again, you cosigned orr on that sometime in October?
4	nurses' interpretation of that nonstress test.	3 4	
4		-	sometime in October?
	test.	4	sometime in October? A. Right.
5	test. Q. Okay.	4 5	sometime in October? A. Right. Q. Okay.
5 6	test. Q. Okay. A. I did see the strip eventually.	4 5 6	<pre>sometime in October? A. Right. Q. Okay. A. And the next page, this is electronic</pre>
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13 (Pages 49 to 52)

T T		1	
	49	-	51
1	an NST like that, why are you required to	1	A. They always have a house OB.
2	sign off on it, to your knowledge?	2	Q. 24-hour house OB?
3	A. To make sure that I'm aware of what	3	A. Yes, 24/7.
4	the results were.	4	MR. BECKER: Off the record.
5	Q. Okay. May I see that? What does	5	(Plaintiff's Exhibit 3 marked.)
6	this mean, "R.N." underneath "Per verbal	6	Q. Doctor, I think you indicated earlier
7	report," does that mean from the R.N.?	7	that you would have expected to be
8	A. From the R.N., from a nurse.	8	contacted within 45 minutes or so after
9	Q. And that is your initial under the	9	seeing nonreassuring strips once Holly
10	A. Yeah.	10	arrived at Lakewood, correct?
11	Q the R.N.?	11	MS. CALLSEN: Objection.
12	A. Correct.	12	A. Yes.
13	Q. And then under "Recommendations" it	13	Q. Handing you what's been marked as
14	says what does it say there?	14	Plaintiff's Exhibit 3, I want you to tell
15	A. It says, "Routine, keep appointment."	15	me what it is about those strips,
16	Q. And so, "keep appointment," by the	16	particularly the first 45 minutes, that you
17	time that you did you write this in	17	find to be nonreassuring?
18	October?	18	A. Let me make sure I have them in the
19	A. I probably it in October, because	19	right order first.
20	that would have been what my orders were at	20	It is not completely reassuring in
21	that time, which was that the patient	21	that there is decent long-term variability,
22	should continue on with her usual routine	22	but what we do not see are accelerations in
23	and keep her next appointment.	23	the fetal heart rate. There are no
24	Q. What do you mean that probably was	24	decelerations, either, so it's really more
25	what your orders were, did you have other	25	of a not completely reassuring strip than a
	mac Joan Shaces were, and Joa mare sener		of a not compressing reasonaring setup than a
		1	
	50		52
1	50 orders to someone?	-	52 nonreassuring one.
1 2			
	orders to someone?	-	nonreassuring one.
2	orders to someone? A. No, that's the typical discharge	1 2	nonreassuring one. Q. Besides an absence of accelerations,
2 3	orders to someone? A. No, that's the typical discharge order given after a reactive nonstress	1 2 3	nonreassuring one. Q. Besides an absence of accelerations, anything else? How is the variability?
2 3 4	orders to someone? A. No, that's the typical discharge order given after a reactive nonstress test.	1 2 3 4	nonreassuring one. Q. Besides an absence of accelerations, anything else? How is the variability? A. Well, all you can tell, this is an
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2 3 4 5 6	<pre>orders to someone? A. No, that's the typical discharge order given after a reactive nonstress test. Q. But actually, this is after the fact?</pre>	1 2 3 4 5 6	<pre>nonreassuring one. Q. Besides an absence of accelerations, anything else? How is the variability? A. Well, all you can tell, this is an external tracing, so all you can tell is long-term variability, and average</pre>
2 3 4 5 6 7	 orders to someone? A. No, that's the typical discharge order given after a reactive nonstress test. Q. But actually, this is after the fact? A. Of course. Q. And this is after her child was born? 	1 2 3 4 5 6 7	 nonreassuring one. Q. Besides an absence of accelerations, anything else? How is the variability? A. Well, all you can tell, this is an external tracing, so all you can tell is long-term variability, and average long-term variability is 3 to 5 cycles a
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14 (Pages 53 to 56)

	53		55
1	A. Sure. No, we just mostly have a	1	there. So there is a decrease in long-term
2	pretty flat strip except for one	2	variability, at least in the middle part
3	acceleration, which was at about 2140,	3	here. Still not seeing persistent
4	time-wise, and it was one acceleration, but	4	decelerations or late decels, except for
5	otherwise a fairly flat strip. And, once	5	occasional possible late decelerations, but
6	again, it's all external tracings, so you	6	they're not persistent, so they're not
7	can't really talk about beat-to-beat	7	clinically significant.
8	variability.	8	Q. What can decreased variability mean
9	Q. Well, do you recommend to the	9	as to what's going on with the fetus?
10	midwives that they rupture membranes to put	10	A. Most of the time it's because the
11	an internal on when you see an absence of	11	baby's asleep or because it's been
12	accelerations?	12	medicated.
13	A. That is certainly one option, yes.	13	Q. It's also consistent with developing
14	Q. To your knowledge, do midwives have	14	acidosis?
15	training and authority to place internal	15	A. It could be, however, towards the end
16	A. Yes, they do.	16	here her long-term variability improves.
17	Q monitoring or electrodes	17	When she was in anterior lip at 1230 she
18	themselves?	18	has good long-term variability, so if the
19	A. Yes, they do.	19	baby was acidotic it apparently recovered,
20	Q. Okay. Anything else as it developed	20	because it was improved.
21	during the balance of that labor and	21	Q. Did you look at the baby's chart in
22	delivery?	22	preparation for today's deposition?
23	A. There's some areas here where her	23	A. Briefly.
24	long-term variability is somewhat	24	Q. Was the baby acidotic at birth?
25	decreased, but that can happen if the	25	MS. CALLSEN: Objection.
	54		56
1	baby's asleep or with medications and such.	1	A. I don't recall.
2	I'm not seeing any decelerations that are	2	MS. CALLSEN: To the extent she
3	persistent or anything else that is	1	mb. OABIDDIA. TO the extent she
4	persistence of anyching erse chac is	1 2	just reviewed the chart from
	O Take your time don't ruch through	3 4	just reviewed the chart from
5	Q. Take your time, don't rush through	4	Lakewood.
5	it.	4	Lakewood. A. I was going to say
6	it. A. Yes, I won't, I won't. She possibly	4 5 6	Lakewood. A. I was going to say MS. CALLSEN: Let's clarify.
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15 (Pages 57 to 60)

	57		59
1	prepared for it. They, certainly, they	1	recommend insulin, correct?
2	have done them in cases where the patient	2	A. Yes.
3	was ultimately going to end up with a	3	Q. And midwives don't have authority to
4	cesarean for nonreassuring heart rate, and,	4	prescribe insulin, correct?
5	as I said, the strip is not completely	5	A. I believe they do have authority to
6	reassuring.	6	prescribe it.
7	Q. So what you're saying is that	7	Q. They do?
8	notwithstanding a nonreassuring strip, it's	8	A. They have prescriptive authority,
9	okay to proceed to give the patient an	9	yes.
10	epidural?	10	Q. They don't have to consult with you
11	A. Yes.	11	before?
12	MR. BECKER: Let's take a break	12	A. They would I would say that most
13	and change tape. I think I'm just	13	of the midwifes here are pretty
14	wrapping up, Doctor.	14	inexperienced at it and they would not
15	(A short break was taken.)	15	write it, but technically, yes, they could
16	BY MR. BECKER:	16	write for insulin.
17	Q. Doctor, we were talking earlier about	17	Q. You're saying based
18	your Friday morning meetings with the	18	A. However, in this practice they don't
19	midwives. Is there any type of notes that	19	do that.
20	are taken at those meetings?	20	Q. All right, now you really confused
21	A. The midwives would put notes on the	21	me. I'm interested in this practice
22	patient charts as to the plan, but, no,	22	A. Okay.
23	there would not be separate formal notes.	23	Q whether or not these midwives have
24	Q. There wouldn't be an agenda, which	24	authority and routinely write a script for
25	cases we're going to talk about or anything	25	insulin.
	58		60
1	like that?	1	MS. CALLSEN: Objection, that
2	A. No, we don't do any of that.	2	is compound, and I think that she
3	Q. So if in fact a way to tell	3	said that they do have authority
4	whether or not a patient's condition or	4	under the law.
5	patient's care was discussed at that Friday	5	A. Correct, legal authority,
6	morning meeting, one would have to look at	6	prescriptive authority, and they could
7	the patient's chart, and what would they	7	write for insulin if they chose to do so.
8	look for in the patient's chart?	8	Q. Okay.
9	A. They would probably look for a note.	9	A. In this practice they do not
10	Q. Saying what?	10	prescribe insulin.
11	A. That sets out a plan.	11	Q. Okay. And how is a patient, a GD,
12	Q. A change in plan or any plan?	12	gestationally diabetic mom, how does she
13		13	get to receiving insulin? I'm assuming
1	A. It might be either.	1 1 0	
14	 A. It might be either. Q. Based on your review of this prenatal 	14	that the midwives then consult with you and
1			that the midwives then consult with you and you write the order?
14 15 16	Q. Based on your review of this prenatal	14	<pre>that the midwives then consult with you and you write the order? A. Correct, or I would refer her on to a</pre>
14 15 16 17	Q. Based on your review of this prenatal chart, is there any indication that Holly's case was discussed with you on that Friday morning meeting?	14 15 16 17	<pre>that the midwives then consult with you and you write the order? A. Correct, or I would refer her on to a high risk specialist who would write the</pre>
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14 15 16 17 18 19 20 21 22	Q. Based on your review of this prenatal chart, is there any indication that Holly's case was discussed with you on that Friday morning meeting? A. Can I take a look at the chart, please? There is nothing that specifically states it was discussed at the meeting. Q. We were talking earlier about high	14 15 16 17 18 19 20 21 22	<pre>that the midwives then consult with you and you write the order? A. Correct, or I would refer her on to a high risk specialist who would write the order, one way or the other. Q. Would you, have you written orders for insulin for their patients in the past? A. Yes. Q. And sometimes you feel a need to even</pre>
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16 (Pages 61 to 64)

	61		63
1	person, and I do have routinely I might	1	(Signature not waived.)
2	start the insulin, but I usually would	2	······································
3	refer her to a maternal-fetal physician too	3	
4	for further consultation.	4	
5	Q. But you would expect to be notified	5	
6	by the midwife who's managing gestational	6	
7	diabetic mom if they had multiple instances	7	SHARON MIKOL, M.D.
8	of high sugar, correct?	8	
9	A. Yes.	9	
10	Q. Okay. And was there any evidence in	10	
11 ·	the chart of multiple evidences of high	11	
12	sugar in Holly?	12	
13	A. No, she does not have a need for	13	
14	insulin, based on the sugars in this chart,	14	
15	no.	15	
16	Q. So there's not evidence of multiple	16	
17	instances of high sugar with her?	17	
18	A. Over the course of several months,	18	
19	might she have had several high sugars, of	19	
20	course, but that is not significant.	20	
21	Q. I thought we agreed that you needed	21	
22	something more than one or two high sugars	22	
23	prior to recommending someone receive	23	
24	insulin?	24	
25	A. We did.	25 25	
2.0	n. we did.	20	
*****	62		. 64
1		1	
1	Q. Okay. Are you saying that they have	1	CERTIFICATE
2	Q. Okay. Are you saying that they have to be persistent?	2	CERTIFICATE The State of Ohio,
2 3	Q. Okay. Are you saying that they have to be persistent? A. Correct.	2 3	CERTIFICATE
2 3 4	Q. Okay. Are you saying that they have to be persistent?A. Correct.Q. And I'm assuming that normal sugar is	2 3 4	CERTIFICATE The State of Ohio, County of Cuyahoga.
2 3 4 5	Q. Okay. Are you saying that they have to be persistent? A. Correct. Q. And I'm assuming that normal sugar is anything up to 100 or 110?	2 3 4 5	CERTIFICATE The State of Ohio, County of Cuyahoga. I, Kristin a. Beutler, RPR a Notary
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17 (Page 65)

	65	
1	relative, counsel or attorney for either	
2	party, or otherwise interested in the event of	
3	this action.	
4		
5	IN WITNESS WHEREOF, I have hereunto set	
6	my hand and affixed my seal of office at	
7	Cleveland, Ohio this 4th day of December,	
8	A.D., 2005.	
9	R.D., 2005.	
10		
1		
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12		
	Kristin Beutler, RPR, Notary Public	
13	within and for the State of Ohio.	
	My Commission expires October 8, 2006	
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above-refe anomalies assuming 60:13 balance 53:21 business 3:21 64:12 answer 4:1,13 assurance 32:4 33:13 32:4 33:13 52:12 53:11 35:9 42:5 44:19 37:5,20 9:10 Absolutely 41:21 50:13 attempt 4:6 41:18 42:8 9:10 Absolutely anterior 55:17 attempt 4:6 41:18 42:8 9:10 acceleration 30:22 attorney 65:1 battro-robet 11:11,11,11 53:3,4 anytime 31:10 August 36:17 Becker 2:3,3 35:1,12 accelerations anytime 31:10 Ad:25 3:5 5:3,5 called1:12 called1:12 sccurate 6:23 appearance available belief 62:10 5:14 10:23 14: active 35:8 2:1 3:13 45:9 15:5 29:15 called1:12 6:18 active 35:8 2:1 3:13 45:9 15:5 29:15 called1:12 6:18 active 35:8 2:1 3:13 45:9 15:5 29:15 calle1:12<	- 1	Ann 1:7	27:17 41:6	42:20	Building 2:8
64:12 26:15 62:4 based 6:27:4 26:16 absence 52:2 answer 4:1,13 assurance 37:5,20 9:10 52:12 53:11 35:9 42:5 44:19 37:5,20 9:10 absolutely 44:21 50:13 attempt4:6 41:18 42:8	1	anomalies	assuming 60:13	balance 53:21	business 3:12
absence 52:2 answer 4:1,13 assurance 32:4 33:13 business-ty 52:12 53:11 35:9 44:19 37:5,20 44:19 37:5,20 44:21 50:13 attempt4:6 41:18 42:8 58:14 59:17 37:14 anybody26:18 22:24 61:14 53:7 11:22 29:10 acceleration anytime 31:10 August36:17 Becker2:3,3 35:1,12 called1:12 51:22 52:12 53:12 apparntly authority 7:8 24:7 6:15 9:5 accept23:9 appear 37:22 59:8,24 60:3 57:12,16 35:15 4'4:22 51:4 actiosis 55:14 41:19 52:23 60:5,6 62:18 47:25 52: 62:18 47:25 52: actiosis 55:14 37:18 10:17 18:8 belief 62:10 calling 23: 62:18 adterss 3:12 applies 25:1 aware 15:2 38:21 45:16 23:13 24: 59:5 Callsen 2:7 addition 10:21 appsised 41:7 a.ml:18 62:25			62:4	E	
52:12 53:11 35:9 42:15 44:19 37:5,20 9:10 Absolutely 44:21 50:13 attempt4:6 41:18 42:8 61:14 59:17 37:14 anymore 26:19 attorney 65:1 beat-to-beat 53:3,4 attorney 65:1 beat-to-beat 11:11,11, 35:12 52:12 53:17 attorney 65:1 beat-to-beat 35:1,12 accelerations 31:11 46:25 35:5 53:3,5 62:18 called:12 accorate 6:23 appearance authority 7:8 24:7 6:15 9:5 52:12 action 65:3 appearance available 10:17 18:8 behalf 2:2,6 52:19 active 35:8 2:1 3:13 45:9 30:12 31:16 53:13,24 26:18 address 3:12 appearas 36:16 average 19:13 30:12 31:16 53:13,24 26:18 affixed 65:6 2:1 appointment 49:3 59:5 22:15 31: 26:18 address 3:12 appointment 49:3 36:12 45:16 23:13,24:9 26:18 27:15 31: affixed 65:6 app	1		assurance		business-type
Absolutely 44:21 50:13 attempt4:6 41:18 42:8 c 17:12 20:6 anterior 55:17 attending 58:14 59:17 call 10:20, acceleration 30:22 attorney 65:1 beat-to-beat 11:11,11, accelerations 31:11 attorney 65:1 beat-to-beat 11:12,229: scelerations 31:11 46:25 3:5 5:3,5 called1:12 scelerations 55:19 35:15 59:3,5 44:22 51:4 10:23 14: accortace(:23) attionsy 4:18 57:12,16 35:15 47:12,16 35:15 47:12,16 active 35:8 appear 37:22 59:8,24 60:3 57:12,16 35:15 47:12,16 35:15 47:12,16 active 35:8 appear 37:22 60:5,6 62:18 47:25 52: 62:19 active 35:8 21:1 available beliaf 62:10 54:12 20 addition 10:21 appears 36:16 averue 2:4,8 beliae 62:10 54:12 20 addition 10:21 appointment 49:3 59:5 27:15 31: adjournment appointment 49:3 59:5 27:15 31: affixed 65:6 area 6:9,22<		35:9 42:5	44:19	1 · ·	9:10
$\begin{array}{c c c c c c c c c c c c c c c c c c c $		44:21 50:13	attempt4:6	41:18 42:8	
37:14 anybody 26:18 22:24 61:14 call 10:20, 30:22 attorney 65:1 attorney 4:18 53:7 11:11,1,1, accelerations anymore 26:19 attorney 4:18 53:7 11:22,29: accelerations 31:11 46:25 3:5 5:3,5 called1:12 accept 23:9 apparently 55:19 3:15 59:3,5 44:22 51:4 10:23 14:2 acidosis 55:14 appear 37:22 59:8,24 60:3 57:12,16 62:18 47:25 52:2 active 35:8 appears 36:16 available behalf 2:2,6 52:19 calling 23: addition 10:21 appears 36:16 average 19:13 30:12 31:16 5:4 12:20 adjournment 49:15,16,23 amporiment 49:3 33:7,16 33:7,16 affixed 65:6 approximately 30:61,0,11 amil 18 62:25 33:13 24 5:12 5:12 5:12 5:12 5:12 5:13 24:1 5:12 33:7,16 addition 10:21 appointment 49:3 A.D 65:8 all 11:18 62:25 33:7,16 33:7,16 adjournment 49:15,16,23 ane1:18 62:21		anterior 55:17	attending	58:14 59:17	
acceleration 30:22 attorney65:1 beat-to-beat 11:11,11,1 accelerations anymore 26:19 attorney65:1 beat-to-beat 11:22 92: accelerations 31:10 August 36:17 35:53,5 called1:12 52:12 53:12 apparntly authority 3:5 5:3,5 called1:12 accurate6:23 appear 37:22 59:8,24 60:3 57:12,16 35:15 47:2 acidosis 55:14 appearance available behief 62:10 calling 23: action 65:3 appears 36:16 average 19:13 30:12 31:16 54:4 12:2 address 3:12 applies 25:1 awreage 19:13 30:12 31:16 54:4 12:2 adjournment 49:15,16,23 A.D 65:8 a.m1:18 62:25 38:21 45:16 23:13 24: affixed 65:6 approximately ace 6:9,22 18:20 19:13 64:5 65:12 36:11,14 affixed 65:6 approximately ace 6:9,22 18:20 19:13 64:2 2 52:15 54: address 31:2 approximately ace 6:9,22 18:20 19:13 64:5 65:12 54:24 </th <th></th> <th>anybody26:18</th> <th>22:24</th> <th></th> <th>call 10:20,22</th>		anybody 26:18	22:24		call 10:20,22
53:3,4 anymore 26:19 attorneys 4:18 53:7 111:22 29: accolerations anytime 31:10 August 36:17 Becker 2:3,3 35:1,12 51:22 52:2 31:11 46:25 3:5 5:3,5 called1:12 accurate 6:23 appear 37:22 55:19 53:15 59:3,5 44:22 51:4 10:23 14: acidosi 55:14 appearance available belief 62:10 35:15 47: action 65:3 appears 36:16 avenue 2:4,8 31:13 45:9 15:5 29:15 Callsen 2:7 address 3:12 APPEARANCES Avenue 2:4,8 32:2 35:15 16:14 23: 32:2 35:15 16:14 23: adjournment 46:15 24:18 55:5 38:21 45:16 23:13 24: 33:7,16 affixed 65:6 apporointment 49:3 A.D 65:8 Belle 3:13 33:7,16 affixed 65:6 approximately 30:6,10,11 baby 13:18 Belle 3:13 33:7,16 affixed 65:6 apporximately 30:6,10,11 baby 13:18 Belle 3:13 33:7,16 affixed 65:6 appoximately 30:6,10,11 baby 13:18 Belle 3:13 35:12			attorney 65:1		11:11,11,16
accelerations anytime 31:10 August 36:17 Becker 2:3,3 35:1,12 51:22 52:2 31:11 46:25 3:5 5:3,5 called1:12 accept 23:9 apparently athority 7:8 24:7 6:15 9:5 accurate 6:23 apparantce athority 59:8,24 60:3 57:12,16 35:15 47:2 acidotic 55:19 appearance available behalf 2:2,6 52:19 action 65:3 APPERRANCES Avenue 2:4,8 belief 62:10 calling 23: address 3:12 applies 25:1 average 19:13 30:12 31:16 5:4 12:20 address 3:12 applies 25:1 aume 15:2 38:1 45:9 30:12 31:16 23:13 24:18 adjournment 64:12 apprised 41:7 aume 15:2 38:21 45:16 23:13 24:16 affixed 65:6 approximately acci 0, 22 area 6:9, 22 18:20 19:13 64:5 65:12 50:18 41:2 agenda 57:24 Arora 12:14 30:6, 10, 11 babies 27:11 babies 27:21 affixed 65:6 area 6:9, 22 18:20 19:13 64:5 65:12			-		11:22 29:4
51:22 52:2 31:11 46:25 3:5 5:3,5 called1:12 accurate 6:23 appear 17:22 southority 53:15 59:3,5 44:22 51:4 10:23 14: accurate 6:23 appear 37:22 60:5,6 62:18 47:25 52: accidotic 55:19 37:18 10:17 18:8 behalf 2:2,6 52:19 action 65:3 appears 36:16 average 19:13 30:12 31:16 5:4 12:20 address 3:12 46:15 average 19:13 30:12 31:16 5:4 12:20 adjournment 49:15,16,23 approximately 38:1 approximately 38:21 45:16 23:13 24: affixed 65:6 aga:1 32:5 area 6:9,22 18:20 19:13 36:11,14 45:23 50: age 31: 32:5 area 6:9,22 18:20 19:13 64:5 65:12 50:18 51: 51:1,24 age 11: 13 32:5 area 6:9,22 18:20 19:13 64:5 65:12 50:18 51: agree 17:13 arrived 50:22 55:24 51:10 55:24 56:18 52:4 agree 17:13 asses 35:6 27:6 32:7 50:7 56:18 62:4:15 52:19 52:4 agree 17:13 asses 55:6 <th>· 1</th> <th>anytime 31:10</th> <th>-</th> <th></th> <th>1 · ·</th>	· 1	anytime 31:10	-		1 · ·
52:12 53:12 apparently authority 7:8 24:7 6:15 9:5 accurate 6:23 appear 37:22 55:19 53:15 59:3,5 44:22 51:4 10:23 14:: acidosis 55:14 appear 37:22 60:5,6 62:18 47:25 52: acidosis 55:14 appearance available behalf 2:2,6 52:19 active 35:8 appears 36:16 Avenue 2:4,8 belief 62:10 calling 23: addition 10:21 appears 36:16 average 19:13 30:12 31:16 54:12:20 adjournment appointment 49:15 24:18 52:6,9 32:2 35:15 16:14 23: adfixed 65:6 approximately approrgriate am:118 62:25 32:2 35:15 27:15 31: agend 57:24 areas 53:23 areas 53:23 21:8 26:1,23 better 26:3 43:1,22 agend 57:24 Arora 12:14 30:6,10,11 biophysical 54:23 50: 56:2,6 62:15 56:18 51: agend 57:24 arcas 53:23 21:8 26:1,23 big 34:2 52:15 54: 33:1,22 56:2,6 60:51.2 56:18 51: agend 57:24 arcas 12:14 30:6,10,11 biophys	1		1		1
accept 23:955:1953:15 59:3,544:22 51:410:23 14:accourate 6:23appear 37:2259:8,24 60:362:1835:15 47:acidosis 55:1441:19 52:2360:5,662:1847:25 52:acidotic 55:1937:1810:17 18:8belief 62:1052:19action 65:32:131:3 45:915:5 29:15Calling 23:address 3:12appears 36:16average19:1330:12 31:165:4 12:20address 3:12appies 25:1aware 15:238:21 45:1623:13 24:adjournment46:1524:18 52:6,932:2 35:1516:14 23:adinistratorapproximately59:577:15 31:ge1136:524:3amare 15:245:936:11,14affixed 65:6approximatelya.m1:18 62:2545:936:11,14age 31: 32:5area 6:9,2218:20 19:1364:5 65:1250:18 51:age 17:135:12areas 53:2321:8 26:1,023biophysical54:23 50:20:2,7 21:951:1055:2414:5 18:2154:2454:23 55:20:2,7 21:9arrived 50:2255:2414:5 18:2126:15,7,2556:2,6 60agreeable55:11back 6:6 24:13born 30:6,1029:1221:19assess 35:627:6 32:750:738:18,22agreeable55:11back 6:6 24:13born 30:6,1029:22agreeable55:11back 6:6 24:13born 30:6,1029:12agreeable51:1234:15boud 20:1039:22 <th></th> <th>apparently</th> <th>authority</th> <th>7:8 24:7</th> <th></th>		apparently	authority	7:8 24:7	
accurate 6:23 appear 37:22 59:8,2,24 60:3 57:12,16 35:15 47:25 acidotic 55:19 appearance available behalf 2:2,6 52:19 action 65:3 appears 36:16 average 19:13 30:12 31:16 42:20 address 3:12 applies 25:1 appointment 49:15,16,23 average 19:13 30:12 31:16 23:13 24:14 24:18 59:5 27:15 16:14 23:13 24:1 24:18 59:5 27:15 31:1 46:14 23:13 24:1 33:7,16 23:13 24:1 24:18 59:5 27:15 31:1,14 23:13 24:1 24:1 33:7,16 33:7,16 33:7,16 33:7,16 33:7,16 33:7,16 33:7,16 33:7,16 33:7,16 33:7,19 42:1 37:19 42:1 37:19 42:1 37:19 42:1 37:19 42:1 37:19 42:1 33:7,16 34:1,12 34:1,22 34:1,22 34:1,22 34:1,22 34:1,22 34:1,22 34:1,22 34:1,22 34:1,22 34:1,22 34:1,22 34:1,22 34:1,22 34:1,22 <th>· · ·</th> <th>55:19</th> <th>53:15 59:3,5</th> <th>44:22 51:4</th> <th>10:23 14:22</th>	· · ·	55:19	53:15 59:3,5	44:22 51:4	10:23 14:22
acidosis 55:14 acidotic 55:19 55:2441:19 52:23 appearance 37:1860:5,6 available available 10:17 18:8 available behalf 2:2,6 behalf 2:2,6 belief 62:1047:25 52: 52:19 calling 23: 26:18active 35:8 active 35:8 addition 10:21 address 3:12 38:1 adjournment 64:22 affixed 65:6 affixed 65:6 affixed 65:6 affixed 65:6 affixed 65:6 agree 17:13 20:2,7 21:9 20:2,7 21:9 20:2,7 21:9 21:19 agreeable 21:19 agreeable 21:19 agreeable 21:19 agreeable 21:19 21:19 21:19 21:19 22:20 23:3 21:19 22:20 23:3 21:19 22:20 23:3 21:19 22:20 23:3 21:19 22:20 23:3 21:19 22:20 23:3 21:19 22:20 23:3 21:19 22:20 23:3 23:22 40:23 21:19 22:20 23:3 23:22 40:23 21:19 22:20 23:3 23:22 40:23 23:22 40:23 23:22 40:23 23:22 40:23 21:19 22:20 23:3 23:22 40:23 21:19 22:20 23:3 23:22 40:23 21:19 22:20 23:3 23:22 40:23 21:19 22:20 23:3 23:22 40:23 23:22 40:23 21:19 22:20 23:3 23:22 40:23 23:22 40:23 23:22 23:24 24:24 38:18 24:24 38:18 25:11 25:11 25:12 25:11 25:12<	-	appear 37:22	59:8,24 60:3	57:12,16	35:15 47:25
acidotic 55:19 appearance available behalf 2:2,6 52:19 55:24 37:18 10:17 18:8 belief 62:10 calling 23: active 35:8 2:1 3:13 45:9 15:5 29:15 Callsen 2:7 address 3:12 appears 36:16 average 19:13 30:12 31:16 5:4 12:20 address 3:12 applies 25:1 aware 15:2 38:21 45:16 23:13 24: adjournment appointment 49:3 59:5 27:15 31: administrator apprised 41:7 a.m 1:18 62:25 45:9 36:11,14 affixed 65:6 approximately babies 27:11 best 4:12 37:19 42: age 3:1 32:5 area 6:9,22 18:20 19:13 64:5 65:12 50:18 51: ago 12:7,8 Arora 12:14 30:6,10,11 biophysical 54:23 55: agree 17:13 5:12 arxived 50:22 55:24 birth 12:9 62:20 arxives 22:21 asleep 54:1 56:8 born 30:6,10 26:15 55:24 56:18 agereedble 55:11 back 6:6 24:13 born 30:6,10 39:12 area 6:9,22 55:11,21		41:19 52:23	60:5,6	62:18	47:25 52:14
55:2437:1810:17 18:8belief 62:10calling 23:action 65:3APPEARANCESAvenue 2:4,8believe 10:526:18active 35:82:13:13 45:930:12 31:1626:18address 3:12appears 36:16average 19:1330:12 31:165:4 12:20address 3:1246:1524:18 52:6,932:2 35:1516:14 23:1adjournmentappointment49:339:5527:15 31: 24:adininistratorapprised 41:7a.m 1:18 62:2545:936:11,149:1136:5approximatelybabies 27:11best 4:1236:11,14affixed 65:624:3area 6:9,2218:20 19:1364:5 65:1250:18 51:age 3:1 32:5area 6:9,2218:20 19:1364:5 65:1250:18 51:agree 17:135:1210:10 55:19birth 12:952:2020:2,7 7 21:9arrives 50:2255:2456:18callates22:20 23:351:10baby's 54:126:15 55:2456:1823:22 40:23arrives 22:2155:11,21blood 18:2capbility46:255:11back 6: 6 24:13born 30:6,102apbility46:231:1024:24 38:18Backing 5:14BPP 26:5,9capbility		appearance	available	behalf2:2,6	1
action 65:3 active 35:8 active 35:8APPEARANCES 2:1Avenue 2:4,8 3:13 45:9believe 10:5 15:5 29:1526:18 Callsen 2:7 30:12 31:16addition 10:21 adgress 3:12appears 36:16 46:15average 19:13 24:18 52:6,930:12 31:16 32:2 35:155:4 12:20 16:14 23: 38:21 45:16Callsen 2:7 5:4 12:20adjournment 64:22appointment 49:15,16,23 approsriate49:3 49:15,16,23 appropriate59:5 45:927:15 31: 33:7,16administrator 9:11 affixed 65:6approximately 36:5A.D 65:8 ampropriateBelle 3:13 45:936:11,14 33:7,16aforesaid age 3:1 32:5 agenda 57:24area 6:9,22 area 6:9,2218:20 19:13 30:6,10,11 34:3,13 35:864:5 65:12 56:1250:18 51: 56:2,6 60 birth 12:9agree 17:13 20:2,7 21:95:12 51:1040:10 55:19 51:12biophysical 55:2454:23 50: 56:26agreeable 21:1951:10 assess 35:655:11,21 27:6 32:726:5 55:24 50:756:18 26:15 55:24agreed 61:21 agreed 61:21 24:24 38:1827:6 32:7 34:1550:7 50:738:18,222 39:12agreed 61:21 agreed 61:21 24:24 38:1827:6 32:7 34:1550:7 50:738:18,222 39:12		37:18	10:17 18:8	belief 62:10	calling 23:5
active 35:8 2:1 3:13 45:9 15:5 29:15 Callsen2:/ addition 10:21 appears 36:16 46:15 24:18 52:6,9 32:2 35:15 16:14 23:1 adjournment appointment appointment 49:3 59:5 27:15 31: adininistrator apprised 41:7 a.n 1:18 62:25 45:9 36:11,14 affixed 65:6 24:3 ame active 27:11 babies 27:11 best 4:12 37:19 42: age 3:1 32:5 area 6:9,22 18:20 19:13 64:5 65:12 50:18 51: 50:18 51: agread 57:24 Arora 12:14 30:6,10,11 big 34:2 52:15 54: 54:23 55: agree 17:13 5:12 arrived 50:22 55:24 14:5 18:21 candidates 20:2,7 21:9 22:20 23:3 51:10 baby's 54:1 26:15 55:24 56:18 agree 17:13 55:11 back 6:6 24:13 26:15 55:24 56:18 56:18 agree 26:1 55:11 back 6:6 24:13 26:15 55:24 56:18 56:18 agree 17:13 51:10 back 6:6 24:13 26:15 55:24 56:18 56:18 agree 31:21			1	1	
addition 10:21 address 3:12 38:1appears 36:16 46:15average 19:13 24:18 52:6,930:12 31:16 32:2 35:155:4 12:20 16:14 23: 33:21 45:16adjournment 64:22applies 25:1 apprised 41:7 appropriateaware 15:2 49:15,16,23 apprised 41:7 appropriate30:12 31:16 32:2 35:155:4 12:20 16:14 23: 33:21 5:16administrator 9:11 affixed 65:6approximately 36:5A.D 65:8 a.m1:18 62:25Belle 3:13 45:933:7,16 35:12affixed 65:6 age 3:1 32:5 age 3:1 32:5 age 1: 7:24area 6:9,22 areas 53:23A.D 65:8 a.m1:18 62:25Beutle 3:13 45:936:11,14 45:9adition 10:27, 8 44:3area 6:9,22 areas 53:2318:20 19:13 21:8 26:1,2364:5 65:12 big 34:252:15 54:24 50:18 51:agree 17:13 22:20 23:3 23:22 40:23 46:251:10 asses 35:6 25:1134:3,13 35:8 55:11,21 55:11,21 55:11,21 55:11,21 50:756:2,6 60 62:20agreeable 21:19 agreed 61:21 agreed 61:21 22:24 38:18asses 35:6 34:1527:6 32:7 34:1550:7 50:738:18,22 39:22					F Contraction of the second se
address 3:1246:1524:18 52:6,932:2 35:1516:14 23:38:1applies 25:1aware 15:238:21 45:1623:13 24:adjournment49:3A.D 65:8Belle 3:1333:7,16administratorapprised 41:7a.m1:18 62:2545:936:11,149:11appropriate		appears 36:16		1	
38:1applies 25:1aware 15:238:21 45:1623:13 24:adjournment49:359:527:15 31:64:22appointment49:333:7,16administratorapprised 41:7a.m1:18 62:2545:99:11appropriate		46:15	24:18 52:6,9		16:14 23:2,7
adjournment 64:22appointment 49:15,16,23 apprised 41:7 appropriate49:359:527:15 31: 33:7,16administrator 9:11apprised 41:7 appropriatea.m1:18 62:2545:936:11,14affixed 65:624:3 approximatelya.m1:18 62:2545:936:11,14aforesaid 64:1136:5approximatelybabies 27:11best 4:1237:19 42:64:1136:5area 6:9,2218:20 19:1354:2444:17,24age 3:1 32:5area 6:9,2218:20 19:1364:5 65:1250:18 51:age 12:7,8arcora 12:1430:6,10,11biophysical54:23 55:agree 17:135:1230:6,10,11biophysical54:23 55:agree 17:135:1240:10 55:19birth 12:962:2020:2,7 21:951:1055:2414:5 18:21candidates22:20 23:3asleep 54:156:8Booth 7:439:12agreeable55:11back 6:6 24:13born 30:6,10capability31:19assess 35:627:6 32:750:738:18,22agreed 61:21assessing24:24 38:18Backing 5:14BPP 26:5,9caption 64:			aware 15:2		23:13 24:5
64:2249:15,16,23A.D 65:8Belle 3:1333:7,16administratorapprised 41:7appropriate4.m 1:1862:2545:936:11,14affixed 65:6approximatelyabies 27:11best 4:1237:1942:aforesaidapproximately36:5babies 27:11best 4:1237:1942:64:1136:5area 6:9,2218:2019:1364:565:1250:1851:age 3:132:5area 6:9,2218:2019:1364:565:1250:1851:ago 12:7,8Arora 12:1430:6,10,11biophysical54:2355:56:2,66044:35:1231:1,034:3,1335:826:5,7,2556:2,660agree 17:135:1240:1055:1955:24birth 12:962:2020:2,721:951:1055:2455:11,2126:1555:2456:18agree able55:11asleep 54:156:8booth 7:439:12agreed 61:21assess 35:627:632:750:738:18,22agreed 61:2124:2438:18Backing 5:14BPP 26:5,9capable 37:		appointment	49:3		27:15 31:20
administrator 9:11apprised 41:7 appropriatea.m1:18 62:2545:936:11,14affixed 65:6 aforesaid 64:1124:3 approximately 36:5approximately babies 27:11best 4:12 better 26:337:19 42: 43:1,22age 3:1 32:5 age 3:1 32:5area 6:9,22 area 53:2318:20 19:13 18:20 19:13better 26:3 54:2444:17,24age 12:7,8 44:3arragement 5:1230:6,10,11 44:3biophysical 26:5,7,2550:18 51: 56:2,6 60agree 17:13 20:2,7 21:9 20:2,7 21:9 22:20 23:3 46:251:10 55:11 assess 35:634:3,13 35:8 55:11,21 56:826:5,7,25 56:2,456:18 62:20agreeable 21:19 agreed 61:21 agreement 5:155:11 24:24 38:18back 6:6 24:13 34:15bound 20:10 BPP 26:5,939:22 caption 64:	+-	49:15,16,23	1	Belle 3:13	1 /
9:11 appropriate 37:19 42: affixed 65:6 approximately babies 27:11 better 26:3 43:1,22 64:11 36:5 babies 27:11 baby 13:18 54:24 44:17,24 age 3:1 32:5 area 6:9,22 18:20 19:13 54:24 50:18 51: agenda 57:24 areas 53:23 21:8 26:1,23 big 34:2 52:15 54: ago 12:7,8 Arora 12:14 30:6,10,11 biophysical 54:23 55: agree 17:13 5:12 40:10 55:19 birth 12:9 62:20 20:2,7 21:9 arrived 50:22 55:24 biophysical 56:2,6 60 23:22 40:23 arrives 22:21 55:11,21 blood 18:2 candidates 39:12 asleep 54:1 56:8 blooth 7:4 39:12 agreed 61:21 assessing 27:6 32:7 50:7 38:18,22 agreement 5:1 24:24 38:18 Backing 5:14 Brud 20:10 39:22		apprised 41:7	a.m 1:18 62:25		
affixed 65:624:3Bbetter 26:343:1,22aforesaidapproximately36:5babies 27:1154:2444:17,2464:1136:5area 6:9,2218:20 19:1364:5 65:1250:18 51:age 3:1 32:5area 6:9,2218:20 19:1364:5 65:1250:18 51:agenda 57:24areas 53:2321:8 26:1,23big 34:252:15 54:ago 12:7,8Arrangement34:3,13 35:826:5,7,2556:2,6 60agree 17:135:1240:10 55:19birth 12:956:2,6 6020:2,7 21:951:10baby's 54:126:15 55:2456:1822:20 23:351:10baby's 54:126:15 55:2456:1823:22 40:23arrives 22:2155:11,21blood 18:2candidates46:255:11back 6:6 24:13born 30:6,1039:12agreeable55:1127:6 32:750:738:18,2221:19assessing34:15bound 20:1039:22agreement 5:124:24 38:18Backing 5:14BPP 26:5,9caption 64:		appropriate		best 4:12	37:19 42:4,7
aforesaid 64:11approximately 36:5babies 27:1154:2444:17,24age 3:1 32:5 agenda 57:2436:5baby 13:18Beutler 1:1545:23 50:ago 12:7,8 44:3arca 6:9,2218:20 19:1364:5 65:1250:18 51:ago 12:7,8 44:3Arora 12:1430:6,10,11biophysical54:23 55:agree 17:13 20:2,7 21:95:1230:6,10,11biophysical54:23 55:22:20 23:3 23:22 40:235:1240:10 55:19birth 12:962:20agreeable 21:1955:1156:8Booth 7:439:12agreed 61:21 agreement 5:124:24 38:18Backing 5:14BPP 26:5,939:22				better26:3	1
64:1136:5baby 13:18Beutler 1:1545:23 50:age 3:1 32:5area 6:9,22area 53:2318:20 19:1364:5 65:1250:18 51:ago 12:7,8Arora 12:1430:6,10,11biophysical54:23 55:44:3Arrangement34:3,13 35:826:5,7,2556:2,6 60agree 17:135:1240:10 55:19birth 12:962:2020:2,7 21:951:1055:2414:5 18:21candidates22:20 23:351:10arrives 22:2155:11,21blood 18:256:1823:22 40:23arrives 22:2155:11,21blood 18:2capability3greeable55:1155:1156:8born 30:6,1039:1221:19assessing27:6 32:750:738:18,22agreement 5:124:24 38:18Backing 5:14BPP 26:5,9caption 64:		approximately		54:24	
age 3:1 32:5 agenda 57:24area 6:9,22 areas 53:2318:20 19:13 21:8 26:1,2364:5 65:12 big 34:250:18 51: 52:15 54:ago 12:7,8 44:3Arora 12:14 Arrangement30:6,10,11 34:3,13 35:8biophysical 26:5,7,2556:2,6 60 62:20agree 17:13 20:2,7 21:9 22:20 23:3 46:25:12 stildarrived 50:22 51:1055:24 55:11,21birth 12:9 26:15 55:2456:18 62:20agreeable 21:19 agreed 61:21 agreement 5:155:11 24:24 38:1855:12 41:5boorn 30:6,10 50:7capable 37: 38:18,22 39:22					45:23 50:12
agenda 57:24 ago 12:7,8 44:3areas 53:23 Arora 12:1421:8 26:1,23 30:6,10,11big 34:2 big 34:252:15 54: 54:23 55:2agree 17:13 20:2,7 21:9 22:20 23:3 46:25:12 arrived 50:2230:6,10,11 34:3,13 35:8biophysical 26:5,7,2556:2,6 60 62:20arrived 50:22 23:22 40:23 46:251:10 arrives 22:2155:11,21 56:8biod 18:2 56:8candidates 56:18agreeable 21:19 agreed 61:21 agreement 5:155:11 24:24 38:18biok 6:6 24:13 34:15bion 30:6,10 50:7capable 37: 39:12			1		50:18 51:11
ago 12:7,8 44:3Arora 12:1430:6,10,11biophysical54:23 55:agree 17:13 20:2,7 21:95:1234:3,13 35:826:5,7,2556:2,6 6020:2,7 21:9 22:20 23:351:1040:10 55:19birth 12:962:2023:22 40:23 46:251:10baby's 54:126:15 55:2456:18agreeable 21:1955:1156:8blood 18:2capabilityagreed 61:21 agreement 5:124:24 38:1827:6 32:750:738:18,22agreement 5:124:24 38:18Backing 5:14BPP 26:5,939:22			,		52:15 54:17
44:3Arrangement34:3,13 35:826:5,7,2556:2,6 60agree 17:135:1240:10 55:19birth 12:962:2020:2,7 21:9arrived 50:2255:2414:5 18:21candidates22:20 23:351:10baby's 54:126:15 55:2456:1823:22 40:23arrives 22:2155:11,21blood 18:256:1846:2asleep 54:156:8born 30:6,10capability21:19assess 35:627:6 32:750:738:18,22agreed 61:2124:24 38:18Backing 5:14BPP 26:5,939:22	-	Arora 12:14	1		54:23 55:25
agree 17:135:1240:10 55:19birth 12:962:2020:2,7 21:9arrived 50:2255:2414:5 18:21candidates22:20 23:351:10baby's 54:126:15 55:2456:1823:22 40:23arrives 22:2155:11,21blood 18:256:1846:2asleep 54:156:8born 30:6,10capable 37:21:19assess 35:627:6 32:750:738:18,22agreement 5:124:24 38:18Backing 5:14BPP 26:5,9caption 64:	-	-	1		56:2,6 60:1
20:2,7 21:9 22:20 23:3 46:2arrived 50:22 51:1055:2414:5 18:21 26:15 55:24candidates 56:18agreeable 21:19assess 35:655:11,21 56:8blood 18:259:12agreed 61:21 agreement 5:1assessing 24:24 38:1827:6 32:7 34:1550:7 50:738:18,22 39:22			1		
22:2023:351:10baby's 54:126:1555:2456:1823:2240:23arrives 22:2155:11,21blood 18:2capability46:2asleep 54:156:8booth 7:439:12agreeable55:11back 6:624:13born 30:6,10capable 37:21:19assess 35:627:632:750:738:18,22agreement 5:124:2438:18Backing 5:14BPP 26:5,9caption 64:	-		1		1
23:22 40:23 46:2 arrives 22:21 asleep 54:1 55:11,21 56:8 blood 18:2 Booth 7:4 capability 39:12 agreeable 21:19 55:11 assess 35:6 27:6 32:7 34:15 boon 30:6,10 50:7 capability 39:12 agreed 61:21 agreement 5:1 24:24 38:18 Backing 5:14 bound 20:10 BPP 26:5,9 capability 39:12					
46:2asleep 54:156:8Booth 7:439:12agreeable55:11back 6:6 24:13born 30:6,10capable 37:21:19assess 35:627:6 32:750:738:18,22agreed 61:21assessing34:15bound 20:1039:22agreement 5:124:24 38:18Backing 5:14BPP 26:5,9caption 64:					
agreeable 21:1955:11 assess 35:6back 6:6 24:13 27:6 32:7born 30:6,10 50:7capable 37: 38:18,22agreed 61:21 agreement 5:1assessing 24:24 38:1827:6 32:7 34:1550:7 bound 20:10 BPP 26:5,939:22 caption 64:					
21:19assess 35:627:6 32:750:738:18,22agreed 61:21assessing34:15bound 20:1039:22agreement 5:124:24 38:18Backing 5:14BPP 26:5,9caption 64:					capable 37:11
agreed 61:21 assessing 34:15 bound 20:10 39:22 agreement 5:1 24:24 38:18 Backing 5:14 BPP 26:5,9 Caption 64:	-				
agreement 5:1 24:24 38:18 Backing 5:14 BPP 26:5,9 Caption 64:		-			1
	agreement 5:1	24:24 38:18			caption 64:21
assessment backup 11:6,13 break 7:6 care 5:12 6		assessment	backup 11:6,13	break7:6	care 5:12 6:23

	-			
17:21 20:3,4	40:1 41:4	39:12	7:17 9:21	17:10 18:8
20:8 21:12	50:7	complaints	10:18 20:19	28:17
24:3,11	child's 14:5	21:11,22	61:4	County 1:2,20
25:17 33:3	choice 27:13	38:15 39:6	consulted	64:3
48:20 58:5	27:16	62:13	14:12 58:24	couple 12:2
case 1:6 17:17	chose 60:7	complete 4:13	contact 28:14	33:25 54:7
19:19 58:16		26:6	28:23 34:15	1
E Contraction of the second seco	Christian		1	coupled 26:11
cases 21:14,15	12:14	completed	34:22 41:1	course 29:22
21:16,17,18	chronological	48:21 64:22	41:16	38:10 50:6
26:10 57:2	46:23	completely	contacted	50:15 61:18
57:25	circumstance	21:1 37:24	41:12 50:10	61:20 62:23
cause 64:11	16:11	38:20,21	50:17 51:8	COURT 1:3
causes 8:12	circumstances	40:24 50:21	contained1:17	covered 41:1
52:12	14:11 26:8	51:20,25	context 42:14	create 36:19
caution 17:11	City 1:19	52:17 56:23	continue 25:17	48:11
certain 15:10	clarified	57:5	49:22	created 36:6
certainly	43:10	compound 60:2	continuing	criteria 8:14
25:20 26:9	clarify 56:6	concern 13:15	26:3	25:11
26:25 27:21	Clearly 32:17	37:16,21	contract9:13	cross-exam
28:19 33:23	Cleveland 2:9	39:8	9:15,17,23	1:13 3:4
37:11 39:16	6:6,9 9:20	concerned	10:8 11:7	current7:10
53:13 56:16	10:4,5 11:20	34:13 40:15	contracts 11:9	currently 3:22
57:1	65:7	concerning	contraindi	7:11 9:2
CERTIFICATE	Clinic 9:20	41:22	56:14	11:2 12:5
64:1	10:4,5 11:20	concerns 18:17	conversation	27:3
certified 3:3	clinical 9:5,8	37:15 38:3	40:2	cut 24:13
certify 64:7	10:14	39:20	conversations	Cuyahoga 1:2
64:19,25	clinically	conclude 15:1	16:8	1:20 64:3
cervix 21:12	55:7	concluded	copies 31:8	cycles 52:7
21:24 62:14	Close 34:19	62:25	copy 4:25 5:3	54:13
cesarean 57:4	collaborative	condition 58:4	29:7,13,15	
change 19:25	5:1 22:24	conference	31:8	D
22:6 57:13	colposcopy	16:21	correct 6:3,4	D 40:3 41:24
58:12	14:21 31:17	confirm 38:24		dangers 32:13
chart 4:17	32:1,11,14	confused 43:7	20:16 29:21	date 30:19
15:21 29:16	34:17	59:20	32:12,19	36:15 41:23
31:3,5,9,19	Columbus 5:19	consider 22:10	34:20 49:12	47:12
31:21,22	come 6:6 38:2	considered	51:10 59:1,4	dated 14:9
32:5 33:13	comes 12:22	5:24 19:16	60:5,16,24	36:22
33:17 36:9	38:15 39:5	24:17	61:8 62:3	David 2:11
37:3,6 41:18	comfortable	consistent	64:16	day 10:17,25
44:12 55:21	39:11,22	8:19 20:18	cosign 47:8	11:13 13:6
56:3 58:7,8	coming 37:11	55:13	cosigned 46:24	14:25 30:16
58:15,18	Commission	consistently	47:3,11,19	30:18 38:14
61:11,14	65:13	29:1	48:2	39:25 41:10
charted 16:13	commissioned	consists 5:11	counsel 1:17	50:23 65:7
charting 48:7	64:7	consult 29:20	13:4 30:3	days 36:6
48:9,16,18	COMMON 1:3	59:10 60:14	65:1	dealing 34:11
charts 37:10	compared 6:2	consultant 9:2	counseled 7:24	death 18:25
57:22	24:18	10:10	18:1	deceleration
child 32:6	competency	consultation	counseling	25:14
			Journering	
L				

decelerations	62:25 64:20	47:24	58:22	eventually
51:24 54:2,7	describe 7:9	differently	early 32:20,22	46:6
55:4,5	designated	42:21	east 6:24	everybody
decels 55:4	11:18	directly 41:2	educate 42:1	56:22
December 65:7	details 16:9	Director 9:5	education 5:15	evidence 61:10
decent 51:21	35:19	directs 9:10	effect 19:4	61:16
decision 12:24	detected 8:3	disagreed 42:2	either 10:19	evidences
declined 15:6	determination	discharge 50:2	41:2 51:24	61:11
15:8,11	38:23	discontinue	58:13 65:1	exact 30:19
decrease 55:1	determine 34:8	24:4,11	electrodes	54:21
decreased	Detroit1:19	discuss 10:16	53:17	Exactly 18:23
21:11,23,25	developed	15:5 41:21	electronic	example 7:20
22:7 24:22	53:20	42:15,20 45:20	46:17 48:6,8	25:13,24 42:1
26:2 38:16	developing	1	Ellis 2:7	
39:6 47:1,18 53:25 54:10	55:13 diabetes 15:4	discussed	Elyria 2:4	examples 7:19
	17:15,16,20	45:25 58:5 58:16,21	emergent 13:13	excellent 39:16
55:8 62:13 defects 26:15	18:13 19:1,9		emergently 13:19	39:16 excuse 33:9
Defendants 1:8	20:9,11	discussing 16:20	employee 9:12	43:6 47:4
2:6	28:25	discussion	9:14	Exhibit 5:7,10
deformities	diabetic 7:21	42:9 44:4,9	employees	13:25 46:11
56:17	8:13 17:7,10	44:19	23:19	46:13 51:5
deliver 8:7	17:22,23	dissolved 6:17	ended 27:18,20	51:14
21:4 27:3,14	18:15,18,20	doc 60:24	endocrinol	existence 14:4
27:22 62:15	19:6,9,17,24	doctor 3:6 5:8	60:23	expect 28:15
delivered	21:10,21	7:9 12:16	engage 33:21	28:16,18
13:15,18	24:17 28:14	13:14 29:23	engage 33.21 entries 31:3	61:5
21:13 22:8	29:5 32:19	31:2 38:23	46:18,18	expected 50:16
31:24 34:12	33:15,22	39:25 51:6	entry 36:25	51:7 52:14
deliveries	34:6,11	57:14,17	47:15,16	52:18
7:12	60:12 61:7	62:9	48:11	experience
delivering	62:11	doctors 12:12	epidural 56:10	16:10 37:5
27:11	diabetics 8:10	12:15	56:15,20,24	expires 65:13
delivery 14:16		document 14:10		explain 42:22
14:22,23	diabetic's	46:14,19	epidurals	43:3 47:22
25:4 27:7,24	19:15	48:12	56:18	explained
30:1,13 31:5	diagnose 28:13	doing 21:19	equivocal 25:7	40:25
33:6,10,12	diagnosed15:3	28:3 30:12	25:7,17	extent 12:21
40:1,8,17	24:16 32:18	30:20 32:13	err 17:11	42:7 43:2
41:3,8,10,13	diagnosis	34:3 52:20	Esq 2:3,7	45:24 56:2
41:17 53:22	17:14,17	Dr 12:5,6,14	estimate 34:8	external 52:5
62:16	20:8 28:25	12:14,14	estimating	53:6
dependent	diet 8:16	drop 29:7	33:21	extremely
62:11	17:24 20:21	duces 4:24,25	et 1:7	34:14
depends 26:8	20:25 21:2	duly 3:2 64:6	Euclid 2:8	
62:6	58:25	64:9	evaluation 8:4	F
deposes 3:3	dietitian 18:1	duties 10:11	25:18	F 2:3
deposition	18:4,6 20:19		evening 38:1	faced 28:7
1:11 3:23	different	E	event 8:18	fact22:1 24:1
4:16,22	17:22 34:1	earlier 44:3	29:20 65:2	25:16 28:7
31:12 55:22	42:24 47:20	51:6 57:17	events 8:18	33:13 50:5
	ł]	1	1

			1	1
58:3	final 48:18	18:4 19:16	48:13 54:12	24:18 39:23
factor 18:19	finally 36:17	21:6 29:9	gradual 54:20	hire 11:19
factors 18:18	find 51:17	36:12 39:15	great 35:2	hired 11:20,23
fails 20:3	54:15	43:13	greater 18:25	history 8:25
fair 4:7,13	finished 6:5	gestational	20:14	Holly 1:4
15:1 50:13	first3:2 6:25	8:9,13 15:4	ground 3:25	12:17 15:2
fairly 53:5	8:25 20:25	17:14,16,20	group 3:16	15:10,18
Fairview1:7	31:15 38:5	17:21 18:12	6:12,13,14	27:7 31:15
3:22 6:22	43:10 51:16	18:14,18	6:17,19 9:1	31:23 34:2
12:18 13:7	51:19 54:12	19:1,6,8,9	9:3,18,20	41:2 45:21
13:17 22:17	64:9	19:15,24	11:3 22:12	51:9 61:12
22:19 23:14	five 6:25	20:9,11 21:4	group's 29:12	Holly's 15:21
27:10,19,20	flat 53:2,5	21:9,21	GTT 15:7,22	58:15
28:1,8,11	fluid 26:1,2	24:17 28:14	16:19 20:3,5	home 35:3,21
29:25 31:4	26:10,22	28:25 29:5	20:25	hospital1:7
34:24 35:1,5	follows 3:3	32:5,19	guess 20:15	1:19 7:1,4
35:10,13,16	foregoing	33:15,22	31:20 37:2	9:11,14,24
35:25 36:2,8	64:15,21	34:5,11 61:6	guideline 25:1	11:18 22:13
37:5,13,22	form 29:6,13	gestationally	guidelines	22:17,22
38:9 39:16	48:19	60:12 62:11	24:23	23:4,6,12,14
40:11 45:20	formal 57:23	getting 35:1	•••	37:8,12 38:3
46:2,16	four 5:20	54:14	Н	42:25 43:17
familiar19:3	48:17	Gitiforooz	hand 5:9 65:6	45:20 46:2
far 14:22	Fourteen-a	12:5	Handing 51:13	46:16
27:12	3:19	give 7:18 8:24	handle 39:23	hospitals 3:20
fashion 46:23	free 31:12,22	12:2 29:18	handling 9:8	27:9
fasting 62:7	frequently	57:9	hands-on 33:2	hospital's
favorable	7:16	given 4:12	handwritten	18:6
42:12	Friday 57:18	11:13 29:6	46:18,20	hour 50:22
feel 31:22	58:5,16	50:3 64:12	happen 28:5,6	hours 13:12
38:4,6,12,25	Fridays 11:2	64:17	53:25	30:17
39:21 56:12	full 3:8	giver20:8	happened 28:4	house 12:12
60:22	fully 4:11	48:20	hear 13:8	13:10,14
feels 56:13	functional	Glucola16:23	14:24 40:12	38:23 39:18
fellowship	19:16	go 5:15 31:2	44:10	50:25 51:1,2
5:22	further 1:16	36:4 52:24	heard 25:6	Huntington 2:8
felt 40:21,24	8:4 25:15,18	goal 34:10	heart 23:21,21	Hutchinson 1:4
46:9	61:4 64:19	going 4:10 5:8	51:23 57:4	12:17 14:5
fetal 18:9,25	64:25	16:5 21:2	help 39:20	15:3 41:2
21:11,23	G	30:20 34:3	hereinafter	45:22
23:21 24:20		34:15 44:22	3:2	Hutchinson's
24:22 30:7	GD 29:4 60:11	45:1 46:7	hereunto 65:5	14:18 27:7
33:21 34:8	60:23	55:9 56:5	hesitation 28:10	I
38:16 39:6	general 1:7	57:3,25		idea 12:16
40:15 45:17	5:24 21:3 22:17 43:10	good 3:6,7	high 8:17,18	
47:2,18	43:16 44:5,9	29:17 38:25	20:15,18 58:22,25	identify 5:10 14:1 46:13
51:23 62:13	45:20	39:1 55:18	60:17 61:8	impacted 19:8
fetomaternal 7:17	generally 6:21	56:18	61:11,17,19	important 4:2
fetus 8:3 55:9	8:19 16:13	goodly 36:12 36:14	61:22	improved 55:20
fight 44:23,25	16:16,17	gosh 35:24	high-risk	improves 55:16
		ywa		

69

			1	1
incidents 8:20	internal 53:11	19:7,14	led 40:6	mark 5:6
includes 33:5	53:15	22:11,16	legal 60:5	marked 5:7,9
33:9	interpret	23:15,15	Leopold's 34:4	13:24 46:11
increased	39:17	26:10 28:18	let's 27:17	46:12 51:5
18:10	interpreta	28:21 29:3	56:6 57:12	51:13
independent	45:21 46:3,8	31:7,9 33:18	level 19:25	maternal-f
39:4	interpreting	35:19,24	26:16,17,19	6:2 7:15
indicate 4:9	25:2	37:8 39:10	Light 12:14	60:24,25
indicated 28:9	<pre>interrupt 47:5</pre>	39:14 41:9	liked 50:9	61:3
51:6 56:10	interrupting	44:10,15	lip 55:17	mean 9:7 20:22
56:11,12	43:6	45:3 47:9,23	literature	25:9 27:16
62:16	investigation	knowledge 13:1	19:4	44:1 47:4
indication	43:18	29:12,23	LLP 2:7	49:6,7,24
15:20,23	involved12:23	41:15 49:2	location 45:8	52:10 55:8
58:15 62:15	43:20	50:23 53:14	long 3:18 6:19	means 9:8
indirectly	in-house 50:24	Kristin 1:14	56:25	25:10 26:17
41:3	<pre>isolated 8:20</pre>	62:22 64:5	long-term	medical 5:16
individual	issue 13:13	65:12	51:21 52:6,7	6:15 7:3
10:16	19:22 20:13		53:24 54:9	36:4 37:7,9
induced 22:10	issues 9:9		55:1,16,18	medicated
24:2	10:20,24	L 40:3 41:24	look 8:17,19	55:12
induction	56:17	lab 56:8	25:25 26:22	medications
23:20 24:8	J	labor 8:5	26:23 29:19	54:1
27:25 28:1,9		10:21 22:4	29:24 31:12	medicine 60:25
28:10 33:5,8	J 3:10	25:4 30:1,8	31:18,21,22	meet 31:15
33:14	January 31:17	30:13 31:5	32:7 36:23	meeting 10:15
inexperienced	31:24,25	33:6,9,11	37:4 38:13	11:1 15:6
59:14	32:8	40:8,16	55:21 56:8	45:13 58:6
information	Joy 13:23	41:13,17	58:6,8,9,18	58:17,21
12:21	35:16,18 41:23 47:19	50:11 53:21 56:12	looked 30:4,5	meetings 57:18
initial 49:9	41:23 47:19		30:13 35:2	57:20
initially 6:13		lady 32:14 Lakewood 1:19	looking 26:25	meets 25:11
6:24	Judge 1:7 Julie 2:7	1:20 3:14,22	54:18 62:6,8	Megan 41:23
input 43:19	45:25	6:22 8:23	looks 38:25 52:9	member 3:16
instances 61:7 61:17		10:3 12:19	52:9 L.P.A2:3	membranes 8:6 53:10
instructed	K	13:10,12,17	H.E.AZIO	met 31:16,23
44:20	Kathleen 40:3	22:12,14	M	31:24 32:2
insulin 8:13	40:6,14	27:10,12,14	macrosomia	Michael 2:3
18:16 20:14	41:12,15	28:2 41:8	18:22 24:20	middle 2:4
59:1,4,16,25	42:2	50:24 51:10	Major 18:19	-55:2
60:7,10,13	Kathy 30:6,12	56:4	making 38:22	midwife 10:18
60:20 61:2	keep 49:15,16	large 18:21	manage 8:9	13:2,5,6,21
61:14,24	49:23	21:8 34:14	managed 8:16	16:4,19
62:10	kind 8:24	larger 19:11	17:5 22:21	22:21,22
insulin-de	28:14 62:8	19:12	manager 9:10	23:3 50:10
7:20 19:23	knew 39:14	late 54:7 55:4	39:18	52:19 61:6
intending 16:6	know3:23 11:8	55:5	managing 61:6	midwifery 8:23
interested	12:24 13:2	law 60:4	maneuvers 34:4	9:6,18,19
13:3 59:21	13:11 15:11	lawful 3:1	Mannen 1:7	11:3 15:25
65:2	15:15 16:8	learn 42:3	March 14:9	22:12
]

	-			
midwifes 15:16	57:18 58:6	nine 18:21	35:15,22,23	48:22 49:18
59:13	58:17	32:8 34:19	36:20 37:14	49:19 65:13
midwives 5:2	mother 33:3	34:20	37:23 39:11	oddly 47:16
9:22 10:13	movement 21:11	nongestati	39:13,18	office 29:7
11:16,25	21:23,25	17:22 19:17	47:21 48:23	65:6
12:1 15:3	22:2,6,7	nonreassuring	49:8	offices 45:7
16:11 17:13	24:22 38:16	23:21,24	nurses 23:9	office's 29:11
23:10 25:2	39:7 47:2,18	24:3,10 51:9	25:5 35:25	Oh 8:8 35:24
28:13 32:18	62:13	51:17 52:1	38:17 39:2	48:13 54:12
42:18 44:5	multiple 12:12	52:13,24	39:15 45:21	Ohio 1:1, 16, 21
45:11,15,16	12:15 18:7	57:4,8	46:3 47:24	2:4,9 5:17
	20:15 61:7	nonstress 26:3	nurse's 47:6	64:2,6 65:7
53:10,14				
57:19,21	61:11,16	26:11 34:25	nursing 48:7	65:13
59:3,23	multiples 8:2	35:17 37:2	48:13,17	okay 5:5 6:17
60:14	muscle 27:1	38:18 46:3	nursing-type	7:1,5,18 9:4
Mike 44:17	M.D1:12 3:1	46:16 47:1	48:16	10:7 11:10
Mikol 1:11 3:1	63:7 64:9	47:11,17	0	12:2 14:3,10
3:10 63:7	N	48:19,21		14:14 17:25
64:8		50:3	oath 4:1	20:2 25:1,16
Miller 12:6	name 3:8 6:14	non-insuli	OB 50:25 51:1	26:21 27:23
mind 39:3	16:22 35:23	19:5	51:2	29:17 30:10
minimally	39:13 47:6	normal 19:20	objection	31:5 32:17
24:13	names 12:3	22:2 35:8	12:20 16:14	35:12 36:1
minute 52:8	Naughton 13:23	38:20 46:9	23:2,7,13	40:5,14
54:14	47:19	46:10 62:4	24:5 27:15	43:14,24,25
minutes 44:3	near 21:10,22	normally 13:11	33:7,16	44:10,22
50:21 51:8	38:15 62:12	17:9	37:19 42:4	45:12 46:5
51:16	necessarily	Notary 1:15	43:1,2 44:17	46:22 47:15
Mishkind 2:3	34:14	64:5 65:12	45:23 50:12	48:5,14 49:5
Mm-hmm 34:21	necessary17:1	1	50:18 51:11	53:20 54:22
mom 15:2 25:18	need 18:15,16	16:4 36:19	52:15 55:25 60:1	54:25 57:9
28:13 32:25	38:25 44:10	58:9		59:22 60:8
33:15 34:6	44:15 58:24	notes 57:19,21	obstetrical 7:10 11:24	60:11 61:10
34:11 37:17	60:22 61:13	57:23		62:1,18
37:21 38:14	needed 13:15	notice 4:25	20:4,8 24:19	once 17:13
58:23 60:12	13:18 25:15	noticed 54:12	obstetricians	20:7 51:9
60:23 61:7	38:1 40:11	notified 29:2	7:14 12:3	53:5 54:19
62:10	40:12 61:21	61:5	26:12	58:23
moment 5:14	needs 8:4	notwithsta	obstetrici 5:25	one-hour 16:23
38:11 54:21	56:13	57:8		20:3
mom's 29:21	negative 19:10	November 1:18	obvious 21:2	onset 22:3
monitor 30:14	neither 12:6	NST 12:18	occasion 29:24	opinion 56:25
37:9 39:17	neurologic 56:17	24:21 25:3,7	occasional	opportunity
39:21	never 11:9	25:10,16,18 29:24 34:23	occur 18:19	29:18 40:2
monitoring 30:7 40:16	14:18,22		28:21	41:20 43:18 45:19
		36:20,24	occurred 13:13	
45:18 53:17	15:2 28:4,6	37:6,12		option 25:20
month 7:12	30:4 35:5,9	38:13 39:5	45:4,5,6 October 36:18	27:22 53:13
27:4	46:1	45:21 49:1	36:21,22	62:21
months 61:18	night 13:10 37:12 47:10	nurse 23:15	47:12 48:3	options 7:25
morning 3:6,7	57.12 47:10	24:23 35:2	41.12 40:0	25:21
	r		r	·

71

	t	······	· · · · · · · · · · · · · · · · · · ·	I
order 16:5,6	35:21 38:7,8	22:25 39:18	prefer 27:13	proceeds 52:22
47:2,17 48:1	38:10 39:5	41:16 61:3	prefers 22:3	process 42:10
50:3 51:19	44:14 49:21	physicians	pregnancy	42:19,23
60:15,18	56:13,23	11:5 23:10	14:16,18,19	43:3,11
ordered 16:3	57:2,9,22	23:17 43:20	32:3,25 33:3	54:20
46:24	60:11	Pitocin 23:23	pregnant 7:21	professional
orders 23:5,10	patients 7:13	23:25 24:2,4	32:9,14	3:11
23:17 35:13	7:16 8:4,5	24:8,11,14	prenatal 31:3	profile 26:5,7
36:2,6 46:17	10:14,16	place 8:12	58:14	26:25
46:18,21	11:24 27:18	20:13 43:4	preparation	program 5:20
49:20,25	39:23 56:16	53:15 56:20	4:15,22	properly8:15
50:1 60:19	60:20	64:20	55:22	56:25
originally 6:8	patient's 4:17	placed 20:21	prepared 57:1	provide 9:19
outcome 42:11	20:21 58:4,5	20:24	prescribe 59:4	9:21 11:6,20
42:20	58:7,8	placenta19:8	59:6 60:10	11:23 43:19
outside 23:17	pattern 8:20	19:12,15,21	prescriptive	provided 4:17
overview8:25	20:18	26:24	59:8 60:6	prudent 22:8
	pediatrician	Plaintiff 1:5	presence 64:14	23:22 24:3
P	13:10,12,16	2:2	present 2:10	25:17
page 48:6,15	13:19	Plaintiffs	10:23 13:20	Public 1:15
48:18	peer 42:8,10	1:13	16:7 30:22	64:6 65:12
pages 5:11,13	42:14,18,23	Plaintiff's	39:9,19	purpose 48:25
48:17	42:25 43:11	5:7,9 13:25	44:16 45:4	pursuant1:16
paid 9:15	43:25 44:5	46:11,13	45:11	4:24
pain 56:11	44:18	51:5,14	presume 16:5	put17:24
palpating 34:4	people 11:19	plan 33:14,18	presuming 16:2	29:16 53:10
Pap 14:20	45:10 56:12	57:22 58:11	preterm 8:5,5	57:21 58:25
32:10	perfectly	58:12,12	pretty 34:2	Q
part 39:9	38:22 46:9	PLEAS 1:3	53:2 59:13	quad 7:22
44:18 55:2	performing	please 3:9	prior 61:23	qualified 64:7
particular	14:21 34:17	58:19	private 45:13	quality 44:19
12:9 14:15 23:11 40:8	period 36:12	pleased 4:6	privileged 44:20	question 3:25
	persisted	point 15:8		
particularly 32:15 51:16	50:20	50:16 54:11	privileges 3:20 22:12	4:2,3,7,11 50:14
party 65:2	persistent 54:3,8 55:3	posed 4:12 position 26:23	22:14,17,18	questions
patient 7:21	55:6 62:2	26:24	22:23 23:4	10:13 31:14
7:25 8:2	person 30:2	possible 55:5	23:11	quite 38:18
10:19,21	34:1 61:1	possibly 54:6	probably 15:13	444446667676767777777777777
12:17 13:7	personal 37:17	postprandial	15:14,19	R
13:15 15:8	personally	62:7	27:8 31:10	rate 51:23
15:11,16	7:11	potentially	47:10,14	57:4
16:12,21,22	Philbin 41:12	12:4	49:19,24	reaches 62:12
16:22,24	41:16	pounds 18:21	54:15 58:9	reactive 22:2
17:3 20:10	phone 10:20	practice 7:10	problem 37:25	35:20 36:20
20:20 21:18	35:1	9:9 21:3	problems 10:14	38:20 48:24
22:10,20,23	phrase 25:6	29:12 59:18	10:17 40:10	50:3
24:18,19	43:25	59:21 60:9	proceed 20:4	reactivity
27:20 28:2	phrased 4:4	practiced 6:25	28:10 57:9	52:21
29:1,5,5	physician	practitioner	proceedings	read 7:7 47:7
34:16 35:17	11:12,17	3:15	43:12,16	really 14:17
	,		1	

	•			· · · · · · · · · · · · · · · · · · ·
23:18 51:24	referring 44:7	58:14 62:21	school 5:16	36:16,17
53:7 59:20	refused15:17	reviewed 4:15	<pre>screening7:23</pre>	48:20,22
reason 13:9,11	15:21 16:2	56:3	script 59:24	significant
27:18,21	16:19	reviewing 40:7	seal 65:6	55:7 61:20
35:7 56:22	refuses 16:12	41:18	second 32:7	signing 38:9
reassuring	Region 10:6	right 6:11	see 22:4 25:24	48:25
24:9 37:24	relationship	9:25 28:11	25:25 33:11	similar 11:7
40:22,25	8:22	31:9 32:4	33:17 35:3	simply 11:15
46:10 50:21	relative 5:14	43:15 44:2,6	46:6 49:5	17:6 34:3
51:20,25	23:20 29:12	44:15 48:4	51:22 53:11	· 52:10,11
52:18 56:19	34:23 65:1	51:19 59:20	54:12,13,23	sit 42:19
56:21,24	relief 56:11	62:22	seeing 10:19	situation 28:8
57:6	reluctant	ripe 21:12,23	51:9 54:2	skim 14:14
recall 6:21	23:25	62:14	55:3	smear 14:20
14:15,17,20	remains 21:25	risk 18:18,19	seen 11:9	solely 52:11
14:23 15:7	remember 12:11	1	22:24 36:16	solo3:15,17
16:21 30:20	12:13 30:19	21:8 24:20	send 35:21	3:18 6:12
30:24 31:1	35:23	60:17	60:23	somewhat 53:24
33:20 35:1	repeat 16:24	Riverside 5:19	sense 4:3	sorry 21:19
39:13 40:5	21:20 24:6	Road 1:19	sent 12:17	sort 9:10
41:25 56:1,7	repeated 17:1	Roughly 27:5	13:7,17 35:3	speak 23:18
recap 62:9	rephrase 4:6	routine 29:3	35:16	speaking 26:4
receive 61:23	report 37:1	49:15,22	separate 57:23	43:21 44:13
receiving	48:23 49:7	routinely	separates 37:9	<pre>specialist 6:3</pre>
23:17 60:13	representa	18:14 59:24	service 9:15	60:17
recollection	43:12,17	61:1	9:17 11:24	specialists
16:18,20	required 49:1	RPR 1:15 64:5	services 8:24	7:17
35:14	62:17	65:12	9:21 10:9	<pre>specific16:7</pre>
recommend 22:9	requirement	rules 3:25	11:21	specifically
53:9 59:1	34:6	23:16	session 4:1	9:14 10:6
recommenda	research 4:21	rupture 53:10	10:12	12:1,25 15:9
16:12	residency 5:18	ruptured 8:6	set 10:25 65:5	43:13 44:13
Recommenda	responding	rush 54:4	sets 58:11	58:20
49:13	31:13	R.N 37:2 49:6	seven 5:13	specifics
recommending	responsibi	49:7,8,11	Sharon 1:11	21:20 43:4
61:23	10:11		3:1,10 43:22	56:7
record 5:8 7:7	responsibi	S	63:7 64:8	specified
38:10 41:11	38:5,13 39:4	safe 41:6	short7:6	64:21
51:4	restate 4:6	saw 14:18	57:15	spell 14:10
records 31:4	results 49:4	32:24 35:9	Showing 13:24	spinal 56:16
31:13 36:4	retrospect	41:21	46:12	split 11:22
37:7,9 46:15	50:9	saying 37:18	shows 8:1	spoke 45:17
recovered	retrospective	57:7 58:10	side 6:24	staff 35:18
55:19	50:19	59:17 62:1	17:11	39:9 48:7
recurrent 54:9	review3:24	says 3:3 10:8	sign 36:1	stamp 54:16,25
reduced 64:13	38:5 39:4	36:20 47:1	48:10 49:2	standard5:12
refer 7:14,16	40:2,12 42:8	49:14,15	signature	20:3 21:12
60:16 61:3	42:10,15,19	scanning 26:15	36:21 63:1	24:10 25:13
referenced	42:23,25	schedule 11:11	signatures	standards
44:4 64:17	43:11 44:1,5	scheduled	46:19,20	23:19
referred 28:17	44:18 50:19	11:12	signed 36:3,7	start 6:12
[1	ł	1	8

27:25,25	<pre>suggested17:5</pre>	16:24 17:4,7	49:17,21	30:19 38:14
61:2	Suite 3:13	17:10,18	52:24 54:4	47:24 61:22
started 6:11	supposed 28:23	18:2 26:3	54:16,24,25	type 7:13
24:1 31:11	sure 24:7 38:8	34:25 35:17	55:10 64:20	57:19
starting 24:9	42:13 49:3	37:2 46:4,16	times 28:12	typical 19:11
State 1:1,15	51:18 53:1	47:1,11,17	39:19	50:2
1:20 5:17	62:22	48:19,21	time-wise 53:4	30:2
		40:19,21 50:4		U
64:2,6 65:13	surveillance		title 9:6	ultimate 31:4
states 58:21	18:9,10	tested 32:23	today 4:13	
statute1:14	19:22,24	testify 64:9	today's 4:16	ultimately 57:3
stenotype	surveys 26:20	testimony	4:22 55:22	ultrasound8:1
64:13	sworn 3:2 64:9	64:12,16	told13:2,4,5	1
stipend 9:15	System 9:20	tests 38:19	13:6 16:22	8:2 25:24
stipulations	ГТ	thanks 5:5	16:25 17:2	26:6,13 34:7
1:16		thin 34:1	30:11 35:16	ultrasounds
stop 4:5 54:14	T 1:7	thing 29:17	37:20,23	26:13
street 45:9	Tackla 2:11	40:9 47:23	39:25 40:9	unartfully 4:4
strip22:3	take 52:24	48:15	58:23	unavailable
23:24 35:8	54:4 57:12	things 27:1	tone 23:21	11:4,15
35:20 37:24	58:18	28:5,6	27:1	underneath
38:19,24	taken1:14	think 9:6 14:6	Torbenson 6:15	49:6
39:17,21	3:24 7:6	14:6 15:12	7:3	understand 4:2
40:21 46:6	38:14 57:15	15:14,18	tracing 52:5	8:22
50:20 51:25	57:20 64:20	16:25 19:2	tracings 53:6	understood
52:21,22	talk28:6 45:2	23:9 25:14	track 29:6	4:11
53:2,5 56:19	53:7 57:25	26:18 27:4	training 5:15	unit 39:19
56:21,23	talked15:9,19	31:17 33:8	6:5 53:15	unusually
57:5,8	17:4 40:18	34:17,19	transcribed	18:21
strips23:22	46:1 47:13	47:24 51:6	64:15	update 52:20
24:2,9 29:24	talking28:5	57:13 60:2	transcript	urgent27:24
30:1,4,14,21	42:24 43:13	thought 61:21	62:21	use 43:25
30:23 37:10	57:17 58:22	three 6:20 9:3	transcription	52:11
38:5 40:3,7	tape 57:13	11:21 12:7	64:16	usual 49:22
40:16 41:21	taught18:2	15:16 45:16	transfer 28:2	usually 18:1
41:22,24	technically	three-hour	transferred	19:18,19,20
51:9,15	25:11 59:15	15:7,12,17	40:10	29:15 60:25
stuff 9:11	tecum 4:24,25	15:21 16:19	treat 20:10	61:2
subpoena 4:24	telephone 47:2	17:3 20:5,25	treated17:6	
sudden 18:25	tell 3:8 4:5	three-quar	17:15,19	<u> </u>
sugar 8:18	5:11 28:16	35:25	19:20	vague 35:14
58:25 61:8	30:9 32:4	time 10:25	trimester 34:7	vaguely 14:20
61:12,17	34:2 36:5,9	12:9,24 14:4	true 64:15	30:20
62:4	38:19 46:23	25:19 27:7	truth 64:10,10	variability
sugars 8:15,17	51:14 52:4,5	29:19 30:2,7	64:11	51:21 52:3,6
17:11 18:3	58:3	30:9,15	try 21:4 52:21	52:7 53:8,24
20:15,18	ten 34:18 44:3	31:23 32:2	trying 54:15	54:9 55:2,8
28:19,20,24	term 21:5,10	32:16,17,24	Tucker 2:7	55:16,18
29:2,6,21	21:22 34:12	33:2 34:16	Tuesday 1:17	variable 25:13
58:23,24	38:15 62:12	36:13,24	twins 8:1,7	25:25
61:14,19,22	62:12	37:3 39:23	two8:18,20	verbal 37:1
62:7,8	test15:12,18	41:3,12	12:7 27:9	48:23 49:6
	ł		1	1

	s	, , , , , , , , , , , , , , , , , , ,	F	
versus 16:3	WHEREOF 65:5	14th 36:18,21	9	
Videographer	within-named	36:22 48:22	9:35 62:25	а.
2:11	64 : 8	1450 3:13	925 2:8	
Videotaped	witness 1:12	15 7:12 27:4		
1:11	42:5 62:23			
visit 29:10	64:8,13,14	2		
volume 26:10	64:17 65:5	2 26:16,17,19		
26:22	woman 20:2	46:11,13		
vs 1:6	24:16	2003 14:9		
	word 52:11	-31:25,25		
W	words 10:15	46:25		
wait 22:3	work23:14	2005 1:18 65:8		
43:23		2006 65:13		
waived 63:1	working 12:7	2140 53:3		
want 3:24 4:4		2150 54:25		
8:22 13:8	wouldn't16:17			
17:3 25:23	37:6 57:24	2:9		
31:9 43:9	wrapping 57:14			
44:10 45:3	write 49:17	32:8		
51:14 56:9		2355 46:25		
56:19,21		24 13:12 30:17 24th 46:25		
wanted16:24 27:24 35:19		24th 46:25 24-hour 51:2		
wants 7:23,24	60:19	24-nour 51:2 24/7 51:3		
wants /:23,24 wasn't 13:16	wrong22:4 wrote37:1	25th 36:17		
15:24 16:1,3	MTOLE 3/:T	27167-ish		
17:18 21:2	¥	54:19		
27:24	yeah 12:23	29th 1:18		
watch 58:23	20:20 21:21			
way 18:12	26:19 27:5,8	3		
19:10 58:3	36:3 49:10	3 51:5,14 52:7		
60:18	56:7	54:13		
ways 34:1	year 5:20	300 3:13		
week 10:15	31:18	35 7:22		
weekly 10:12	years 3:19			
11:1	6:20,25 9:3	4		
weeks 32:9	12:7,8 15:17	4th 65:7		
34:18,20	28:3	440-323-7070		
weight 33:22		2:5		
34:8	0	440352:4		
went 5:17	05-553884 1:6	441152:9		
30:12,14,23	1	45 50:21 51:8		
35:5 42:11		51:16		
West2:7	1 5:7,10 13:25 10 7:11 27:4	5		
Western 10:6	100 62:5	5 52:7 54:13		
we'll 44:24 45:2	110 62:5			
we're 28:4	110 02:3	8		
43:12 44:22	1230 55:17	8 65:13		
57:25	1342:4	8:001:18 11:2		
whack 21:1	1428:3			
THE SUBTION OF IL				