

THE STATE OF OHIO, )  
 ) SS:  
COUNTY OF CUYAHOGA.)

IN THE COURT OF COMMON PLEAS

Lynn Martello, Executrix of )  
the Estate of Edna P. )  
Martello, )  
 )  
Plaintiff, )  
 )  
vs. ) Case No. 427286  
 ) Judge Eileen A.  
Southwest General Health ) Gallagher  
Center, et al., )  
 )  
Defendants. )

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Deposition of DILIP NARICHANIA, M.D., called  
for the purpose of cross-examination before Ronald  
M. Rua, a Notary Public within and for the State of  
Ohio, taken at Reminger & Reminger, Suite 700, 113  
St. Clair Building, Cleveland, Ohio, commencing at  
1:35 p.m., on Thursday, the 15th day of November,  
2001, behalf of the Plaintiff.

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## 1 APPEARANCES:

2 Joseph L. Coticchia, Esq.  
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7 on behalf of the Plaintiff:

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22 on behalf of the Defendant Emergency  
23 Physicians Services, et al.

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on behalf of Dilip Narichania, M.D.

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21  
22  
23  
24  
25

1 But, before we get started, I want  
2 to ask you some questions about  
3 your background.

4 THE WITNESS: Okay.

5 CROSS-EXAMINATION OF DILIP NAIUCHANIA, M.D.

6 BY MR. COTICCHIA:

7 Q Please state your full name, Doctor.

8 A My first name is Dilip, D-I-L-I-P, and my last name  
9 is Narichania, N-A-R-I-C-H-A-N-I-A.

10 Q How do you pronounce your last name?

11 A "Narichania."

12 Q What is your current home address?

13 A 440 Muirfield, M-U-I-R-F-I-E-L-D, Westlake, 44145.

14 Q Are you a Medical Doctor?

15 A Yes, sir, I am.

16 Q Are you licensed to practice medicine in the State of  
17 Ohio?

18 A Yes.

19 Q When did you receive your license in Ohio?

20 A I think it was 1983 or '84 when I was a resident  
21 under Fairview Hospital.

22 Q Are you licensed to practice in any other states?

23 A No, I am not.

24 Q Starting with college, please tell me where you went  
25 to college?

1 ---

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

9 ---

10 MR. COTICCHIA: This is the  
11 deposition of Doctor Narichania.  
12 The deposition is being taken  
13 pursuant to agreement; is that  
14 right, counsel?

15 MR. SWITZER: Yes, sir.

16 MS. DeSILVIO: Yes.

17 MR. COTICCHIA: Doctor  
18 Narichania, I am going to ask you a  
19 lot of questions about a patient  
20 named Edna Martello.

21 THE WITNESS: Yes.

22 MR. COTICCHIA: Do you  
23 remember Mrs. Martello?

24 THE WITNESS: Yes, I do.

25 MR. COTICCHIA: All right.

1 A I went to college in India, the Institute of Bombay.  
2 That was in 1971, '72. And then I went to medical  
3 school in India. And then I graduated in 1976 and --

4 Q Let me interrupt you. What was the name of the  
5 medical school you attended?

6 A It was V.M. Medical School.

7 Q How do you spell that?

8 A V period, M period.

9 Q Oh, okay.

10 A Medical school, and that was in India.

11 Q Okay. Is that also in Bombay?

12 A No. It was in Solapur, S-O-L-A-P-U-R. That's the  
13 name of the town.

14 Q Okay. And that was in 1976?

15 A That's correct.

16 Q And what did you do after you graduated from medical  
17 school?

18 A I went for a surgical residency program in Bombay and  
19 I did my three years of training in surgery.

20 Q And so that would have taken you to 1979,  
21 approximately?

22 A Yes, sir.

23 Q And what did you do after you complete -- did you  
24 complete your residency there?

25 A Yes, I did.

1 Q And was that in general surgery?  
 2 A Yes, sir.  
 3 Q And what did you do after that?  
 4 A Then I was working as a full-time position in one of  
 5 the local community hospitals until about '81,  
 6 because I was waiting for my Visa to come to this  
 7 country.  
 8 Q When did you come to the United States?  
 9 A I came to the United States in 1981, August 14th,  
 10 '81.  
 11 Q Describe to me from your arrival in the United States  
 12 in August of '81 your medical experience?  
 13 A After I came to this country I started applying for  
 14 residency program and I was in the matching program.  
 15 I got matched at Fairview General Hospital and I  
 16 started my residency in 1982, the month of July.  
 17 Q How long did that residency last?  
 18 A Five years, sir.  
 19 Q So that would take you to about 1987?  
 20 A That is correct.  
 21 Q What did you do your residency in, what area of  
 22 medicine?  
 23 A General surgery.  
 24 Q And after 1987 what did you do in the practice of  
 25 medicine?

1 A I started a full-time job at St. John West Shore  
 2 Hospital, in Westlake. And I was working there  
 3 approximately until 1988, August. I think I passed  
 4 my boards in 1989. Until then I was working there.  
 5 Q You were an employee of St. John's West Shore  
 6 Hospital?  
 7 A Yes. I was working as a house physician, sir.  
 8 Q Okay. And you say you passed your boards in 1989?  
 9 A Yes. I passed the written part one in '88, and then  
 10 I passed the oral in '89.  
 11 Q So you became board certified then?  
 12 A In '89, yes, sir.  
 13 Q In what area of medicine?  
 14 A General surgery.  
 15 Q After 1989 will you continue to describe your medical  
 16 practice or experience?  
 17 A I started my private practice in general surgery  
 18 approximately in October, November of 1989, and since  
 19 then I am in private practice.  
 20 Q Do you practice with a group or under the name of a  
 21 group?  
 22 A No, sir. I am a solo practice.  
 23 Q A solo practitioner?  
 24 A Yes, sir.  
 25 Q Where is your office located?

1 A I have an office at Southwest Hospital right on  
 2 campus and one at St. John West Shore right on  
 3 campus, too.  
 4 Q Before today's deposition did you review any medical  
 5 records pertaining to Edna Martello?  
 6 A Yes, I did.  
 7 Q Tell me what records you reviewed?  
 8 A I reviewed a copy of the chart which was given to me  
 9 by my counsel.  
 10 Q That would be the chart from Southwest?  
 11 A Yes, sir.  
 12 Q All right. And did that chart begin with Mrs.  
 13 Martello's arrival to the emergency room on January  
 14 30th, 2000?  
 15 MR. SWITZER: 31st.  
 16 Q I'm sorry, I keep saying the 30th. **On** January 31st,  
 17 2000?  
 18 A Yes, sir.  
 19 Q All right. Did you review a report prepared by  
 20 Doctor Kiehl, who is the plaintiff's medical expert?  
 21 A No, I did not.  
 22 Q Did you review the deposition transcript of Doctor  
 23 Cooper?  
 24 A I did not, sir.  
 25 Q Did you review a summary or an outline of Doctor

1 Cooper's deposition transcript?  
 2 A No, I did not.  
 3 Q Do you have or did you bring with you, either or,  
 4 your own office records pertaining to Edna Martello?  
 5 A Yes. I faxed this copy to my attorney and this is  
 6 what I had. I didn't bring anything with me today,  
 7 though. (Indicating.)  
 8 Q Can I see that, please?  
 9 MR. COTICCHIA: For the  
 10 record, I am looking at a copy of  
 11 the Records Deposition, a subpoena  
 12 with the caption of this lawsuit to  
 13 Doctor Narichania asking for his  
 14 records, and it is Doctor  
 15 Narichania's narrative summary,  
 16 number one, which is four pages, a  
 17 copy of his operative record, which  
 18 is two pages, and the surgical  
 19 pathology and consultations.  
 20 Q Doctor Narichania, did you request these  
 21 consultations, for example, Doctor Pannu, P-A-N-N-U?  
 22 A Yes, sir.  
 23 Q Thank you. All those records are in Mrs. Martello's  
 24 hospital chart, are they not?  
 25 A Yes, they are.

1 Q Do you remember the time and the date when you were  
2 called by somebody from the emergency room regarding  
3 Edna Martello?  
4 A Yes, I do recall that I was called from the emergency  
5 room in the early morning.  
6 Q Can you tell me within reasonable proximity what time  
7 that call came and what day?  
8 A It was at 3:30 in the morning and the date is --  
9 where are my orders?  
10 MS. DeSILVIO: Your orders,  
11 right here, Doctor.  
12 A It says, February 1st, 2000, at 3:30, in the morning.  
13 Q Now, you are basing that on a document that says,  
14 Physician's Orders, at the top?  
15 A Yes. And there is a note that says, "admission order  
16 taken from Doctor Narichania."  
17 Q Okay. And just for the record, I am going to hand  
18 you what has been previously marked as Plaintiffs  
19 Exhibit 2, and ask you if that is a copy of what you  
20 are referring to in the record?  
21 A Yes.  
22 MS. DeSILVIO: In terms of the  
23 nurse's notes?  
24 MR. COTICCHIA: That's  
25 correct.

1 A Yes, sir.  
2 Q All right. Now, will you turn -- pardon me.  
3 There is a note in here that says, 3:30,  
4 admission order taken from Doctor Narichania, and it  
5 is signed, for the record we know this by deposition,  
6 by a nurse named Jay Morrow. Do you recall that  
7 phone call, Doctor?  
8 A Yes, I do.  
9 Q Do you know who called you?  
10 A From the emergency room?  
11 Q Right.  
12 A Usually -- I don't remember, but usually the  
13 secretary calls first.  
14 Q The secretary of the emergency room?  
15 A Yes.  
16 Q What was, generally speaking, because I know you  
17 don't remember everything exactly, but generally  
18 speaking, what was the context of that telephone  
19 call?  
20 A We have a patient with abdominal pain and we need to  
21 put her in the hospital because of the abdominal  
22 pain.  
23 Q Would there be anything more than, "abdominal pain,"  
24 communicated to you?  
25 A I don't recall, sir.

1 Q Would that call have been at approximately 3:30 a.m.?  
2 A Yes, sir.  
3 Q And when I say, 3:30 a.m., we are talking about  
4 February the 1st, are we not?  
5 A Yes, sir.  
6 Q Before today when you reviewed Mrs. Martello's chart,  
7 did you review a CAT scan dated February 1st?  
8 A I looked at the report, yes.  
9 Q I am going to hand you what has been previously  
10 marked as Plaintiff's Exhibit 5 and it is three  
11 pages. One is the diagnostic study, dated January  
12 31st, at 8:31, and the other one is a CAT scan, dated  
13 February 1st, at 2:45 a.m. And I am going to jump  
14 right to the bottom line. Do you have that there?  
15 A Yes. The CT report, yes.  
16 Q Right at the bottom line where it has, impressions,  
17 and I am going to quote. Do you see where it says,  
18 "Free peritoneal fluid and free peritoneal air  
19 predominantly in the lower abdomen and pelvis most  
20 likely related to perforated diverticuli." Do you  
21 see that?  
22 A I see that.  
23 Q Did I quote that correctly?  
24 A Yes, sir.  
25 Q When you received this call at 3:30 a.m., were you

1 informed of this diagnostic study?  
2 A No, I don't recall that, sir.  
3 Q Is that something that you would want communicated to  
4 you with regards to a patient with severe abdominal  
5 pain like Edna Martello?  
6 A I was not aware of this finding at that time.  
7 Q Would you have liked to have known about that at the  
8 time of the phone call?  
9 A Yes, sir.  
10 Q Why?  
11 A Because if I would have known that there is free air  
12 or free peritoneal air, then this patient needed to  
13 go to surgery.  
14 Q If the patient had free peritoneal fluid in the  
15 abdomen, the patient would need to go to surgery; is  
16 that correct?  
17 A No, not for free peritoneal fluid, but the free  
18 peritoneal air.  
19 Q Okay. And what does that tell you, free peritoneal  
20 air?  
21 A It means one of two things, that she may have had a  
22 perforated viscus.  
23 Q And what is a, perforated viscus, Doctor Narichania?  
24 A That probably part of the intestinal tract has been  
25 perforated, either the stomach or the lower part of

1 the GI tract.  
 2 Q If you had known at the time of this phone call about  
 3 this diagnostic study, would you have ordered Mrs.  
 4 Martello to go to surgery immediately?  
 5 A Yes, sir.  
 6 Q Why?  
 7 A Because that means that there's a hole in the GI  
 8 tract and the patient needs surgery.  
 9 Q And what happens to a patient if the hole in the GI  
 10 tract isn't repaired or surgically treated promptly?  
 11 A The patient will continue to have pain and the  
 12 patient will probably start throwing up within a few  
 13 hours.  
 14 Q If the patient starts to throw up, what do you expect  
 15 to find in the contents of the vomit?  
 16 A Either it can be bile or just a phlegm or just a  
 17 mucous.  
 18 Q I want to show you what has been previously marked as  
 19 Plaintiffs Exhibit 4 and ask you if your signature  
 20 is on this document?  
 21 For the record, Exhibit 4 is a February 1st, 2000  
 22 Physician's Order and you have a copy in front of  
 23 you.  
 24 A Yes, yes.  
 25 MS. DeSILVIA: Which time?

1 Q Starting at 3:30 a.m., it says, "T/O Doctor  
 2 Narichania." What does that mean?  
 3 A Telephone order.  
 4 Q And it is signed after, T/O Doctor Narichania, by a  
 5 nurse named Jay Morrow, correct?  
 6 A Yes, sir.  
 7 Q Do you know her?  
 8 A I don't know her personally, no.  
 9 Q Do you remember who she is?  
 10 A I know that she was a nurse at that time in the  
 11 emergency room working.  
 12 Q Okay. Do you recall talking to her?  
 13 A On the phone, yes.  
 14 Q Is that your signature underneath?  
 15 A Yes, sir, it's my signature.  
 16 Q Again, at that time did you know of the CAT scan  
 17 findings which disclosed free peritoneal air?  
 18 MS. DeSILVIO: At 3:30?  
 19 MR. COTICCHIA: Yes.  
 20 A I did not know that, sir.  
 21 Q Would you have liked to have known of that CAT scan  
 22 findings at that time, at 3:30 a.m.?  
 23 A Yes.  
 24 Q For the same reasons you've just explained?  
 25 A That's correct.

1 Q And then, excuse me, there is another entry, it looks  
 2 like it is either 5:10 or 3:10. Do you know what  
 3 time that is, from what you can see on that chart?  
 4 A I don't see a time there, sir.  
 5 Q Directing your attention to the left column under the  
 6 date.  
 7 A 5:10.  
 8 Q That is 5:10 in the morning?  
 9 A Yes, sir.  
 10 Q Again, it says, "T/O Doctor Narichania." What were  
 11 your orders at that time?  
 12 A I give order to give to the patient 25 milligrams of  
 13 Demerol.  
 14 Q What was the purpose of that?  
 15 A I think the nurse called me to tell me that the  
 16 patient is having pain and the previous order of 50  
 17 milligrams of Demerol is not helping her for the  
 18 pain.  
 19 Q Going back to the 3:30 phone call.  
 20 A Yes.  
 21 Q Was there any statement from Nurse Morrow to you at  
 22 the 3:30 phone call that this patient was going to  
 23 need surgery right away?  
 24 A No, sir.  
 25 Q At the time 5:10 a.m. again there is a nurse's note

1 here and I don't recognize the name. Was there any  
 2 statement from this nurse, it looks like, M-I-L-I-E,  
 3 R.N., that led you to believe that Edna Martello was  
 4 in an acute condition that needed surgery promptly?  
 5 A No, I can't recall that.  
 6 Q Moving down the column, at 5:45 a.m. again there is a  
 7 telephone order Doctor Narichania. Is that your  
 8 signature next to your name?  
 9 A Yes, sir, it is my signature.  
 10 Q Now, what were your orders at that time?  
 11 A I ordered for the NG tube to suction be placed and  
 12 the Foley catheter, continuous drain. And I ordered  
 13 to admit the patient to the ICU and subsequently it  
 14 was put on hold.  
 15 Q What does that mean?  
 16 A At that time when I was informed, I decided that I am  
 17 taking the patient to surgery. That's why the  
 18 admission was put on hold and the patient was taken  
 19 to the operating room from the emergency room.  
 20 Q I am a little confused. It says, "admit to ICU," and  
 21 in parenthesis, "(hold;)" in other words, hold  
 22 because you're going to take her right to surgery?  
 23 A From the emergency room, yes.  
 24 Q So she's not going to ICU?  
 25 A No.

1 Q Okay, all right. Now I understand.  
 2 Again, at that time, which looks to be at 5:45  
 3 a.m., were you informed of the CAT scan impressions?  
 4 A Yes, the nurse would talk to me. She told me that  
 5 they done that CAT scan and it has only free air.  
 6 Q Now, that was at 5:45 a.m. --  
 7 A That is correct, sir.  
 8 Q -- the nurse informed you of that; is that correct?  
 9 A Yes, sir, it is.  
 10 Q Do you know whose name that is?  
 11 A The same who signed my order here.  
 12 Q Jay Morrow, R.N.?  
 13 A Yes.  
 14 Q Now, I want to show you --  
 15 MR. COTICCHLA: And I am  
 16 assuming counsel, Mr. VanWagner,  
 17 that you received a fax from  
 18 Mr. Switzer with the telephone log?  
 19 MR. VANWAGNER: I did.  
 20 MR. COTICCHLA: Do you have  
 21 this?  
 22 MS. DeSILVIO: No.  
 23 Q I am going to hand a copy to your attorney and a copy  
 24 to you, as well, Doctor. That is a telephone log,  
 25 dated January 31st, 2000. And it says as we go down

1 the left hand column under, physician's name, it  
 2 says, "Doctor Narichania," and the patient name is  
 3 crossed off. Does that mean that you got a phone  
 4 call from the emergency room at this time but it did  
 5 not pertain to Edna Martello?  
 6 MS. DeSILVIO: Objection. If  
 7 you know, you may answer. Only if  
 8 you know.  
 9 A No, I don't remember.  
 10 Q Do you know at that time if you had a patient that  
 11 was in the emergency room that was not Edna Martello?  
 12 A I don't know, sir.  
 13 Q Following that column left to right, it says the call  
 14 was made at 32:08, although there has been numbers  
 15 superimposed, and it was returned at 22:08. Do you  
 16 remember returning that call on January 31st --  
 17 A I don't remember this, sir. This is their phone log.  
 18 Q -- at approximately ten o'clock, yes?  
 19 A I don't know. This is ten o'clock.  
 20 Q All right. Going back to the left, it says, Doctor  
 21 Narichania, with a zero, and then underneath that it  
 22 says, 356 -- can you read it?  
 23 A 356-7925.  
 24 Q Whose number is that?  
 25 A That's my answering service.

1 Q That's your answering service?  
 2 A Yes.  
 3 Q And again it looks like some numbers have been  
 4 superimposed over the numbers?  
 5 A Yes.  
 6 Q But your number is, 356-7925?  
 7 A That's correct.  
 8 Q Okay. You do not remember this call; is that  
 9 correct?  
 10 A No, sir.  
 11 Q Is your first recollection of a phone call what we  
 12 have already identified on Plaintiffs Exhibit 4?  
 13 A For Edna Martello?  
 14 Q For Edna Martello. I'm sorry.  
 15 A It was at 3:30 in the morning, yes.  
 16 - - -  
 17 (Plaintiffs Exhibit 12  
 18 marked for identification.)  
 19 - - -  
 20 Q All right. And for the record, I have handed Doctor  
 21 Narichania Plaintiffs Exhibit 12, which is a  
 22 Southwest General Health Center Physician's Call Log  
 23 from the Emergency Department, and it is dated  
 24 January 31st, 2000.  
 25 A Okay.

1 Q Doctor, will you turn to the next page, please?  
 2 A Okay.  
 3 Q You have the same log, but it is now dated February  
 4 1st, 2000?  
 5 A Yes.  
 6 Q Does your name appear on that log as you go down the  
 7 column on the left?  
 8 A It looks like my name, but I don't see the N. I  
 9 think the N is missing.  
 10 Q It'sapoorcopy.  
 11 MR. COTICCHIA: Mr. Switzer,  
 12 do you think you can get us a  
 13 better copy for future reference?  
 14 MR. SWITZER: Sure.  
 15 MR. COTICCHIA: Thank you.  
 16 Q Is that your phone number there, 356-7925?  
 17 A Again, my number is 356-7925.  
 18 Q And again, it looks like the eight is superimposed on  
 19 it, does it not?  
 20 MS. DeSILVIO: If you can  
 21 tell.  
 22 A Mm'hmm, yes.  
 23 Q And what time is the call recorded?  
 24 A 3:20 in the morning.  
 25 Q What time did you take Edna Martello to surgery?

1 MS. DeSILVIO: Into the  
 2 operating room?  
 3 MR. COTICCHIA: Yes.  
 4 A She entered the operating room at 7:35 in the  
 5 morning.  
 6 Q And is that when you began the surgery?  
 7 A No. That's the time when the patient was taken  
 8 in the operating room. The surgery began at 7:52.  
 9 Q All right. I am handing you what has been previously  
 10 marked as Plaintiff's Exhibit 9. And for the record,  
 11 it is a Southwest General Health Center Operative  
 12 Record. I am going to ask you if you recognize that  
 13 as your operative record?  
 14 A Yes, sir, it is.  
 15 Q All right. I don't want to go over every word of the  
 16 record, but in layman's terms, can you tell us what  
 17 you found when you performed this exploratory  
 18 surgery?  
 19 A Yes. We took the patient to the operating room and I  
 20 opened up the abdomen; I made a midline incision.  
 21 When I went inside, the first thing we saw was there  
 22 was a foul smelling fluid and feces on the left side  
 23 of the abdomen.  
 24 Q What does that tell you?  
 25 A That probably there is a leak from the colon that

1 feces is coming out of.  
 2 Q Okay. Goahead.  
 3 A So, then, when I went inside, I quickly tried to  
 4 control that leak from the intestine and I separated  
 5 the small bowel and the colon from the contamination.  
 6 And we found that there was a hole in the sigmoid  
 7 colon, which is part of the left side, and we quickly  
 8 controlled the leak. And I took part of the colon  
 9 out very quickly. And then we cleaned the abdominal  
 10 cavity with a large amount of saline solution. I  
 11 must have used about 25 or 30 bottles of saline  
 12 solution, cleaned everything. And there was a lot of  
 13 chunks of feces on the left side all the way up to  
 14 the spleen and so we cleaned everything out, gave her  
 15 a colonostomy.  
 16 Q And when you say, large, how large of chunks of feces  
 17 do you see?  
 18 A There were solid blobs of feces floating in the  
 19 abdomen.  
 20 Q Goahead.  
 21 A So we did the colonostomy, and I left the incision  
 22 open for the dressing changes. We did close the  
 23 fascia. And then subsequently the patient was taken  
 24 to ICU, intensive care unit.  
 25 Q Did you review --before today's deposition, did you

1 review the emergency room record at the hospital when  
 2 Edna Martello arrived on January 31st?  
 3 A I looked at the chart today, yes.  
 4 Q Okay. Then you understand that Mrs. Martello was  
 5 given an enema twice?  
 6 A Yes, sir.  
 7 Q All right. Is it more likely or less likely that the  
 8 enemas caused the rupture of the diverticulum?  
 9 MR. VANWAGNER: Objection.  
 10 MR. SWITZER: Objection.  
 11 MS. DeSILVIO: Objection. If  
 12 you know, you can answer.  
 13 A I can't give the opinion, sir. I didn't see the  
 14 patient, so I can't tell you.  
 15 Q Well, you did see the patient, didn't you?  
 16 A I didn't see her when she was in the emergency room.  
 17 Q You didn't see her in the emergency room, but you saw  
 18 her in surgery, correct?  
 19 A That is correct.  
 20 Q And you know that she had had an enema?  
 21 A Yes, sir, I do.  
 22 Q And she had an enema following complaints of severe  
 23 abdominal pain, correct?  
 24 A Yes, that's what I read in the chart.  
 25 Q Have you heard the term, surgical abdomen?

1 A Yes, sir.  
 2 Q What does that mean?  
 3 A It means different things to different people. When  
 4 they say, surgical abdomen, when they tell me, that  
 5 means the patient is probably going to need surgery.  
 6 Q Okay. When Mrs. Martello arrived in the emergency  
 7 room at that point, at her initial arrival, with her  
 8 complaints of abdominal pain, was it more likely or  
 9 less likely that she had feces in her abdomen?  
 10 MR. VANWAGNER: Objection.  
 11 MR. SWITZER: Objection.  
 12 MS. DeSILVIO: Objection. If  
 13 you know.  
 14 A I don't know, sir. I cannot give an opinion because  
 15 I was not there.  
 16 Q Well, you were given information at 3:30 in the  
 17 morning, correct?  
 18 A Yes, sir.  
 19 Q And you have already stated that you would have liked  
 20 to have been told at 3:30 a.m. that there was free  
 21 peritoneal air based on a CAT scan at 2:45 a.m.,  
 22 correct?  
 23 A Yes, sir.  
 24 Q So we know between her arrival and that CAT scan  
 25 there was a rupture. Do you agree with that?

1 MR. SWITZER: Objection.  
 2 / MR. VANWAGNER: Objection.  
 3 A I don't know, sir.  
 4 Q You don't know?  
 5 A No, I don't.  
 6 Q Was the administration of an enema by the emergency  
 7 room physician appropriate under these circumstances?  
 8 MR. VANWAGNER: Objection.  
 9 A Again, it is difficult for me to tell without  
 10 examining the patient. But I don't practice  
 11 emergency medicine, so I don't know, sir.  
 12 Q Doctor, you have said, I don't know, to three  
 13 questions in a row that I am trying to make as simple  
 14 as possible, correct?  
 15 A Yes, sir.  
 16 Q And you have told me you are a board certified  
 17 general surgeon, correct?  
 18 A Yes, sir.  
 19 Q And I am sure you have done surgery on sigmoid colons  
 20 many times before you performed surgery on Mrs.  
 21 Martello, correct?  
 22 A Yes, I did.  
 23 Q And you went through two residencies, if I am not  
 24 mistaken?  
 25 A Yes, sir.

1 Q One in India, correct?  
 2 A Yes.  
 3 Q And one at Fairview General Hospital?  
 4 A That is correct.  
 5 Q And then you became board certified?  
 6 A Yes, sir.  
 7 Q Are you saying that you have no opinion because you  
 8 don't know whether the administration of the enemas  
 9 by the emergency room physician under the  
 10 circumstances was appropriate or not appropriate?  
 11 MS. DeSILVIO: I think what he  
 12 told you is he's not an emergency  
 13 room physician, so he's not going  
 14 to comment on the emergency room  
 15 physician's care. But I will let  
 16 the doctor speak for himself.  
 17 A It is very difficult for me to opine because I was  
 18 not in the ER when the patient arrived.  
 19 Usually in my practice I don't order soap suds  
 20 enemas. I usually use flex or Dulcolax enemas. I  
 21 can't tell you what happened.  
 22 Q Why don't you order a soap suds enema, generally  
 23 speaking?  
 24 A That is my usual practice. It is like I order only  
 25 one variety of antibiotics, I don't order seven

1 different varieties. That is the way I practice,  
 2 that's all.  
 3 Q Is it reasonable to expect a patient like Edna  
 4 Martello, knowing the circumstances when she came to  
 5 the hospital and when the history was taken, is it  
 6 reasonable to expect her to be there because she  
 7 wanted an enema?  
 8 MR. VANWAGNER: Objection.  
 9 MR. SWITZER: Objection.  
 10 MS. DeSILVIO: Objection. If  
 11 you know.  
 12 A I didn't hear your question, sir, please.  
 13 Q Is it reasonable to expect a patient, a patient like  
 14 Edna Martello, to be transferred by an emergency  
 15 squad to the emergency room because she wanted an  
 16 enema?  
 17 MR. VANWAGNER: Objection.  
 18 MR. SWITZER: Objection.  
 19 MS. DeSILVIO: Objection. If  
 20 you know.  
 21 A I have seen that happening off and on in the  
 22 emergency room. We have seen patients coming from  
 23 the nursing home with a history of constipation and  
 24 they end up having enemas and they're cleaned out and  
 25 they go back in the nursing home.

1 Q Okay. In this case, do you know if she was  
 2 transferred from the nursing home or from somewhere  
 3 else?  
 4 A I don't know that, sir.  
 5 Q So you don't know if she was in the nursing home?  
 6 A No, I don't.  
 7 Q Would you accept it if I tell you she was transferred  
 8 from her own home to the emergency room?  
 9 A I didn't understand your question.  
 10 Q Will you accept it as a fact if I state to you that  
 11 Edna Martello was transferred from her own home to  
 12 the emergency room at Southwest General?  
 13 A Mm'hmm, yes.  
 14 Q And she had been complaining of abdominal pain that  
 15 entire day; will you accept that?  
 16 A She came from her home, I note that there.  
 17 Q Right. Under those circumstances would you  
 18 administer an enema?  
 19 MR. VANWAGNER: Objection.  
 20 MS. DeSILVIO: Objection. If  
 21 you know, you can answer that.  
 22 A I can't answer that question unless being there and  
 23 examining the patient and talking with the patient.  
 24 Q Let me add this fact. Would you administer an enema  
 25 twice and then order a CAT scan?

1 MR. VANWAGNER: Objection.  
 2 MS. DeSILVIO: Objection. If  
 3 you know, you can answer.  
 4 A That's not what I usually do in my practice.  
 5 Q What would you usually do in your practice?  
 6 A I usually like to examine the patient, and as I told  
 7 you I usually use Dulcolax or flex enema. I don't  
 8 use soap suds enema.  
 9 Q Knowing what you know about Edna Martello's history  
 10 of severe abdominal pain and constipation, would you  
 11 first order a CAT scan or would you administer an  
 12 enema?  
 13 MR. VANWAGNER: Objection.  
 14 MS. DeSILVIO: Objection. If  
 15 you can answer that without seeing  
 16 the patient.  
 17 A I can't tell you, sir.  
 18 Q Whynot?  
 19 A Because I didn't see or examine the patient, so I  
 20 don't know.  
 21 Q What I am trying to get at, Doctor Narichania, is  
 22 there is certain protocol, standard procedure,  
 23 whatever you want to call it with a 77 year old  
 24 patient who presents with these symptoms, yes?  
 25 A Yes, sir.

1 Q And my question is simple, if I can make it as simple  
 2 as possible, do you first want to do a CAT scan  
 3 before you administer enemas under these  
 4 circumstances?  
 5 MR. VANWAGNER: Objection.  
 6 MS. DeSILVIO: Objection. You  
 7 can answer.  
 8 A I usually order the plain x-rays the first time.  
 9 Sometimes I usually order the barium enema first.  
 10 Q After the plain x-rays?  
 11 A Yes, sir.  
 12 Q And why do you want to order a barium enema?  
 13 A That usually gives you a better configuration of the  
 14 colon. Also, depending on the patient's symptoms,  
 15 when I say, barium enema, usually we use  
 16 gastrographic contrast.  
 17 Q Is that so that you can get a better visual study of  
 18 the colon?  
 19 A It does help, yes.  
 20 Q So is that going to tell you whether or not there has  
 21 been -- oh, what's the word I'm looking for,  
 22 something causing the constipation?  
 23 A It will tell me if there is any blockage anywhere  
 24 because of some problem.  
 25 Q Is the purpose of the barium enema primarily as a

1 diagnostic study?  
 2 A Yes, that's correct.  
 3 Q It is not because you are trying to remove some cause  
 4 of constipation?  
 5 A No, sir.  
 6 Q Did you spend time in any emergency room when you  
 7 were going through your residency program in Bombay?  
 8 A No, sir.  
 9 Q When you went through your residency at Fairview, did  
 10 you spend any time in the emergency room?  
 11 A No. Not as part of the training program, no.  
 12 Q If Edna Martello were in the emergency room and you  
 13 were there and she says, "I have been having severe  
 14 pain and I am constipated, would you give me an  
 15 enema," would you give her the enema because she  
 16 asked for it?  
 17 MR. VANWAGNER: Objection.  
 18 MR. SWITZER: Objection.  
 19 MS. DeSILVIO: Objection.  
 20 A No, I would not do that.  
 21 Q Whynot?  
 22 A Because I being the physician, I order what I think  
 23 is necessary at that time.  
 24 Q And what would be necessary at that time?  
 25 MR. VANWAGNER: Objection.

1 MR. SWITZER: Objection to  
 2 form.  
 3 MS. DeSILVIO: Objection. If  
 4 you can answer without seeing the  
 5 patient.  
 6 A If I am there and if I see the patient, I may order  
 7 x-rays with gastrographic contrast, as I told you  
 8 before.  
 9 Q If Edna Martello's diverticulum had not ruptured, is  
 10 it more likely or less likely that Edna Martello  
 11 would have died?  
 12 MR. VANWAGNER: Objection.  
 13 A I didn't get your question, sir.  
 14 Q If Edna Martello's diverticulum had not ruptured,  
 15 is it more likely or less likely that Edna Martello  
 16 would have died?  
 17 MR. VANWAGNER: Objection.  
 18 A If it would not have ruptured, then probably she  
 19 would have done okay with antibiotics and  
 20 conservative treatment.  
 21 Q Is it more likely or less likely if you had been  
 22 notified immediately following the CAT scan of  
 23 February 1st, at 2:45 a.m., is it more likely or less  
 24 likely that Edna Martello would have died?  
 25 MR. SWITZER: Objection.

1 MS. DeSILVIO: Objection.  
 2 A It is more likely that she would have died with her  
 3 perforation.  
 4 Q Is the perforation, in your opinion, the cause of  
 5 Edna Martello's death?  
 6 A The perforation and the consequences of sepsis or  
 7 infection.  
 8 Q What I am trying to clarify for the record, Doctor,  
 9 if you would have been informed, which you have said  
 10 you would have liked to have been informed when you  
 11 got the call at 3:30 or even earlier at the time of  
 12 the CAT scan impression at 2:45 a.m., had you been  
 13 informed at that time that there was free peritoneal  
 14 fluid and free peritoneal air in the lower abdomen --  
 15 A Yes, sir.  
 16 Q -- had you gone in and started surgery immediately  
 17 following that diagnostic study --  
 18 A Yes, I would have.  
 19 Q -- is it more likely or less likely that Edna  
 20 Martello would have lived?  
 21 MR. SWITZER: Objection. He's  
 22 already answered that question.  
 23 MS. DeSILVIO: Objection. If  
 24 you can, answer that question,  
 25 A It is less likely.

1 Q So, it is less likely she would have lived, anyway?  
 2 A Yes.  
 3 Q Why?  
 4 A Because the perforation caused peritonitis, which has  
 5 a very high mortality at this age.  
 6 Q What caused the perforation?  
 7 A I don't know, sir.  
 8 Q Can an enema cause a perforation, a soap suds enema?  
 9 A It is possible.  
 10 Q Is that what happened in this case?  
 11 MS. DeSILVIO: Objection.  
 12 A I cannot tell you, sir.  
 13 Q If Doctor Cooper had not ordered the administration  
 14 of an enema, is it more likely or less likely that  
 15 you could have saved Edna Martello?  
 16 MR. VANWAGNER: Objection.  
 17 MS. DeSILVIO: Objection. If  
 18 you can, answer that.  
 19 A I cannot answer you. I don't know if I was not  
 20 there.  
 21 MR. SWITZER: How many  
 22 different ways are you going to ask  
 23 that question, Joe?  
 24 Q What time did you say you started surgery for Mrs.  
 25 Martello?

1 A I think we bring her in the OR at 7:35; I believe  
 2 according to the record 7:52, sir, in the morning.  
 3 Q Okay. And you received your first call at 3:30 a.m.,  
 4 correct?  
 5 A Yes, sir.  
 6 Q Why was there a delay from 3:30 a.m. to 7:52 a.m.  
 7 before you perform the surgery?  
 8 A I made the decision that I am going to do surgery at  
 9 5:45 in the morning, when I came to know that there  
 10 is a problem. And then I called the operating room  
 11 to get everything ready. And usually I go up, I ran  
 12 to the bathroom, drank my coffee, and then I started  
 13 driving. I came to the hospital. And when I came to  
 14 the hospital, she was in the holding area of the  
 15 operating room. And if I talked to the patient -- I  
 16 know I talked to her daughter, I'm sure she was  
 17 there, yes. And I talked to her daughter and I told  
 18 the patient that this is what most likely diagnosis  
 19 is, that there is a perforated viscus. At that time  
 20 I did not know if it was the colon, the stomach, a  
 21 perforated ulcer or perforated colon. And I  
 22 explained if it is the colon we need to do the  
 23 colonostomy, and they understood. And I talked to  
 24 her daughter and she consequently consented, also.  
 25 And so we took her to the operating room.

1 Q What, in your opinion, was the cause of the feces in  
 2 Mrs. Martello's abdomen?  
 3 A It was a perforation of the colon.  
 4 Q Do you normally see the presence of feces in the  
 5 abdomen when you perform this kind of surgery?  
 6 A When there is a perforation we do.  
 7 Q Do you, have you in the past taken a patient to  
 8 surgery to repair a diverticulum before there is a  
 9 perforation?  
 10 A In my practice, I don't recall that.  
 11 Q How does a doctor prevent the perforation of the  
 12 diverticulum?  
 13 A Usually, when the patient comes, presents with what  
 14 we call, acute diverticulitis, then the routine is we  
 15 observe the patient and see if the patient's pain is  
 16 getting any better. And if subsequent x-rays or  
 17 work-ups show that the patient has peritoneal signs  
 18 or the patient is not getting better clinically, then  
 19 we advise surgery.  
 20 Q And why do you advise surgery?  
 21 A Well, because if the patient is not getting  
 22 clinically better, then we need to do something to  
 23 take care of the pathology.  
 24 Q Was it appropriate for Doctor Cooper to order an  
 25 enema before he made a diagnosis?

1 MR. VANWAGNER: Objection.  
 2 MS. DeSILVIO: Objection.  
 3 A I cannot tell you that, sir. I was not there.  
 4 Q And I am talking about the soap suds enema.  
 5 MS. DeSILVIA: Objection.  
 6 A I understand.  
 7 Q And you have no opinion on that?  
 8 A No, sir.  
 9 Q Have you ever testified in a medical malpractice  
 10 trial as a medical expert witness?  
 11 A Not as a medical expert, no, sir.  
 12 Q Have you ever testified, not including today, have  
 13 you testified as a medical witness in any type of  
 14 trial?  
 15 A Yes.  
 16 Q Can you tell me when and where and the type of case?  
 17 MS. DeSILVIO: Objection. You  
 18 may answer.  
 19 A Yes, I had one in 1991 and one in '96. In '91 I was  
 20 involved in a case for failure to diagnose ruptured  
 21 abdominal aneurysm. And in '96 I was involved in a  
 22 failure to diagnose ischemic bowel disease.  
 23 Q Were you a defendant being sued?  
 24 A Yes, sir.  
 25 Q So, you were a defendant in a medical malpractice

1 case?  
 2 A Yes, sir.  
 3 Q And it was in both of those situations you were the  
 4 defendant?  
 5 A Yes, sir.  
 6 Q All right. Have you testified in any other legal  
 7 proceedings besides those two cases and today?  
 8 A I don't recall, no, sir.  
 9 ---  
 10 (Plaintiff's Exhibit 11  
 11 marked for identification.)  
 12 ---  
 13 Q I am handing you and your counsel a document marked  
 14 Plaintiff's Exhibit 11, and it is a form that has,  
 15 basically, the admitting diagnosis, the principal  
 16 diagnosis, and the secondary diagnosis, and it is  
 17 dated February 23rd.  
 18 A All right.  
 19 Q Do you recognize that document, Doctor?  
 20 A Yes, sir, I do.  
 21 Q What is that?  
 22 A This is the front paper of the chart. Usually,  
 23 that's what it says, the principal diagnosis and the  
 24 secondary diagnosis.  
 25 Q Is there a difference where it says, principal

1 diagnosis, it says, diverticulosis of the colon, is  
 2 there a difference between diverticulosis and  
 3 diverticulitis?  
 4 A Yes, there is a difference.  
 5 Q What is the difference, Doctor?  
 6 A Diverticulosis is diverticula in the colon which is  
 7 not inflammation. Diverticulitis is inflammation  
 8 in the diverticula.  
 9 Q All right. And there are several enumerated  
 10 secondary diagnoses, and I am going to get right to  
 11 the point. Was the rupture of Edna Martello  
 12 diverticulum the cause of these secondary diagnoses?  
 13 A A few of them, sir. A few of them where I can read  
 14 from this paper.  
 15 Q Which ones were caused, of the secondary diagnoses,  
 16 in your opinion, by the rupture?  
 17 A The peritonitis is because of the ruptured  
 18 diverticuli. The acute renal failure with lesion of  
 19 tubular necrosis is probably related to the rupture  
 20 of the diverticuli. The shock was related to the  
 21 rupture of the diverticuli. The sepsis, the  
 22 unspecified septicemia, probably the acute  
 23 respiratory failure is secondary to the rupture  
 24 diverticuli and the acidosis.  
 25 Q If Mrs. Martello had acute respiratory failure, would

1 that explain the anoxic brain damage?  
 2 A It is possible.  
 3 Q Is dependence on a respirator the result of the  
 4 rupture of the diverticulum?  
 5 A Dependence on the respirator was probably because of  
 6 the acute respiratory failure, which was because of  
 7 the ruptured diverticuli.  
 8 MR. COTICCHIA: I don't have  
 9 any other questions. Thank you.  
 10 MS. DeSILVIO: Mr. VanWagner?  
 11 MR. VANWAGNER: I have no  
 12 questions.  
 13 MS. DeSILVIO: Mr. Switzer?  
 14 MR. SWITZER: Yes. I have a  
 15 few questions, Doctor.  
 16 THE WITNESS: Yes, sir.  
 17 MR. SWITZER: I am Don  
 18 Switzer. I represent Southwest  
 19 General Health Center.  
 20 CROSS-EXAMINATION OF DILIP NARICHANIA, M.D.  
 21 BY MR. SWITZER:  
 22 Q I take it you were at home when you received the  
 23 telephone calls that night?  
 24 A Yes, sir, I was at home.  
 25 Q Okay. You were the on-call surgeon; is that your

1 understanding?

2 A Probably. Probably I was the on-call surgeon.

3 Q I take it it is your practice when you do receive a

4 call from the emergency department about a patient

5 who they want referred or who a physician wants

6 referred to surgery, that you speak to the emergency

7 department physician?

8 A That is correct.

9 Q Okay. We do know at the time that you received the

10 telephone call that Doctor Graber was the emergency

11 department physician. Do you recall speaking to

12 Doctor Graber?

13 A I don't recall the specific Conversation, but I

14 think, yes, I did talk to him.

15 Q In fact, let me just back up a minute. Mr. Coticchia

16 showed you the telephone call log which indicated at

17 3:20 a.m. a call was placed to you.

18 A Yes, mm-hmm.

19 Q And you thought your initial contact may have been

20 with the unit secretary?

21 A When we call the emergency room nurse, she picks up

22 the phone.

23 Q But it is not your practice to obtain medical

24 information about a patient from the unit secretary?

25 A No, absolutely not.

1 Q You would want to speak to the ER physician?

2 A That is correct.

3 Q And in this case that is Doctor Graber?

4 A Yes, sir.

5 Q And is it your testimony that when you spoke to

6 Doctor Graber that he did not inform you of the CAT

7 scan findings of the presence of free air?

8 A I don't recall that conversation, yes.

9 Q After you spoke to Doctor Graber it was then that you

10 spoke with Nurse Jay Morrow and you gave your

11 admitting orders?

12 A That is correct.

13 Q Would you have asked Doctor Graber what tests have

14 been performed on Edna Martello when you spoke with

15 him?

16 A I think he gave me the information, and I don't

17 recall the whole conversation. But probably he told

18 me that we have a patient with abdominal pain and we

19 need to put her in the hospital. That's when the

20 nurse came on the line and I gave the orders.

21 Q You remember Lynn Martello, who is Edna Martello's

22 daughter?

23 A Oh, yes. She's a nurse.

24 Q We took the deposition of Lynn Martello.

25 A Yes.

1 Q I know you have not seen this, but in her deposition

2 she testified under oath that she had a telephone

3 conversation with you between 3:00 and 3:45 in the

4 morning on February 1st and that she said you told

5 her that her mother would be on her way to surgery by

6 7:30 a.m. Do you remember that telephone

7 conversation?

8 A No, sir. No, sir.

9 Q Did you have that telephone conversation?

10 A I don't recall, no.

11 Q Can you access, you being the surgeon or any other

12 physician, access a radiologist's interpretation of a

13 CAT scan via telephone?

14 A Only after it is dictated and it is on the system.

15 Q Okay. I know you are licensed to practice medicine

16 in surgery in the State of Ohio, that has been

17 established. Do you presently spend more than 50

18 percent of your professional time in the active

19 practice, clinical practice, of surgery?

20 A Surgery, yes.

21 Q Mr. Coticchia asked you some opinion questions about

22 whether Edna Martello most likely would have survived

23 had you provided her with surgery within a short

24 period of time after the CAT scan was completed on

25 February 1st, 2000. And you indicated to him that in

1 your opinion it was most likely that she would have

2 died anyway. Do you remember those questions?

3 A Yes, sir.

4 Q I want to clarify those opinions. Are those opinions

5 that you are giving in this case based on reasonable

6 medical probability?

7 A Yes, sir.

8 Q Do you know Doctor Diaz?

9 A I know him.

10 Q And he is a house physician who saw Edna Martello in

11 the emergency department?

12 A I see that on the chart.

13 Q Did you make arrangements for that or is that

14 something you asked the nurse to make arrangements

15 for or do you even remember how it came about?

16 A As far as Southwest goes, it is ordinary when they

17 want the history and physical on the chart they call

18 the house physician. And I presume that he was

19 working as an intensivist, so they called him to do

20 the history and physical.

21 Q Did you look at the CAT scan films before you

22 proceeded to perform surgery on the patient?

23 A No, sir.

24 Q You didn't feel it was necessary to do that?

25 A No.

1 MR. SWITZER: Okay. Thank you  
2 very much, Doctor.

3 THE WITNESS: Thank you.

4 MS. DeSILVIO: Any other  
5 questions?

6 MR. COTICCHIA: No.

7 MS. DeSILVIO: We will read  
8 it. If you will send a copy to me,  
9 assuming that it is going to be  
10 ordered, I would appreciate that.  
11 And can we have in excess of the  
12 seven days, please?

13 MR. COTICCHIA: Yes,  
14 thank you. I would like a  
15 transcript prepared.

16 - - -

17  
18  
19 \_\_\_\_\_  
20 DILIP NARICHANIA, M.D.  
21 (Deposition concluded.  
22 Signature not waived.)  
23  
24 - - -  
25

1 STATE OF OHIO, ) CERTIFICATE  
2 )

3 COUNTY OF GEAUGA. )

4 I, Ronald M. Rua, a Notary Public  
5 within and for the State aforesaid, duly  
6 commissioned and qualified, do hereby certify  
7 that the above-named DILIP NARICHANIA, M.D.,  
8 was by me, before the giving of his deposition,  
9 first duly sworn to testify the truth, the whole  
10 truth, and nothing but the truth; that the  
11 deposition as above set forth was reduced to  
12 writing by me by means of stenotype, and was  
13 later transcribed into typewriting under my  
14 direction; that said deposition was taken in  
15 all respects pursuant to the stipulations of  
16 counsel herein contained, and was completed  
17 without adjournment; that the foregoing is  
18 the deposition given at said time and place  
19 by said DILIP NARICHANIA, M.D., that I am  
20 not a relative or attorney of either party  
21 or otherwise interested in the event of this  
22 action. IN WITNESS WHEREOF, I hereunto set my  
23 hand and seal of office at Cleveland, Ohio, this  
24 26th day of November, A.D. 2001.

25 \_\_\_\_\_  
Ronald M. Rua, Notary Public  
My commission expires: 5/13/05.

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