

## DEPOSITION OF GARY NOSKIN, M.D.

1

S42718

STATE OF OHIO }  
COUNTY OF CUYAHOGA } SS.

IN THE CIRCUIT COURT FOR  
CUYAHOGA COUNTY, OHIO

RICHARD RIDOLFI, et al.,  
Plaintiff,

vs.

NO. 322843

NEAL CHADWICK, M.D., et al.,  
Defendant. }

Deposition of GARY NOSKIN, M.D., called  
as a witness by the Plaintiff, pursuant to the  
provisions of the Ohio Rules of Civil  
Procedure pertaining to the taking of  
depositions, before Nancy J. Hopp, C.S.R.,  
R.D.R., a Notary Public in and for the County  
of Kane, State of Illinois, taken at  
Northwestern Memorial Hospital, Superior  
Street and Fairbanks Court, Chicago, Illinois,  
on the 5th day of May, A.D. 2000, at the hour  
of 9:20 a.m.

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## DEPOSITION OF GARY NOSKIN, M.D.

3

## INDEX

## EXAMINATION

By Mr. Coticchla ..... 4  
By Mr. Meadows ..... 81  
By Mr. Coticchla ..... 88  
By Mr. Meadows ..... 89

## DEFENDANT'S DEPOSITION EXHIBITS MARKED

A Curriculum vitae Of Gary A. Noskin, M.D., 15  
pages ..... 89

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2

## PRESENT:

JOSEPH L. COTICCHIA CO., L.P.A., by

MR. JOSEPH L. COTICCHIA,

1640 Standard Building  
1370 Ontario Street  
Cleveland, OH 44113  
(216) 861-6622

appeared on behalf of Plaintiff;

REMINGER &amp; REMINGER CO., L.P.A., by

MR. WILLIAM A. MEADOWS

7th Floor  
113 St. Clair Avenue, N.E.  
Cleveland, OH 44114  
(216) 687-1311

appeared via telephone on behalf of  
Defendant Robert Paul Van Bergan; and

MOSCARINO &amp; TREU, L.L.P., by

MR. GEORGE M. MOSCARINO,

The Hanna Building  
1422 Euclid Avenue, Suite 630  
Cleveland, OH 44115  
(216) 621-1000

appeared on behalf of Defendant Fairview  
Hospital.

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BY MR. COTICCHIA

4

(The witness was thereupon  
duly sworn.)

MR. COTICCHIA: This is the  
deposition of Dr. Gary Noskin.

The deposition is being taken pursuant  
to agreement; is that correct, Mr. Moscarino?

MR. MOSCARINO: That's correct.

GARY NOSKIN, M.D.

called as a witness by the Plaintiff, pursuant to  
the provisions of the Ohio Rules of Civil Procedure  
pertaining to the taking of depositions, having  
been first duly sworn, was examined and testified  
as follows:

## EXAMINATION

BY MR. COTICCHIA:

Q Dr. Noskin, please state your Full name and  
spell your last name for the record.  
A Sure. MY name is Gary Noskin, N-o-s-k-i-n.  
Q What is your occupation?  
A I'm a physician.  
Q Do you specialize in any area of medicine?  
A Yes.  
Q What area do you specialize in?  
A Infectious diseases.

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BY MR. COTICCHIA

S

- 1 Q Are YOU board-certified?
- 2 A Yes.
- 3 Q When did YOU become board-certified?
- 4 A I became board-certified in internal medicine
- 5 in '89 and in infectious diseases in '92.
- 6 Q Did YOU pass your boards the first time in
- 7 Internal medicine?
- 8 A Yes.
- 9 Q Did YOU pass your boards the first time in
- 10 infectious diseases?
- 11 A Yes.
- 12 Q Are you licensed to practice medicine in
- 13 Illinois?
- 14 A Yes.
- 15 Q When did YOU receive your license?
- 16 A I had a temporary license, which is good for a
- 17 year, and that occurred when I started my
- 18 internship in '86, and then a permanent
- 19 license in '87.
- 20 Q Are YOU licensed to practice medicine in any
- 21 other states?
- 22 A No.
- 23 Q Have YOU ever practiced medicine in any other
- 24 states?

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BY MR. COTICCHIA

7

- 1 got numerous papers on this type of bacteria;
- 2 is that correct?
- 3 A Correct.
- 4 Q I see one paper that you wrote in 1992 in
- 5 which you talked about Serratia marcescens,
- 6 n-a-r-c-e-s-c-e-n-s. cellulitis, in a patient
- 7 on hemodialysis in 1992; is that correct?
- 8 A Correct.
- 9 Q Have you written any other papers dealing with
- 10 Serratia marcescens?
- 11 A No.
- 12 Q Do you have privileges to practice medicine at
- 13 any other hospitals besides here at
- 14 Northwestern University Medical Center?
- 15 A I also have privileges at our VA Hospital.
- 16 Q Okay. Any other hospitals?
- 17 A No.
- 18 Q Have you ever had your privileges terminated
- 19 or suspended?
- 20 A No.
- 21 Q What is the name of your medical malpractice
- 22 insurance carrier?
- 23 A I don't know.

MR. MOSCARINO: Objection.

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BY MR. COTICCHIA

6

- 1 A No.
- 2 Q I have your curriculum vitae, which I'm going
- 3 to hand to you, and take a look at it.
- 4 (Indicating.)
- 5 A Thank you. Okay.
- 6 Q Are there any additions to that or is that
- 7 your current curriculum vitae?
- 8 A There's a few other papers that have been
- 9 published, a few more committees that I'm a
- 10 member of. But for the most part, it's pretty
- 11 complete.
- 12 Q All right. Thank you. I'm not going to do
- 13 over your entire curriculum vitae.
- 14 I notice that you have written
- 15 extensively and have had several papers
- 16 published, and as I went through this, you've
- 17 had quite a bit of writing and research and
- 18 experience, and I'm going to read this and
- 19 then spell it if I'm wrong: Enterococcus,
- 20 E-n-t-e-r-o-c-o-c-o-u-s, faecium.
- 21 Is that an area of infectious disease in
- 22 which you spend a lot of your practice?
- 23 A Yes.
- 24 Q I didn't count then, but it looks like you've

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BY MR. COTICCHIA

8

- 1 Go ahead.
- 2 MR. COTICCHIA: You may answer.
- 3 A (Continuing.) I don't know.
- 4 BY MR. COTICCHIA:
- 5 Q Do you know if the malpractice coverage is
- 6 carried through your employment with
- 7 Northwestern?
- 8 A Yes.
- 9 Q Okay. So you don't know who that would be?
- 10 A Correct.
- 11 Q Well, let me ask you this:
- 12 Dr. Van Bergen is insured by Medical
- 13 Protective. Would the fact that he's insured
- 14 by Medical Protective have any influence on
- 15 your objective, professional review of this
- 16 case?
- 17 A No.
- 18 Q Because there's always a concern, if you have
- 19 the same company, you may have an interest.
- 20 A I see.
- 21 Q Okay. So that would not influence you?
- 22 A No. Again, I don't know who our insurer is.
- 23 Q You have no interest in Medical Protective?
- 24 A None.

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BY MR. COTICCHIA

9

- 1 Q All right. Tell me what medical records you  
2 reviewed before you wrote your letter dated  
3 November 22nd, 1999.  
4 A The medical records that I've reviewed are the  
5 ones that are indicated in the letter, which  
6 are the Fairview Hospital admission on August  
7 19th, the Fairview records from the 26th and  
8 then the records from the 8th of September,  
9 1995.  
10 And then I also had reviewed the  
11 depositions of Dr. Van Bergan, Dr. Gopal: and  
12 at that point in time, I had reviewed the  
13 report of Dr. Markowitz.  
14 P All right. Now, since this letter, have you  
15 read Dr. Markowitz's deposition?  
16 A I have.  
17 P Also, there was a subsequent letter from Dr.  
18 Markowitz to me, dated April 9th, 1999.  
19 Did you read that?  
20 A Yes.  
21 P There have been several depositions of  
22 residents.  
23 Have you read any of the residents'  
24 depositions?

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BY MR. COTICCHIA

10

- 1 A No.  
2 Q Did you read the deposition of Mr. Richard  
3 Ridolfi?  
4 A Let me take a look. No.  
5 Q Did you read the deposition of Mrs. Ridolfi?  
6 A No.  
7 Q There is a microbiology technician named John  
8 Bennett.  
9 Did you read his deposition?  
10 A Yes.  
11 A Let's mark this -- we won't mark it yet.  
12 During the process of discovery and  
13 sometime after some depositions were taken, I  
14 received from Fairview Hospital's counsel an  
15 Emergency Department record from Fairview  
16 General Hospital dated 9/4/95. I want to show  
17 that to you.  
18 (Indicating.)  
19 Had you seen that record before you  
20 wrote your report of November 22nd?  
21 A No.  
22 Q Have you seen it at any time before I handed  
23 it to you today?  
24 A Yes.

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BY MR. COTICCHIA

11

- 1 Q When did you see it?  
2 A It was provided to me by someone from Mr.  
3 Moscarino's office within the last several  
4 months. I don't recall the exact date.  
5 Q All right. Do you have a copy of that with  
6 you today?  
7 A Yes.  
8 P Is it of any significance to you that, under  
9 the nursing assessment, it states that --  
10 well, let me start from the beginning,  
11 Mr. Ridolfi came into the hospital  
12 concerned about drainage from his incision: is  
13 that correct?  
14 A I'd have to take a look at it.  
15 P All right.  
16 (Indicating.)  
17 A Correct.  
18 P Will you read where it says 'nurse's  
19 assessment.' Let me help you find it.  
20 A Here?  
21 (Indicating.)  
22 Q Yes, the handwriting.  
23 A 'Patient questions wound infection. Slight  
24 amount of sero' something 'drainage in chest'

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BY MR. COTICCHIA

12

- 1 something, 'NAD,' which stands for no acute  
2 distress, 'present. Chest X-ray ordered.'  
3 P When it says drainage of 'sero,' is that a  
4 reference to blood?  
5 A Correct -- no; sanguinous, which is blood.  
6 Q Sanguinous?  
7 A Serosanguinous is blood.  
8 P What is the word following 'sero'? I'm having  
9 trouble reading it.  
10 A So an I.  
11 MR. MOSCARINO: I object. He's  
12 not the author of the record.  
13 BY MR. COTICCHIA:  
14 Q What is sero drainage?  
15 A 'Sero' means clear.  
16 P Is there anything in that emergency room  
17 record that discloses that Mr. Ridolfi was  
18 examined by a medical doctor?  
19 A Yes.  
20 Q Who is the doctor, if you can recognize his  
21 signature?  
22 A I have no idea. That's the doctor -- that's  
23 where the doctor's signature is.  
24 (Indicating.)

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BY MR. COTICCHIA

13

1 Q All right. Well, I want YOU to know that a  
2 resident who has been deposed is named Meyers,  
3 and I'm not sure if that's his signature, but  
4 he may have been.

5 MR. MOSCARINO: what is that? I  
6 mean, is that some kind of statement?

7 MR. COTICCHIA: Yeah, that's a  
8 statement, okay?

9 MR. MOSCARINO: I object and ask  
10 that that be stricken.

11 BY MR. COTICCHIA:

12 Q There's also a physician referral named  
13 Woodhall.

14 Do you know that Dr. Woodhall practices  
15 with Dr. Van Bergen?

16 A No, I do not.

17 Q Do you know what it means when it says  
18 'physician referral'?

19 A Yes.

20 Q What does it mean?

21 A It means that the emergency medicine physician  
22 would like another doctor to see the patient.

23 Q Do you think, in light of the fact that  
24 previous to this emergency room admission, Mr.

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BY MR. COTICCHIA

15

1 MR. MOSCARINO: Objection; asked  
2 and answered.

3 A Correct.

4 BY MR. COTICCHIA:

5 Q What is the reason for Your answer?

6 A Because YOU don't just culture incisions. If  
7 you think that Someone has an infection.  
8 there's other things that you can do. But to  
9 just culture an incision is not particularly  
10 helpful.

11 Q Is there anything in this record of September  
12 4th that indicates that there was any  
13 consideration that Mr. Ridolfi might have an  
14 infection?

15 A Yes.

16 Q And what is that?

17 A They took his temperature, and his temperature  
18 was normal.

19 Q (Indicating.)

20 A They listened to his lungs. They performed a  
21 chest X-ray.

22 Q I think the chest X-ray showed atelectasis,  
23 didn't it?

24 A The chest X-ray showed a small left pleural

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BY MR. COTICCHIA

14

1 Ridolfi had had bypass surgery, he had gone to  
2 the doctor's office, Dr. Ridolfi's office,  
3 after being discharged following bypass  
4 surgery, because of drainage and a dehiscence,  
5 he was re-admitted on August the 26th to  
6 receive and care for the dehiscence and now  
7 he's back on September 4 of '95 complaining of  
8 drainage and he questions infection -- my  
9 question to you under those facts:

10 Did Fairview Hospital have a duty to  
11 take a culture of the incision?

12 A No.

13 MR. MOSCARINO: Object to the  
14 form.

15 BY MR. COTICCHIA:

16 Q Why not?

17 A Because YOU don't just culture incisions.

18 Q I understand that. I'm saying:

19 In light of what his history is, knowing  
20 that he had just been discharged, admitted for  
21 sternal dehiscence and now he's back with  
22 drainage, you're saying under those  
23 circumstances there's no duty to do a culture  
24 of the incision?

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BY MR. COTICCHIA

16

1 effusion. so that's a small amount of fluid on  
2 the lungs.

3 Q Is that a symptom of an infection?

4 A A pleural effusion could be. In this  
5 situation, though, that's more likely not the  
6 case. The guy had had open-heart surgery, so  
7 that's why he had the pleural effusion.

8 Q So your testimony is that the pleural effusion  
9 is more likely related to the open-heart  
10 surgery rather than infection?

11 A Correct.

12 Q What is a nosocomial infection?

13 A By definition, a nosocomial infection is one  
14 which occurs related to hospitalization.

15 Q When you say 'related to hospitalization,' is  
16 it something that occurs to patients while  
17 they're admitted in a hospital?

18 A Well, there's a specific definition. It's an  
19 infection that occurs in someone who has been  
20 in the hospital for greater than 48 hours for  
21 which the infection wasn't present or  
22 incubating at the time of admission.

23 Q Okay. There are cultures that show that Mr.  
24 Ridolfi had Serratia marcescens.

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BY MR. COTICCHIA

- 1 Is that a nosocomial infection?  
2 MR. MOSCARINO: 'Cultures'?  
3 KR. COTICCHIA: That's what I  
4 said.  
5 MR. MOSCARINO: Okay. I object,  
6 depending on the time frame.  
7 But go ahead.  
8 MR. COTICCHIA: I'm speaking in  
9 general.  
10 MR. MOSCARINO: That's why I  
11 objected.  
12 But go ahead.  
13 A Bacteria don't imply infection.  
14 BY MR. COTICCHIA:  
15 P I'm not speaking of any particular culture.  
16 We've got cultures that start as far back as  
17 In August and then run right through  
18 September.  
19 A Correct.  
20 P MY question to YOU is:  
21 Is that Serratia marcescens a nosocomial  
22 infection?  
23 A He didn't have an infection. That's why I'm  
24 not sure what you're trying to ask.

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BY MR. COTICCHIA

- 1 Q And some of these cultures grew Serratia  
2 marcescens; correct?  
3 A Correct.  
4 Q MY question to YOU is:  
5 Is Serratia marcescens a nosocomial  
6 bacteria?  
7 A That's not really a valid question, because I  
8 could culture anybody who has been in the  
9 hospital and we're going to identify bacteria.  
10 So bacteria aren't nosocomial; infections are.  
11 So -- I don't mean this to be a  
12 semantics thing. It just doesn't make sense.  
13 Q Well, will you turn to the lab records,  
14 please.  
15 A Which lab records?  
16 P The wound microbiology records.  
17 A From what date?  
18 Q August 26th, wound culture. And then we'll  
19 take it in chronological order.  
20 A Great. I've got them.  
21 Q All right. At the bottom it says 'rare  
22 Serratia marcescens,' doesn't it?  
23 A Correct.  
24 Q Before you wrote your report, did you also

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BY MR. COTICCHIA

- 1 Q All right. Is it your testimony that at no  
2 time he had -- well, you said he didn't have  
3 an infection.  
4 He had an infection; the question is  
5 what kind, isn't it?  
6 A Correct.  
7 Q So you're mistaken when you say he didn't have  
8 an infection.  
9 MR. MOSCARINO: Joe, the reason  
10 I'm objecting is you're not putting a time  
11 frame on the questions.  
12 MR. COTICCHIA: No. I'm not  
13 trying to put a time frame. I'm trying to get  
14 some general information.  
15 MR. MOSCARINO: I think it's  
16 misleading or confusing, but go ahead.  
17 BY MR. COTICCHIA:  
18 Q There were cultures done of Mr. Ridolfi?  
19 A Correct.  
20 Q A culture was done August the 26th; correct?  
21 A Correct.  
22 Q There were cultures done following his  
23 admission in September; correct?  
24 A Correct.

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BY MR. COTICCHIA

- 1 study the susceptibility?  
2 A Yes.  
3 Q What does that mean, 'susceptibility'?  
4 A The susceptibility report helps to guide the  
5 physicians to determine the best antibiotic to  
6 treat the patient.  
7 Q And are certain bacteria more susceptible to  
8 certain antibiotics than other bacteria?  
9 A Absolutely.  
10 Q All right. Following the culture of August  
11 26th, where it says 'rare Serratia  
12 marcescens,' I believe Mr. Ridolfi was  
13 prescribed Ancef; correct?  
14 A Correct -- actually, it was Keflex.  
15 P And Keflex, if I'm not mistaken.  
16 He was prescribed both?  
17 A correct.  
18 Q And that's referred to as 'cefazolin' or  
19 'cefa' -- how do you pronounce that?  
20 A Cefa something.  
21 Q Cefazolin?  
22 A Cefazolin is the generic name.  
23 Q All right.  
24 A Ancef or Kefzol are the trade names.

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BY MR. COTICCHIA

- 1 Q Isn't it true that Serratia will resist Ancef  
2 and Keflex?  
3 A Correct.  
4 Q What does 'MIC' following the word  
5 'susceptibility' mean?  
6 A "MIC" means minimal inhibitory concentration.  
7 Q In layman's terms, what does that mean?  
8 A It's the lowest concentration in which there's  
9 bacterial growth in the test tube, and then  
10 based on what that level is, there's an  
11 achievable level in the bloodstream for which  
12 you can get adequate antimicrobial activity to  
13 prevent bacteria from growing.  
14 Q Doctor, will you turn to the -- by the way,  
15 the August 26th culture was taken from the  
16 wound; correct?  
17 A From what I have here, it saw 'wound, chest  
18 cavity.'  
19 Q August 26th?  
20 A Correct.  
21 Q Well, I'm looking at the very top of the wound  
22 microbiology. It says 'wound culture.'  
23 A I know. I'm looking at what actually the  
24 specimen says. It says 'wound, chest cavity:'

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BY MR. COTICCHIA

- 1 physician has not gotten the results, then the  
2 doctor should check them, yes.  
3 BY MR. COTICCHIA:  
4 Q All right. Will you please turn to the wound  
5 culture of September 8, '95.  
6 A Okay. I have Page -- there's a stamp here of  
7 142.  
8 Is that the page you're referring to?  
9 a Yes.  
10 A Okay.  
11 Q Again, Doctor, this is a wound culture;  
12 correct?  
13 A Correct.  
14 a And this time it shows many Strep; correct?  
15 I should say Streptococcus mitis.  
16 A Correct.  
17 Q All right. At that point is that an  
18 infection?  
19 A Just the identification of bacteria by culture  
20 does not indicate infection.  
21 Q What is, in your words, an infection?  
22 A Well, "infection" is a clinical syndrome for  
23 which patients may have fever, chills,  
24 drainage from a wound. Those things indicate

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BY MR. COTICCHIA

- 1 Q I see it here, also.  
2 A All right.  
3 Q Isn't it true that this growth, which was  
4 final on August 30, '95, occurred after  
5 Richard Ridolfi's discharge?  
6 A Correct.  
7 Q And isn't it true that this growth was not  
8 communicated to Dr. Van Bergen until after  
9 Richard Ridolfi's admission for the  
10 dehiscence?  
11 A I don't know if it's correct or not.  
12 Q Does the hospital have a duty to inform the  
13 doctor of the results of a culture?  
14 A The hospital has a responsibility that once  
15 you get a positive culture -- or, actually,  
16 once you get any culture, to send the reports  
17 to the ordering physician.  
18 Q If the reports are not sent to the ordering  
19 physician, Dr. Noskin, does the ordering  
20 physician have a duty or responsibility to  
21 obtain the results of the reports?  
22 HR. MEADOWS: Objection.  
23 MR. COTICCHIA: You may answer.  
24 A If there's labs that are outstanding and the

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BY MR. COTICCHIA

- 1 Infection. The microbiology afterwards is  
2 Just secondary.  
3 Q All right. If Mr. Ridolfi has fever, chills,  
4 drainage and these are noted in the record,  
5 does that indicate an infection?  
6 A Yes.  
7 Q You just described his symptoms. Now my  
8 question is:  
9 What is an infection?  
10 A I think I just -- well, an infection is just a  
11 collection of white blood cells in the  
12 presence of bacteria, viruses, fungi, other  
13 types of microorganisms.  
14 Q What happens in the process of an infection if  
15 these microorganisms grow?  
16 A The organisms can grow, can result in the  
17 production of pus, can result in the  
18 destruction of tissue. Depending on the  
19 organism, depending on the site, various  
20 different things can happen.  
21 Q My question, again, to you is:  
22 Based on your entire review of these  
23 records, did Dr. Ridolfi have an infection?  
24 A When?

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BY MR. COTICCHIA

25

- 1 Q At any time.  
2 A At any time, Yes.  
3 Q Did the infection bring about the need for  
4 debridement?  
5 A Yes.  
6 Q Why was the debridement necessary?  
7 A Despite the fact we have very powerful  
8 antibiotics, antibiotics alone aren't  
9 effective for most of these types of  
10 infections. And the best way to take care of  
11 them is to give antibiotics but also to  
12 surgically remove any infected tissue.  
13 Q What part of Mr. Ridolfi was infected? What  
14 part of his anatomy?  
15 A At what point in time?  
16 Q From the beginning to the end. I mean, what  
17 was the ultimate outcome here?  
18 MR. MOSCARINO: Joe, just let me  
19 enter an objection. I don't know if you're  
20 purposely doing it, but you're not asking him  
21 time-frame questions, and I don't want there  
22 to be any indication or insinuation later on  
23 in the record that the defendant was making  
24 any kind of concession that there was an

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DEPOSITION OF GARY NOSKIN, M.D.  
BY MR. COTICCHIA

27

- 1 Q Well, you just testified he had debridement of  
2 tissue.  
3 A Correct.  
4 Q Did he have debridement of anything else?  
5 A No.  
6 Q No bony matter?  
7 A Well, that's tissue.  
8 A Well, I'm a layman, so I think bone is  
9 different from tissue, okay?  
10 He underwent several surgeries, didn't  
11 he --  
12 A Correct.  
13 Q -- following the bypass surgery?  
14 A Correct.  
15 P Were those surgeries related to infection or  
16 for the treatment of infection?  
17 A Some were; some were not.  
18 Q If he had not had the infection and if he had  
19 not had the debridement process, would Mr.  
20 Ridolfi have sustained a lacerated ventricle?  
21 MR. MEADOWS: Objection.  
22 MR. MOSCARINO: The same  
23 objection.

Go ahead if you can answer that.

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DEPOSITION OF GARY NOSKIN, M.D.  
BY MR. COTICCHIA

26

- 1 infection at the time of the initial culture.  
2 Obviously, you've read his report. He's  
3 going to say there was an infection when Mr.  
4 Ridolfi came back, but I don't want you to try  
5 and bootstrap this into some kind of admission  
6 that there was an infection in the beginning.  
7 I ask that you ask him definitive  
8 time-frame questions. It makes it a lot  
9 easier. If you keep going that way, I can't  
10 stop you, but I think it's going to make it  
11 longer.

- 12 MR. COTICCHIA: Your objection is  
13 noted.

14 BY MR. COTICCHIA:

- 15 Q The question is simple:  
16 What was the ultimate outcome that the  
17 plaintiff sustained as a result of this  
18 infection?

- 19 MR. MOSCARINO: Object to what  
20 'this infection' means.  
21 A Yeah, I can't answer the question that you're  
22 asking. I'm not sure what you're trying to  
23 get at.

24 BY MR. COTICCHIA:

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DEPOSITION OF GARY NOSKIN, M.D.  
BY MR. COTICCHIA

28

- 1 A I can't answer that question.  
2 BY MR. COTICCHIA:  
3 Q Is your answer you don't know?  
4 A No. My answer is I don't understand what the  
5 question is.  
6 Q Did Mr. Ridolfi sustain a lacerated Ventricle?  
7 A Yes.  
8 Q When? You don't have to give me the date.  
9 Just give me the treatment, if you know.  
10 A Well, you asked a yes-or-no question and then  
11 you asked the history behind it, so I'll be  
12 happy to answer your question, but --  
13 Q If you want to give me the date, fine.  
14 A He suffered a lacerated right ventricle on  
15 September 14th.  
16 Q That followed surgery for a debridement;  
17 correct?  
18 A Correct.  
19 Q And the debridement was to remove infected  
20 bone in the sternal area; correct?  
21 A Correct.  
22 Q My question was:  
23 If he did not have this infection, the  
24 lacerated ventricle would not have occurred,

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DEPOSITION OF GARY NOSKIN, M.D.  
BY MR. COTICCHIA

29

- 1 would it?
- 2 A I have no opinion on that.
- 3 Q In your letter you state that Mr. Rldolfi was
- 4 admiltted on September 8th ulth Purulent
- 5 drainage.
- 6 What Is 'purulent drainage'?
- 7 A 'Purulent' is nothing more than PUS.
- 8 P This was from the sternal wound; correct?
- 9 A Correct.
- 10 P When you say 'sternal wound,' what is that?
- 11 A Anytime someone has a surgical procedure, the
- 12 site which is cut is considered the wound.
- 13 P Would that include the bony matter?
- 14 A Yes.
- 15 Q You go on to say that he was found to have
- 16 sternal osteomyelitis at surgery.
- 17 What Is osteomyelitis?
- 18 A Osteomyelitis Is an infection of bone.
- 19 Q And I take it you're maklns bone dlfferent
- 20 from tissue; correct?
- 21 A No. Bone Is a form of tlssue.
- 22 Q All right. What caused the osteomyelitis?
- 23 A A bacterla.
- 24 Q Do you know which bacteria?

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BY MR. COTICCHIA

31

- 1 marcescens; correct?
- 2 A Can you give ne the page number and I'll look
- 3 at it here?
- 4 P 169 -- actually, I'm not going in sequence.
- 5 Let me straighten it out here. The numbers
- 6 are not necessarily in chronological order. I
- 7 wanted to go in Chronological order. All
- 8 rlight.
- 9 Will you turn to September 17? It's
- 10 respiratory microbiology,
- 11 A If you can give me the page number --
- 12 P That is 166.
- 13 A Okay.
- 14 P Under 'tracheal aspirate,' it shous 'moderate
- 15 Serratia marcescens:
- 16 A correct.
- 17 P What is the difference between 'many Serratia
- 18 narcescens' and 'moderate Serratia
- 19 marcescens'?
- 20 A It's just the amount of the organism that was
- 21 grown in the microbiology laboratory.
- 22 Q Is there more of the organism with 'many' or
- 23 more ulth 'moderate'? Which one has more?
- 24 A 'Many.'

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BY MR. COTICCHIA

35

- 1 A Strep mitis.
- 2 P What Is the basis of that opinion?
- 3 A That at surgery they found pure growth of
- 4 Streptococcus mitis.
- 5 P You mention in the preceding paragraph that,
- 6 following discharge, one of the cultures grew
- 7 a rare Serratia marcescens; correct?
- 8 A Correct.
- 9 Q What is the significance of that?
- 10 A There's no significance.
- 11 Q If it's not significant, why did you include
- 12 it in Your report?
- 13 A Because as an infectious dlsease specialist, I
- 14 was asked to revieu the medical record and I
- 15 Identified a culture that had a bacterla, so I
- 16 noted it.
- 17 Q Now, the first time you see that Is the
- 18 culture of August 26th; correct?
- 19 A Correct.
- 20 P Then there's a wound culture of September 8th
- 21 which shous Strep mitis; correct?
- 22 A Correct.
- 23 Q We have a wound culture that shous -- let's
- 24 see -- September 19 -- shous many Serratia

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DEPOSITION OF GARY NOSKIN, M.D.  
BY MR. COTICCHIA

32

- 1 G The September 20 respiratory culture, which is
- 2 sputum, discloses moderate Serratia
- 3 marcescens; correct?
- 4 A correct.
- 5 Q There's also on September the 19th, Page 169,
- 6 a wound culture from the abdomen that shous
- 7 manu Serratla narcescens; correct?
- 8 A Correct.
- 9 Q And then on September 20, Page 163, there's a
- 10 blood culture that shous Serratia narcescens,
- 11 doesn't it?
- 12 A Yes.
- 13 P Is It Your opinion that the Serratla following
- 14 the admission of September 8th is the same
- 15 Serratia that was cultured when the culture
- 16 was taken on August the 26th?
- 17 A I'm unable to determinlne that.
- 18 P You cannot glve an answser within reasonable
- 19 medical probability?
- 20 A ~~Well, the genus and the species are the sane,~~
- 21 but the only way to truly determine that
- 22 within a reasonable degree of medical
- 23 certainty is what we do all the time here when
- 24 we have suspected infections: perform DNA

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DEPOSITION OF GARY NOSKIN, M.D.  
BY MR. COTICCHIA

33

- 1 fingerprinting.
- 2 Q Should Fairview Hospital have done that in
- 3 this case?
- 4 A I think that's a clinical Judgment. I don't
- 5 think there's any indication that they needed
- 6 to do that.
- 7 Q If Mr. Ridolfi were here at Your hospital,
- 8 would you have done DNA fingerprinting to
- 9 determine if this is the Same Strep -- I mean,
- 10 Serratia?
- 11 A In this situation, no.
- 12 Q Why not?
- 13 A Because the first time he had it, he didn't
- 14 have any evidence of infection.
- 15 Q Isn't it true that the susceptibility studies
- 16 on these Strep cultures in August and
- 17 September are identical?
- 18 A Serratia, you mean; right?
- 19 Q Serratia, yes.
- 20 A They are.
- 21 Q Doesn't that mean to you that the Serratia
- 22 cultured in August is the same Serratia he had
- 23 when he was admitted in September?
- 24 A No.

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BY MR. COTICCHIA

35

- 1 Q Is that something that YOU can rule out to say
- 2 that it's different, even though the
- 3 susceptibility is identical?
- 4 MR. MOSCARINO: That's two
- 5 questions.
- 6 But go ahead.
- 7 A you can't ever rule something out, because you
- 8 can't prove a negative. All that you can tell
- 9 is any of the same genus and species.
- 10 He had Serratia narcescens. Whether
- 11 these organisms are the same or not, you
- 12 really can't tell that, certainly not by
- 13 looking at susceptibility panels.
- 14 BY MR. COTICCHIA:
- 15 Q At any time in August or September, did
- 16 Richard Ridolfi have a Serratia infection?
- 17 A In September, yes.
- 18 Q Does Fairview Hospital have a responsibility
- 19 to prevent infection to its patients?
- 20 A No hospital can prevent infections.
- 21 Q Well, all right. I'm not saying -- let me
- 22 rephrase the question.
- 23 Does Fairview Hospital have a duty to
- 24 minimize the risk of infection to its

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BY MR. COTICCHIA

34

- 1 Q Can that be a consideration?
- 2 A I think the thing to understand is that when
- 3 you use susceptibility testing for certain
- 4 bacteria, that you could have dozens and
- 5 dozens of different bacteria that have the
- 6 same susceptibility panel, ~~because it depends~~
- 7 on the bacteria you test.
- 8 Now, you know, for example, if you had
- 9 an infectious disease doctor who had been in
- 10 practice for 20 or 25 years who may not be
- 11 familiar with the limitations of this, they
- 12 might think that. But that's really not
- 13 modern infectious diseases.
- 14 Q But my question is:
- 15 Isn't that something that you would take
- 16 into consideration if you want to determine if
- 17 Mr. Ridolfi, when he was discharged in August,
- 18 had the same Serratia that he has when he's
- 19 admitted in September?
- 20 A I wouldn't.
- 21 Q You would not?
- 22 A No.
- 23 Q YOU don't --
- 24 A No.

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BY MR. COTICCHIA

36

- 1 patients?
- 2 A Again, I don't mean this to be semantics. The
- 3 hospital is a building that's brick and
- 4 mortar, so I don't know how a hospital can
- 5 prevent an infection.
- 6 Q Well, they have a lab, they have doctors that
- 7 work closely with the lab.
- 8 You read Dr. Gopal's deposition, didn't
- 9 you?
- 10 A Correct.
- 11 Q You just said to some extent Serratia is a
- 12 nosocomial type of bacteria.
- 13 A I did not say that.
- 14 Q No? Well, is Serratia -- all right.
- 15 What does "nosocomial" mean?
- 16 A I've defined that for you twice.
- 17 MR. MOSCARINO: Objection; asked
- 18 and answered.
- 19 BY MR. COTICCHIA:
- 20 Q Is it a hospital-borne bacteria?
- 21 MR. MOSCARINO: Is nosocomial --
- 22 MR. COTICCHIA: No.
- 23 MR. MOSCARINO: -- or Serratia?
- 24 MR. COTICCHIA: Serratia.

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BY MR. COTICCHIA

37

1 A Nosocomial Is a type of infection. Serratia  
2 is a type of bacteria. There's certain  
3 bacteria that are more commonly associated  
4 with infections developing in the hospital.  
5 Serratia can occur both in the hospital and in  
6 the community.

BY MR. COTICCHIA:

7 B Q Do the employees of the hospital, the  
8 residents, Dr. Gopal, the nurses, the  
9 laboratory, the lab technicians, the  
10 microbiologists -- do they have a duty to  
11 minimize the risk of contracting infections  
12 when patients are admitted?

13 A Yes.

14 MR. MOSCARINO: Object to the  
15 form.

MR. COTICCHIA: You may answer.

16 A (Continuing.) That's a more appropriate  
17 question.

18 The medical staff, the nursing staff,  
19 respiratory therapists, the other people who  
20 work in the facility should try to prevent  
21 patients from acquiring an infection there.  
22 But the actual hospital itself can't do

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BY MR. COTICCHIA

39

1 That's a bad question.

2 MR. COTICCHIA: You can accept  
3 that as fact.

4 A Not necessarily.

BY MR. COTICCHIA:

5 Q Let me see what we can agree on here, Dr.  
6 Noskin.

7 A Yes agree that sometime during Mr.  
8 Roldolfi's treatment, his course of treatment  
9 at Fairview Hospital, he had an infection of  
10 Strep mitis?

11 A Correct.

12 Q Sometime during the course of his treatment at  
13 Fairview Hospital, he had an infection of  
14 Serratia marcescens?

15 A Correct.

16 Q And that Serratia marcescens on August 26th  
17 was a wound culture: correct?

18 A Correct.

19 Q Then on September 19 the wound culture again  
20 shows -- and that's on Page 163 -- many  
21 Serratia marcescens; correct?

22 A But those are different wounds.

23 Q Well, we'll get to that. Just answer my

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DEPOSITION OF GARY NOSKIN, H.D.  
BY MR. COTICCHIA

38

1 anything.

BY MR. COTICCHIA:

2 Q Well, I'm not referring to the hospital as  
3 bricks and mortar, because I'm talking about  
4 the people that work for the hospital.

5 A That's a different question.

6 Q All right. Is it of any significance to  
7 you -- and you can assume this -- that the  
8 residents whom I depose all testified that  
9 they were not aware of the August 26th wound  
10 culture that showed rare Serratia marcescens?

11 A No.

12 Q Do the residents have a responsibility to  
13 inform themselves of a patient's culture?

14 A Yes.

15 Q I'm summarizing. I can't even remember the  
16 name of the doctor, but one of them said he or  
17 she was unaware of this culture until the  
18 lawsuit was filed.

19 Do you think a resident should be aware  
20 of that culture, independent of whether or not  
21 a lawsuit is filed?

22 MR. MOSCARINO: Objection. You're  
23 not putting any context on it or when or why.

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DEPOSITION OF GARY NOSKIN, M.D.  
BY MR. COTICCHIA

40

1 question:

2 There's a wound culture September 19,  
3 '95, and the culture is many Serratia  
4 marcescens?

5 A Correct.

6 Q All right. And the description is 'abdomen';  
7 correct?

8 A Correct.

9 Q Isn't that the same wound that we're talking  
10 about?

11 A Not in my mind.

12 Q How many times was Mr. Roldolfi opened up from  
13 the point of the sternum down?

14 A If I recall, I think he had three surgeries.

15 Q And each time that wound was opened, wasn't  
16 it?

17 A Correct.

18 Q And each time I believe they went down a  
19 little farther, didn't they?

20 A They probably did.

21 Q Because he had a pectoralis flap, which is  
22 across the chest; correct?

23 A Correct.

24 Q Then he had some kind of abdominal flap, which

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PAGE 41 SHEET 11

DEPOSITION OF GARY NOSKIN, M.D.  
BY MR. COTICCHIA

41

- 1 is over the stomach to the chest; correct?
- 2 A Correct.
- 3 Q And It's the same incision; it just keeps
- 4 going down farther, doesn't it?
- 5 A I don't know that.
- 6 Q Did you read Dr. Levy's deposition?
- 7 A No, I did not.
- 8 Q So you don't know that; correct?
- 9 A Correct.
- 10 Q So you can't answer that question, can you?
- 11 A What I told you is that chest wound and
- 12 abdomen are two different sites.
- 13 Q Two different sites but the same wound?
- 14 A I told you I don't know that.
- 15 Q All right.
- 16 A I don't know if it's the same wound.
- 17 Q Okay. I'll accept that answer.
- 18 Your report states that Serratia
- 19 narcescens -- well, let me start all over.
- 20 Is there a difference --
- 21 A All the way from the beginning?
- 22 (Laughter.)
- 23 Q Yeah. Why not?
- 24 How much are you charging for your time

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PAGE 42

DEPOSITION OF GARY NOSKIN, M.D.  
BY MR. COTICCHIA

42

- 1 today, Doctor?
- 2 A I'm charging half of what Dr. Markovitz
- 3 charges.
- 4 Q So that's how much?
- 5 A 250 an hour.
- 6 Q Okay. Mr. Ridolfi thanks you.
- 7 Is there a difference between
- 8 'colonization' and 'contaminant'?
- 9 A Yes.
- 10 Q What is the difference?
- 11 A 'Colonization' just indicates that there's
- 12 bacteria on a surface, so, for example, if I
- 13 cultured your skin or my skin, we would get
- 14 bacteria. It doesn't indicate infection.
- 15 We're just colonized.
- 16 'Contamination' would be identifying
- 17 bacteria in what would have been a sterile
- 18 site. So, for example, if you sent a blood
- 19 culture to the lab and the blood was sterile
- 20 and then you get a positive sample because
- 21 someone in the lab contaminated it, that would
- 22 be contamination.
- 23 Q You stated in your report that sternal
- 24 infection is a risk of this type of surgery;

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PAGE 43

DEPOSITION OF GARY NOSKIN, M.D.  
BY MR. COTICCHIA

43

- 1 Is that correct?
- 2 A Correct.
- 3 Q Obviously, there was a concern about
- 4 infection, because wound cultures were ordered
- 5 on the 26th of September; correct?
- 6 MR. MOSCARINO: Objection.
- 7 A I don't think so.
- 8 BY MR. COTICCHIA:
- 9 Q You mean it wasn't necessary to do cultures?
- 10 A It probably wasn't.
- 11 Q Why not?
- 12 A Because the surgeon had opened up the wound,
- 13 looked at it with his own eyes, which is far
- 14 better than just doing a culture, and said
- 15 that the wound looks clean and this is just a
- 16 dehiscence.
- 17 Q So you're saying this wound culture wasn't
- 18 necessary --
- 19 A Correct.
- 20 Q -- under the standard of care?
- 21 Are you saying that because the treating
- 22 physician, the surgeon, can look at it and
- 23 make that determination?
- 24 A Well, the reason is we know why Mr. Ridolfi

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PAGE 44

DEPOSITION OF GARY NOSKIN, M.D.  
BY MR. COTICCHIA

44

- 1 had this dehiscence: He coughed and then
- 2 broke open his sternal wires. So there's a
- 3 reason why he had dehiscence.
- 4 Now, if this had occurred a month after
- 5 the surgery and the sternum was still
- 6 unstable, that would have been very different.
- 7 But within a couple days of surgery, in the
- 8 setting of a cough, that's just trauma, if you
- 9 will, on the patient's part that resulted in
- 10 the wound dehiscing.
- 11 Q You said you read Dr. Van Bergan's deposition.
- 12 didn't you?
- 13 A Correct.
- 14 Q And he did testify that he would have liked to
- 15 have known about this growth.
- 16 A What Dr. Van Bergan testified to is that he
- 17 actually had checked and the cultures were
- 18 negative after three days.
- 19 Q How did he check?
- 20 A He had one of the residents call the lab.
- 21 Q Is that in his records?
- 22 A That's in his deposition.
- 23 Q Is that in his records, either in the office
- 24 or the hospital?

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DEPOSITION OF GARY NOSKIN, M.D.  
BY MR. COTICCHIA

45

- 1 A That's not something that You would typically  
2 put in the medical record.
- 3 Q Doctor, is there anything in Dr. Van Bergan's  
4 office chart that states that he or his  
5 resident called the lab?
- 6 A No.
- 7 Q Is there anything in the hospital record or  
8 the microbiology reports that, as a matter of  
9 record, establishes that these results were  
10 communicated to Dr. Van Bergan?
- 11 A Well, there's nothing in the record.
- 12 Q He made that statement following the September  
13 admission; correct?
- 14 MR. MOSCARINO: Objection. I  
15 don't understand.
- 16 THE WITNESS: I don't understand,  
17 either.
- 18 BY MR. COTICCHIA:
- 19 Q Mr. Rldolf was re-admitted on September the  
20 8th, and it was at this point that Dr. Van  
21 Bergan found out that there was a culture that  
22 was final on September 30th of -- a wound  
23 culture of rare Serratia marcescens?
- 24 MR. MOSCARINO: Objection. You've

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DEPOSITION OF GARY NOSKIN, M.D.  
BY MR. COTICCHIA

47

- 1 Q And what does that mean? What does that tell  
2 you as an infectious --
- 3 A There's certain types of organisms that stain  
4 acid fast: Microbacterium, which are the  
5 bacterium that cause tuberculosis. An  
6 organism called Nocardia and Actinomyces can  
7 stain acid fast.
- 8 Q And what is 'cold acid fast'?
- 9 A I've never heard of that term before.
- 10 Q Do you use acid fast here at the hospital?
- 11 A Yes.
- 12 Q But you don't use cold acid fast? You don't  
13 know?
- 14 A I've never heard of the term before, other  
15 than in Dr. Markoultz's deposition. That's  
16 the first time I've heard of it.
- 17 Q Obviously, if a patient such as Mr. Rldolfi  
18 presents with a dehiscent sternal wound and  
19 drainage but it doesn't appear to show pus, as  
20 you referred to, does that rule out the  
21 presence of bacteria?
- 22 A No.
- 23 Q Then I don't understand why you're saying a  
24 culture was not necessary on August the 26th,

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DEPOSITION OF GARY NOSKIN, M.D.  
BY MR. COTICCHIA

46

- 1 got the dates wrong.
- 2 MR. COTICCHIA: All right, The  
3 dates are wrong.
- 4 THE WITNESS: I didn't hear a  
5 question.
- 6 MR. COTICCHIA: I withdraw the  
7 question.
- 8 BY MR. COTICCHIA:
- 9 Q Let me ask you:
- 10 What is aerobic and anaerobic culture?
- 11 A There's two different types of ways to grow  
12 bacteria. One is in the presence of oxygen.  
13 That's called 'aerobic.' And one is in the  
14 absence of oxygen, and that's called  
15 'anaerobic.'
- 16 Q Do you use those methods here?
- 17 A Yes.
- 18 Q What is 'acid fast'?
- 19 A Acid fast is a stain.
- 20 Q How is it done?
- 21 A The sample is placed on a microscope slide,  
22 and then it's stained with a couple of  
23 different stains to look for organisms that  
24 are so-called acid fast.

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DEPOSITION OF GARY NOSKIN, H.D.  
BY MR. COTICCHIA

48

- 1 '95.
- 2 A The reason is the identification of bacteria  
3 does not indicate an infection, so, again, I  
4 could culture any of yours or my body orifices  
5 and find bacteria, but that doesn't mean we  
6 have an infection.
- 7 Q So you're saying under these circumstances  
8 where we've got a dehiscent incision,  
9 separation of bone and drainage, because it  
10 doesn't show pus, a culture is not necessary  
11 to rule out infection?
- 12 A And the other thing that you need to add to  
13 that statement is that because there was a  
14 reason for it.
- 15 Again, if this guy had come in three or  
16 four weeks after surgery with a wound  
17 dehiscence, I'd be concerned about infection.  
18 A couple days postoperatively in the setting  
19 of cough and ripping the sternal wires, there  
20 is no reason to suspect that was due to  
21 infection.
- 22 Q If he coughed, he might have had a cold.
- 23 A Well, a cold is a viral --
- 24 Q He might have had --

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BY MR. COTICCHIA

49

- 1 A A cold is a viral infection. That doesn't  
2 cause sternal wound infections.  
3 Q Well, he might have had a respiratory  
4 infection which is not viral.  
5 A Correct, but what you're supposed to be talking  
6 about is within a reasonable degree of medical  
7 certainty, and now there's all sorts of --  
8 Q There's all kinds of possibilities?  
9 A Correct. But within a reasonable degree of  
10 medical certainty, there was no evidence that  
11 his initial wound dehiscence was related to  
12 infection.  
13 Q What about low-grade fever? Is that a  
14 symptom?  
15 A Low-grade fever is nonspecific. There's  
16 literally dozens of things that can cause  
17 low-grade fever.  
18 Q Well, can it be a symptom?  
19 A A symptom of what?  
20 Q Infection.  
21 A Yes.  
22 Q Pain, pain in the wound site -- can that be a  
23 symptom?  
24 A Pain is really nonspecific.

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DEPOSITION OF GARY NOSKIN, M.D.  
BY MR. COTICCHIA

51

- 1 determine what you saw when you opened the  
2 patient up.  
3 Q Well, you know that the sternum separated.  
4 Would you go down to the bone?  
5 A I generally don't do these type of cultures.  
6 These are things that a CT surgeon would do,  
7 so I think you'd have to ask someone like  
8 that.  
9 Q When you saw 'CT,' you mean cardiothoracic?  
10 A Cardiothoracic, correct.  
11 Q Isn't it important that if a culture is going  
12 to be taken, depending on the treatment, that  
13 the culture is deep enough?  
14 A Yes.  
15 Q What is sepsis?  
16 A Sepsis is a clinical syndrome that's  
17 characterized by fever, low blood pressure --  
18 well, sepsis is a clinical syndrome  
19 characterized by fever, high heart rate, fast  
20 respiratory rate and that it could be  
21 associated with low blood pressure.  
22 Q Well, you say that he had complication of  
23 lacerated right ventricle and sepsis. You say  
24 it's a clinical syndrome.

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DEPOSITION OF GARY NOSKIN, M.D.  
BY MR. COTICCHIA

50

- 1 Q Does an infection cause pain?  
2 A It depends on the type of infection.  
3 Q Some do cause pain. and some don't; is that  
4 your testimony?  
5 A Correct.  
6 Q This culture was taken from the wound on  
7 August the 26th; correct?  
8 A Yes.  
9 Q It wasn't taken from the surface of Mr.  
10 Ridolfi's skin, was it?  
11 A Correct.  
12 Q How is a wound culture taken and where was it  
13 taken here in this case?  
14 A I can tell you how a wound culture is taken.  
15 I can't tell you exactly how it was taken in  
16 this case. You'd have to ask Dr. Van Bergen.  
17 Q All right. Well, tell me how you --  
18 A The way a wound culture is taken is you take a  
19 sterile swab, go into the wound, collect a  
20 sample and then send it off to the lab.  
21 Q When you go into the wound, if you're doing  
22 it, Doctor, do you go down to the bone?  
23 A Again, it depends on the individual case. In  
24 a situation like this, I think you'd have to

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BY MR. COTICCHIA

52

- 1 Can you give me an example?  
2 A Again, it's a syndrome, so I gave you the  
3 manifestations of the syndrome. It's not a  
4 disease like diabetes, for example.  
5 Q Can't sepsis be in the blood, infection in the  
6 blood?  
7 A Infection in the blood is bacteremia.  
8 Q So this is a general description of somebody  
9 that could have bacteremia, respiratory,  
10 muscle or bone? It could be any one of these?  
11 A Well --  
12 MR. MOSCARINO: Object to the  
13 form.  
14 A (Continuing.) Sep --  
15 MR. COTICCHIA: You may answer.  
16 A (Continuing.) Sepsis in and of itself does  
17 not necessarily indicate it's related to an  
18 infection.  
19 BY MR. COTICCHIA:  
20 Q All right. What does it mean? What does it  
21 indicate? I mean, is it a symptom of  
22 something?  
23 A No. It's a syndrome, so it's a constellation  
24 of findings.

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BY MR. COTICCHIA

53

- 1 Q Okay. Because YOU say he had right ventricle  
2 and sepsis -- his course was complicated by  
3 lacerated right ventricle and sepsis, and  
4 that's what I'm asking.  
5 So you're using 'sepsis' as a general  
6 term?  
7 A I'm using 'sepsis' as the proper definition of  
8 the word.  
9 Q Well, I've heard people and read medical  
10 literature that a person has sepsis or a  
11 person has septic shock.  
12 What does that mean?  
13 A Septic shock is different. Septic shock is a  
14 condition in which there is sepsis associated  
15 with low blood pressure.  
16 Q Okay. If you're sitting in front of a jury or  
17 a layman like me, I still don't understand  
18 what you mean by this clinical syndrome of  
19 sepsis.  
20 A I'd be more than happy to explain it to YOU  
21 again. Sepsis syndrome, by definition,  
22 includes fast heart rate, fast respiratory  
23 rate, fever or low temperature. And then if  
24 it's associated with low blood pressure, it's

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BY MR. COTICCHIA

54

- 1 called 'septic shock.'  
2 Q All right. The reason I'm asking about this  
3 is because --  
4 A But I should point out that nowhere in the  
5 definition of 'sepsis' does it require a  
6 bloodstream infection.  
7 Q Okay, all right. That's my point. I usually  
8 associate the term 'sepsis' with infection.  
9 Is that fair? Is that part of the  
10 clinical syndrome?  
11 A Infection is one of the things that can cause  
12 it, yes. But our knowledge of this syndrome  
13 has really changed over the last decade or so,  
14 so in the past people have used terms like  
15 'septicemia,' which we don't use anymore, or  
16 other terms to suggest that it's really  
17 related to infection. When, in essence, only  
18 about half of the cases of sepsis are due to  
19 infection.  
20 MR. MEADOWS: Is this a good place  
21 to take about two minutes for a break?  
22 MR. MOSCARINO: Joe?  
23 MR. COTICCHIA: Yes.  
24 MR. MOSCARINO: Off the record.

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BY MR. COTICCHIA

55

- 1 (Whereupon, a recess was had,  
2 after which the deposition  
3 was resumed as follows:)  
4 MR. COTICCHIA: Back on the  
5 record.  
6 BY MR. COTICCHIA:  
7 Q Doctor, I want YOU to assume that YOU ordered  
8 the culture of August the 28th, '95, and the  
9 final culture reads 'rare Serratia  
10 marcescens.'  
11 Would you want the lab to inform you of  
12 that?  
13 A No.  
14 Q Can I see Your file, please?  
15 A Certainly.  
16 MR. MOSCARINO: Let me just say  
17 one thing about it: MY letters to him are  
18 there. I assume that you and Mr. Meadows,  
19 based on my review of the last deposition,  
20 have gotten into some type of dispute on this  
21 in the past, is that right, and you refused,  
22 based on Dr. Markovitz's deposition --  
23 MR. COTICCHIA: That's correct.  
24 MR. MOSCARINO: -- to show the

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BY MR. COTICCHIA

56

- 1 letters?  
2 I don't know that I really care, but I  
3 don't know what the procedure should be.  
4 Bill, do you have any insight into this?  
5 MR. COTICCHIA: I'm not going to  
6 change my position. I don't want to see  
7 correspondence from counsel, all right?  
8 MR. MOSCARINO: And I want to see  
9 your correspondence to Dr. Markovitz, and I'd  
10 like to see, based on my review of the  
11 transcript, Mr. Eiler's correspondence to Dr.  
12 Markovitz.  
13 So I'm not refusing to let you see  
14 these --  
15 MR. COTICCHIA: That's not my  
16 question.  
17 MR. MOSCARINO: -- transmittal  
18 letters.  
19 MR. COTICCHIA: I'm not  
20 interested. If the Court rules, then we'll  
21 exchange it. If the Court rules the other  
22 way, we won't exchange it.  
23 MR. MOSCARINO: All right.  
24 They're here.

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BY MR. COTICCHIA

- 1 MR. COTICCHIA: Fine.  
2 MR. MOSCARINO: YOU don't want  
3 them. I'm not waiving any argument regarding  
4 seeing what you have, especially the fact that  
5 there was some correspondence back there and  
6 he did an affidavit and then a supplemental  
7 report, which --  
8 MR. COTICCHIA: NO. He read the  
9 letter into the record from Don Eller.  
10 Basically it said, 'Enclosed are the records.'  
11 BY MR. COTICCHIA:  
12 Q Doctor, did you have a rough draft that you  
13 went over with Mr. Markowitz before you  
14 prepared your letter of November 29?  
15 A NO.  
16 Q Not Mr. Markowitz; Mr. Moscarino --  
17 A NO.  
18 Q -- or Miss Massey?  
19 A I spoke with Miss Massey.  
20 Q All right. Did you speak to ~~Ms~~ Massey  
21 before you prepared this November 29, '99,  
22 report?  
23 A Yes.  
24 Q Did you discuss with her your notes that you

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BY MR. COTICCHIA

- 1 'Ridolfi' at the top, and they're from  
2 stationery from the Marriott Hotel.  
3 What are those notes taken from?  
4 A These are notes from Dr. Van Bergan's  
5 deposition.  
6 Q Okay. Can I have them, please?  
7 A (Indicating.)  
8 Q Then you have notes with different headings:  
9 'Gopal' and 'Markowitz' 'Bennett.'  
10 I assume those are notes from the  
11 depositions?  
12 A Correct.  
13 Q One of the notes you have, No. 52, which I  
14 assume was a page, 'Allow 10 percent variation  
15 in lab' -- do you agree with that variation?  
16 A No.  
17 Q All right. You do have the subsequent letter  
18 that was identified at Dr. Markowitz's  
19 deposition, dated April the 9th?  
20 (Indicating.)  
21 A Correct.  
22 MR. MOSCARINO: I think that was  
23 attached as an exhibit to his deposition.  
24 MR. COTICCHIA: Yes.

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BY MR. COTICCHIA

- 1 have numbered here?  
2 (Indicating.)  
3 A Correct.  
4 Q Are these your notes that you made based on  
5 your review of the records?  
6 A Yes.  
7 Q I notice Note No. 49 says, 'Nosocomial  
8 infection does not necessarily indicate  
9 negligence.'  
10 Is it fair to say that it may or may not  
11 indicate negligence?  
12 A That's a misinterpretation of that. That's  
13 from Dr. Van Bergan's deposition. That's what  
14 he said.  
15 Q My question to you is:  
16 It may indicate negligence, as well as  
17 may not indicate negligence?  
18 MR. MOSCARINO: Object to the  
19 form. That calls for a lot of different  
20 facts.  
21 Go ahead and answer if you can.  
22 A I can't answer that question.  
23 BY MR. COTICCHIA:  
24 Q Okay. You have some notes here that say

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BY MR. COTICCHIA

- 1 BY MR. COTICCHIA:  
2 Q Did you at any time change your report or a  
3 copy of it before this was submitted on  
4 November 22nd, 1999?  
5 A No.  
6 Q Did you submit this report after you discussed  
7 your findings with Mrs. Massey?  
8 A Yes.  
9 Q I'm handing the record back to you.  
10 (Indicating.)  
11 A Thank you.  
12 Q I would like copies of your notes, please,  
13 before we leave today.  
14 A Sure.  
15 Q Doctor, how did Mrs. Massey or Mr. Moscarino  
16 or Mr. Treu get you as an expert witness in  
17 this case?  
18 A I've reviewed a case for them in the past, and  
19 I suspect they asked me -- they wanted me to  
20 review another case for them.  
21 Q When you say you 'reviewed a case for them,'  
22 who would that have been, what attorney?  
23 A I think primarily Mr. Moscarino, but I think  
24 I've also reviewed a case for Miss Massey. I

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DEPOSITION OF GARY NOSKIN, M.D.  
BY MR. COTICCHIA

61

- 1 don't know what agreement they have with each  
2 other.
- 3 Q In the last five years, how many cases have  
4 you -- independent of whether you gave  
5 testimony or not or whether you wrote a report  
6 or not, how many cases have you reviewed for  
7 their firm, Moscarino, Treu, Massey, et  
8 cetera?
- 9 A I think probably three or four.
- 10 Q Was it always on behalf of a hospital or a  
11 doctor?
- 12 A NO. It was always on behalf of giving an  
13 honest review of the medical record.
- 14 Q All right. And was that when Mr. Moscarino  
15 was representing a patient suing a hospital or  
16 when Mr. Moscarino was representing a hospital  
17 or a doctor who was being sued by a patient?
- 18 A The latter.
- 19 Q The latter?
- 20 A Right.
- 21 Q So every case you've reviewed for Mr.  
22 Moscarino has been one for defending a  
23 hospital or defending a doctor?
- 24 A Correct.

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DEPOSITION OF GARY NOSKIN, M.D.  
BY MR. COTICCHIA

63

- 1 Q In one of those, either Mr. Moscarino or  
2 Someone from his firm was actually  
3 representing a defendant where you found that  
4 Person negligent?
- 5 A Correct.
- 6 Q In another case you found negligence but not  
7 somebody that Mr. Moscarino was representing?
- 8 A Correct.
- 9 Q Then in the other two or three, your position  
10 was no negligence?
- 11 A Exactly.
- 12 Q And one of those two or three is this case?
- 13 A Correct.
- 14 Q Now, since this case -- have we discussed all  
15 the cases that you've reviewed, either before  
16 or after this one, for Mr. Moscarino's firm?
- 17 A Yes.
- 18 Q All right. Have you ever been sued for  
19 medical malpractice?
- 20 A No, knock on wood.
- 21 Q Have you ever testified -- regardless of  
22 whether it's Illinois, Ohio, anywhere, have  
23 you ever testified as a medical expert or  
24 given a written opinion as a medical expert on

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DEPOSITION OF GARY NOSKIN, M.D.  
BY MR. COTICCHIA

62

- 1 Q In those cases that you have reviewed with Mr.  
2 Moscarino or any other attorney at his office,  
3 have you rendered an opinion that there was  
4 medical negligence; that is, below standard or  
5 breach of the standard of care?
- 6 A Yes.
- 7 Q In how many of those cases?
- 8 A Well, Mr. Moscarino and his firm had  
9 represented various different people in the  
10 cases, but of the four cases that I can think  
11 of, in one of them there was clear negligence  
12 and I told him that and that case settled.
- 13 There was another case in which there  
14 was clear negligence, but he was representing  
15 the residents, and I felt the residents acted  
16 within the standard of care. There's one case  
17 that I think is still ongoing, and then this  
18 is the fourth case.
- 19 So I guess you could say in at least  
20 half of them, I've told him that there was a  
21 clear deviation from the standard of care.
- 22 Q And in one of those -- what was it; four cases  
23 or five, if you remember?
- 24 A I think it was probably four.

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DEPOSITION OF GARY NOSKIN, M.D.  
BY MR. COTICCHIA

64

- 1 behalf of a patient?
- 2 A Yes.
- 3 Q How many times in your experience since you've  
4 been board-certified in -- well, at any time  
5 since you've become a doctor?
- 6 A Either testified or reviewed or both?
- 7 Q Right, or wrote a report for a patient in a  
8 claim against either a doctor or a hospital.
- 9 A I can't tell you the exact numbers. If  
10 percents would be acceptable --
- 11 Q Sure.
- 12 A -- I'd say probably 25 percent of the time  
13 I've reviewed cases on the part of the  
14 patient, and I've testified at trial on the  
15 part of the patient once.
- 16 P So out of 100 percent, approximately 25  
17 percent are cases that you review for the  
18 patient or at the request of the patient's  
19 lawyer?
- 20 A That's correct.
- 21 Q And out of that 25 percent, can you give me  
22 approximately the number of patients?
- 23 A Boy, I probably have reviewed maybe two dozen  
24 cases.

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DEPOSITION OF GARY NOSKIN, H.D.  
BY MR. COTICCHIA

- 1 Q So let's round it off to 25 so we can be  
2 consistent.  
3 So out of the last --  
4 A Actually, it's easier to have it 24, because a  
5 quarter of 24 is six.  
6 Q Okay, all right. What I'm getting at is:  
7 Out of the last approximately 100 to 96  
8 cases you've reviewed, 24 of them were for the  
9 patient?  
10 MR. HOSCARINO: Objection. I  
11 think you're getting it wrong.  
12 But you tell him.  
13 A I think about 25 percent of the cases I  
14 reviewed have been for the patient. I think  
15 I've reviewed a couple dozen cases. So if you  
16 do the math, that would be about six to eight.  
17 MR. COTICCHIA: I'm sorry.  
18 BY MR. COTICCHIA:  
19 Q So since you've been a practicing doctor, a  
20 medical doctor in the clinical practice of  
21 medicine -- this is where I misunderstood --  
22 you've reviewed approximately two dozen cases?  
23 A Correct.  
24 Q And out of that two dozen cases, approximately

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DEPOSITION OF GARY NOSKIN, H.D.  
BY MR. COTICCHIA

- 1 A Right.  
2 Q Okay.  
3 A So of those two dozen cases, a quarter of  
4 them, say, have been for the plaintiff. In  
5 all of those cases except for one, I felt that  
6 there was negligence.  
7 Of the other 75 percent, those were for  
8 the defense. In those, I'd say in probably  
9 two-thirds of those I felt there was no  
10 deviation from the standard of care.  
11 Q Okay, all right. Thank you.  
12 What percentage of your professional  
13 time do you spend in the practice of medicine.  
14 the clinical practice of medicine?  
15 A About 60 to 70 percent.  
16 Q And what do you do the other 30 to 40 percent?  
17 A I have some administrative responsibilities  
18 and also do a little research.  
19 In what area do you research?  
20 A Primarily enterococcal infections.  
21 Q What are your administrative duties?  
22 A I'm the medical director for the Department of  
23 Infection Control and Prevention at  
24 Northwestern.

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DEPOSITION OF GARY NOSKIN, M.D.  
BY MR. COTICCHIA

- 1 four of them were on behalf of a patient or  
2 the patient's lawyer?  
3 A No; about six to eight of them were.  
4 Q Six to eight?  
5 A Right.  
6 Q All right. And out of that six to eight, you  
7 took a position in how many cases that the  
8 patient was treated negligently or below the  
9 standard of care?  
10 A Probably all except for one.  
11 Q So out of the other approximately 18 to 16  
12 cases, your position was the hospital or the  
13 doctor had not done anything negligent in the  
14 medical care; correct?  
15 A No.  
16 MR. HOSCARINO: Objection.  
17 A (Continuing.) Yeah, I think there may be some  
18 confusion with what I'm telling you, so in  
19 case I've misspoken, let me do it by  
20 percentages, unless there's a specific reason  
21 that you want actual numbers.  
22 BY MR. COTICCHIA:  
23 Q Well, you've already said you've reviewed  
24 about two dozen cases.

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DEPOSITION OF GARY NOSKIN, M.D.  
BY MR. COTICCHIA

- 1 Q The hospital?  
2 A The hospital, correct.  
3 Q In your curriculum vitae, it says clinical  
4 professor or assistant professor.  
5 What does that mean?  
6 A That's my university appointment.  
7 Q Do you lecture at the hospital with medical  
8 students on a regular basis?  
9 A Relatively infrequently.  
10 Q So as an associate professor -- well, you tell  
11 me what your duties are with the students.  
12 A We have medical students who join us on  
13 rounds --  
14 Q Okay.  
15 A -- so that would include some informal  
16 teaching. I give lectures on antibiotics to  
17 the medical students, or if I'm asked to give  
18 a talk, I'll give a talk. But I don't  
19 participate in any formal course work, if  
20 that's what you're asking.  
21 Q In the last three or four years, what  
22 percentage of your entire income have you  
23 derived from reviewing medicolegal issues?  
24 A Probably less than 5 percent.

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DEPOSITION OF GARY NOSKIN, M.D.  
BY MR. COTICCHIA

69

- 1 a Did you read the medical reports of the other  
2 medical experts in this case?  
3 A No, I did not.  
4 a You didn't read a report of Dr. Lerner or Dr.  
5 Tan?  
6 A No.  
7 a You don't think that's necessary?  
8 A I didn't know there were other reports.  
9 a So you've never seen them?  
10 A Correct.  
11 a Okay. How many patients do you see on an  
12 average day?  
13 A It really varies, because the way that we work  
14 it is when we're on service, we're on service  
15 for two weeks at a time. And then during that  
16 two-week period of time, I would see all the  
17 infectious disease consultations in the  
18 hospital. So that might be 25 or 30 patients  
19 at a time.  
20 However, when I'm not on service, then I  
21 don't see any patients.  
22 a Let's say in a year.  
23 A In a year, boy, probably well over a thousand  
24 patients.

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DEPOSITION OF GARY NOSKIN, M.D.  
BY MR. COTICCHIA

71

- 1 treatina physician to do it?  
2 A Again, it depends on the location of the  
3 wound. It depends on the availability of the  
4 other physicians.  
5 a Is an unstable sternum a sign or symptom of an  
6 infected sternum?  
7 A It could be, yes.  
8 a What antimicrobials are effective in  
9 preventing the growth of Serratia?  
10 A There's a lot of antimicrobials that are  
11 effective in treating Serratia, but Serratia  
12 is not a bacteria that we try to prevent from  
13 growing up front.  
14 a No. I'm saying if there's an infection.  
15 A So, then, you're not talking about preventing  
16 it; you're talking about treating it?  
17 a Well, you've got an infection, and you don't  
18 want it to keep going, I guess. Okay. We'll  
19 use your word, 'treating.'  
20 A Okay. Well, there's a whole host of  
21 antibiotics that you can use to treat  
22 Serratia.  
23 Q Let me qualify that, because we got into this  
24 a little bit before. I'm talking about at the

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DEPOSITION OF GARY NOSKIN, M.D.  
BY MR. COTICCHIA

70

- 1 a And these are infectious disease patients?  
2 A correct.  
3 a You're called in as a consultant?  
4 A Correct.  
5 a Are some of these patients cardio bypass?  
6 A Yes.  
7 a Do they have sternal wound infections?  
8 A Yes.  
9 a Do some of them have nosocomial infections?  
10 A Yes.  
11 a Approximately how many patients do you see in  
12 a year with sternal wound infections following  
13 coronary bypass surgery?  
14 A Probably three to five per year. It's a  
15 pretty rare complication.  
16 a But it's a known risk, isn't it?  
17 A Yes.  
18 B It's something that you want to prevent if you  
19 can?  
20 A Correct.  
21 a Are you ever present when a culture is taken  
22 from a wound?  
23 A Yes.  
24 a Do you do it yourself or do you want the

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DEPOSITION OF GARY NOSKIN, M.D.  
BY MR. COTICCHIA

72

- 1 time of Richard Ridolfi's treatment, August  
2 through September of '95.  
3 MR. MOSCARINO: Objection. I  
4 don't understand that you're talking about.  
5 THE WITNESS: Yes. Could you  
6 rephrase the question for me?  
7 BY MR. COTICCHIA:  
8 Q What antimicrobial medications are effective  
9 in treating an infection of Serratia  
10 narcescens around the time of Ridolfi's  
11 admission, August and September, '95?  
12 A Well, again, there's two questions, one in  
13 general and then one specific.  
14 Do you want me to -- which one do you  
15 want me to answer?  
16 Q Answer then both. Break it up.  
17 A Sure. In general, there's a whole host of  
18 antibiotics that you can use to treat Serratia  
19 infection, fluoroquinolones like Ciprofloxacin. You  
20 can use second- and third-generation  
21 cephalosporins. You can use drugs like  
22 aztreonam, az-tre-o-n-a-m. Depending on  
23 the extent of the infection, you may want to  
24 use an aminoglycoside like gentamicin.

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DEPOSITION OF GARY NOSKIN, H.D.  
BY MR. COTICCHIA

- 1 So there's a whole category of  
2 medications that can be used to treat  
3 Serratia.  
4 In terms of this case specifically, the  
5 patient does not require any treatment because  
6 he's colonized. So for him there wouldn't be  
1 anything that would be necessary.  
8 Q All right. We went over all the cultures, and  
3 later on, following the admissions in  
10 September, do you agree he had an infection of  
11 Serratia?  
12 A Correct.  
13 Q What medications were used to treat that?  
14 A He was treated with piperacillin, which is  
15 certainly an appropriate antibiotic for  
16 Serratia.  
17 P Is that a medicine that you use?  
18 A Yes.  
19 Q Did you use it in 1335 --  
20 A Yes.  
21 P -- for the treatment of Serratia?  
22 A For the treatment of all sorts of  
23 Gram-negative infections.  
24 Q One of the things that Dr. Markovitz testified

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DEPOSITION OF GARY NOSKIN, M.D.  
BY MR. COTICCHIA

- 1 Infection?  
2 MR. MOSCARINO: Objection. That's  
3 been asked and answered I think at least three  
4 times.  
5 MR. MEADOWS: Objection.  
6 A A sternal wound infection can result in wound  
7 dehiscence.  
8 BY MR. COTICCHIA:  
9 Q Is Serratia resistant to Vancomycin?  
10 A Yes.  
11 Q Doctor, on Page 61 of Dr. Markovitz's  
12 testimony, at Line 10, he states -- and I  
13 quote -- "This patient, who had fever,  
14 elevated white count, sternal wound pain and  
15 whose sternum had been opened because of  
16 possible infection -- I think it's incumbent  
17 to get the complete and official culture  
18 reports..  
19 Did you read that in Dr. Markovitz's  
20 deposition?  
21 A Yes.  
22 P Do you agree with that statement?  
23 A In context, I think in general, that seems  
24 correct. However, the reality is that was in

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DEPOSITION OF GARY NOSKIN, M.D.  
BY MR. COTICCHIA

- 1 to was the culture --  
2 (There followed a discussion  
3 outside the record.)  
4 MR. COTICCHIA: All right. Back  
5 on the record.  
6 BY MR. COTICCHIA:  
7 Q I'm summarizing, but during Dr. Markovitz's  
8 deposition, he questioned the accuracy of the  
9 cultures because of the presence of  
10 antibiotics in Mr. Ridolfi's system.  
11 Do you agree with that?  
12 A I agree that he questioned it.  
13 Q All right. Do you question the accuracy?  
14 A No.  
15 Q Why not?  
16 A Because I think Dr. Markovitz may have been  
17 mistaken, because the antibiotic that Mr.  
18 Ridolfi was on was cefazolin and the oral  
19 preparation, which was Keflex.  
20 Q Keflex.  
21 A Both of those antibiotics the Serratia was  
22 resistant to. So the fact that he was on it  
23 is really irrelevant.  
24 Q Is dehiscence a symptom of a sternal wound

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DEPOSITION OF GARY NOSKIN, M.D.  
BY MR. COTICCHIA

- 1 the setting of someone who had just had his  
2 sternum broken open by coughing and by having  
3 a surgeon actually opening it up, looking at  
4 it, cleaning it out. So I'm not sure what the  
5 relevance to it is.  
6 Q Well, you agree that Dr. Van Bergan ordered  
7 the culture, the wound culture, of August  
8 26th, '95?  
9 A Correct.  
10 Q That was obviously to determine if infection  
11 was present; correct?  
12 MR. MOSCARINO: Objection.  
13 A That's not correct.  
14 BY MR. COTICCHIA:  
15 Q Well, to determine if there were any organisms  
16 present?  
17 A I don't know why Dr. Van Bergan did that.  
18 Q Okay.  
19 A You'd have to ask him.  
20 Q Well, all right. We've already talked about  
21 that. My question is:  
22 It's also true, isn't it, that before  
23 the results were made, Dr. Van Bergan  
24 discharged Mr. Ridolfi?

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DEPOSITION OF GARY NOSKIN, M.D.  
BY MR. COTICCHIA

1 MR. MEADOWS: Objection.

2 A The first two sets of cultures were actually

3 negative prior to discharge.

4 BY MR. COTICCHIA:

5 Q And the third culture was positive; correct?

6 A The third culture became positive, correct.

7 Q That was after discharge; correct?

8 A Correct.

9 P And Dr. Van Bergan was not aware of that, was

10 he?

11 A That, again, you'd have to ask Dr. Van Bergan.

12 Q Well, you read his deposition, didn't you?

13 A Correct.

14 Q And you can't answer that question; is that

15 correct?

16 A Correct.

17 MR. MOSCARINO: 'Correct' that you

18 read his deposition or 'correct' that you

19 can't answer the question?

20 THE WITNESS: 'Correct' that I

21 couldn't answer the question.

22 MR. COTICCHIA: I understood it

23 the first time. Thank you.

24 MR. MOSCARINO: You're welcome,

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DEPOSITION OF GARY NOSKIN, M.D.  
BY MR. COTICCHIA

1 fallure to meet a standard of care?

2 MR. MOSCARINO: Objection; asked

3 and answered.

4 A No.

5 BY MR. COTICCHIA:

6 Q Have you seen any tissue or bone block from

7 the hospital regarding Richard Rldolf's

8 treatment?

9 A No.

10 Q Well, we've requested those.

11 Would that assist you in your analysis

12 of the treatment?

13 A No.

14 Q 'Tissue blocks' -- is that the term I'm trying

15 to use?

16 A I think that's probably correct. That's more

17 of a pathologist thing than an infectious

18 disease specialist thing.

19 MR. COTICCHIA: You want to see

20 those.

21 MR. MOSCARINO: You're going to

22 get a new expert?

23 BY MR. COTICCHIA:

24 Q Do you know whether or not, in fact, at least

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DEPOSITION OF GARY NOSKIN, M.D.  
BY MR. COTICCHIA

1 Joe. I'm just trying to help you get through

2 that outline.

3 BY MR. COTICCHIA:

4 Q Doctor, are you aware of any problems at

5 Fairview General Hospital for the 30 days

6 prior to Mr. Rldolf's admission of

7 hospital-borne Serratia?

8 A No.

9 Q If they were in existence, isn't that

10 something you'd want to know before you wrote

11 your opinion?

12 MR. MOSCARINO: Objection.

13 A I'm not sure that it would really matter in

14 this individual case.

15 BY MR. COTICCHIA:

16 Q What does 'epidemiology' mean?

17 A Epidemiology is the study of outbreaks and

18 investigations of things related to clinical

19 outcomes.

20 Q Well, if there had been, at least within 30

21 days prior to Richard Rldolf's admission at

22 Fairview Hospital, an outbreak of Serratia,

23 wouldn't you want to know that before you

24 render an opinion about the hospital's care or

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DEPOSITION OF GARY NOSKIN, M.D.  
BY MR. COTICCHIA

1 30 days prior to and up to the date of Richard

2 Rldolf's admission on August 28th, '95,

3 Fairview Hospital had an outbreak of Serratia?

4 MR. MOSCARINO: Objection; asked

5 and answered. It's the same question you

6 asked him before.

7 A Yeah. I don't know.

8 MR. COTICCHIA: It was a

9 hypothetical. Now I'm asking him, in fact, if

10 he knows.

11 A (Continuing.) No.

12 BY MR. COTICCHIA:

13 Q If that becomes a fact in this case, would

14 that change your opinion?

15 A No.

16 MR. COTICCHIA: I don't have any

17 more questions. Thank you.

18 THE WITNESS: Thank you.

19 MR. COTICCHIA: You're welcome.

20 MR. MOSCARINO: Bill?

21 MR. MEADOWS: Yeah.

22 MR. MOSCARINO: Joe is done.

23 MR. MEADOWS: Doctor, my name is

24 Bill Meadows. I represent Dr. Van Bergan in

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DEPOSITION OF GARY NOSKIN, M.D.  
BY MR. MEADOWS

81

1 this case.

2 THE WITNESS: Hi, Bill.

3 BY MR. MEADOWS:

4 Q First I want to go back to your background.

5 Where did you go to medical school?

6 A I went to medical school at Chicago Medical  
7 School.

8 P You graduated when?

9 A I graduated in '86.

10 Q And did you go on to do a residency?

11 A Yes.

12 MR. COTICCHIA: Objection. Do you  
13 have the doctor's curriculum vitae?

14 MR. MEADOWS: I want to go through  
15 his background. Thank you.

16 MR. COTICCHIA: Objection. This  
17 is unnecessary.

18 BY MR. MEADOWS:

19 Q Where did you --

20 MR. COTICCHIA: Are you going to  
21 pay for this doctor's time to go over his  
22 curriculum vitae?

23 BY MR. MEADOWS:

24 Q Where did you do your residency, Doctor?

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DEPOSITION OF GARY NOSKIN, M.D.  
BY MR. MEADOWS

83

1 chapters and probably 75 or 80 abstracts at  
2 scientific meetings.

3 Q Do you have any teaching responsibilities?

4 A My primary teaching responsibilities are for  
5 the medical students during their clinical  
6 clerkships, so their third and fourth Year,  
7 and then teaching responsibilities with the  
8 residents, also, when they rotate on the  
9 infectious disease service.

10 Q By the way, have you and I ever met before or  
11 have you ever reviewed any cases for me?

12 A No.

13 Q The materials that you reviewed in this case  
14 included Dr. Van Bergan's office chart;  
15 correct?

16 A I don't think I saw his office chart.

17 Q Did you review the hospital records and the  
18 records that would have been prepared by Dr.  
19 Van Bergan in his capacity as one of the  
20 attendings at the hospital?

21 A Correct.

22 Q You reviewed Dr. Van Bergan's deposition,  
23 certainly?

24 A Yes.

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DEPOSITION OF GARY NOSKIN, M.D.  
BY MR. MEADOWS

82

1 MR. COTICCHIA: I'm telling you on  
2 the record, Bill, I'm checking the clock, and  
3 I'm not paying you to read this doctor's  
4 curriculum vitae back to him on my time.

5 BY MR. MEADOWS:

6 Q Doctor, where did you do your residency?

7 A At Northwestern.

8 Q When did you complete your residency?

9 A I completed my residency in 1989.

10 Q Your residency was in what?

11 A Internal medicine.

12 Q Tell me about your professional experience in  
13 the area of infectious disease since  
14 completing your residency.

15 A Well, following my residency, I did a two-year  
16 fellowship in infectious diseases. and then I  
17 joined the faculty here at Northwestern,  
18 specializing in infectious diseases.

19 Q You've already answered some questions with  
20 regard to your CV and publications, but  
21 approximately how many publications have you  
22 authored or participated in?

23 A In terms of peer-review publications, probably  
24 about 60, probably about another dozen book

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DEPOSITION OF GARY NOSKIN, M.D.  
BY MR. MEADOWS

84

1 Q Doctor, based upon your review of the medical  
2 records and based upon your review of the  
3 depositions and also based upon your  
4 education, training and experience, do you  
5 have an opinion, to a reasonable degree of  
6 medical certainty, as to whether or not Dr.  
7 Van Bergan and the other physicians caring for  
8 him, Mr. Ridolfi, met the standard of care?

9 MR. COTICCHIA: Objection. The  
10 reason for the objection is the same reason my  
11 notion in limine will be filed. This is  
12 friendly cross examination, and it's not a  
13 proper question when both parties have mutual  
14 interests in the outcome of this case.

15 MR. MEADOWS: Doctor, you may  
16 answer.

17 A Yes.

18 BY MR. MEADOWS:

19 P What is your opinion?

20 A That neither Dr. Van Bergan, Dr. Gopal or any  
21 of the other physicians in this case deviated  
22 from the standard of care, to a reasonable  
23 degree of medical certainty.

24 Q By the way, Doctor, are you licensed to

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DEPOSITION OF GARY NOSKIN, M.D.  
BY MR. MEADOWS

85

- 1 practice medicine?
- 2 A Yes.
- 3 Q What states?
- 4 A Illinois.
- 5 Q And do you spend more than 50 percent of your
- 6 professional time in the clinical practice of
- 7 infectious disease medicine?
- 8 A Correct.
- 9 Q You were asked earlier about a doctor's
- 10 responsibility to follow up on cultures.
- 11 Is it reasonable for a physician to
- 12 obtain results of cultures either by reviewing
- 13 the written report or, in the alternative,
- 14 obtaining verbal results over the phone?
- 15 A Yes.
- 16 Q Is it your understanding, from your review of
- 17 the materials, that the culture of August
- 18 26th -- or the results of the culture of
- 19 August 26th were obtained on August 29th by
- 20 the resident by virtue of a phone call to the
- 21 lab?
- 22 A Correct.
- 23 Q By the way, is the abbreviation of 'culture'
- 24 CX?

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BY MR. MEADOWS

87

- 1 A September 9th I think you mean.
- 2 Q Yes, September 9th. I'm sorry.
- 3 A There's no correlation between the two.
- 4 Q Why is that?
- 5 A Because the culture from August 26th was rare
- 6 Serratia, and as we talked about earlier, that
- 7 represented contamination. The culture from
- 8 the sternal wound infection in September was
- 9 Streptococcus mitis. So there's no
- 10 correlation between the two.
- 11 Q The fact that certain cultures grew out
- 12 Serratia -- does the fact that the subsequent
- 13 cultures later in September grew out Serratia
- 14 change your opinion?
- 15 A No.
- 16 Q And why not?
- 17 A Because the subsequent cultures later in
- 18 September truly did represent a Serratia
- 19 infection, whereas the culture from earlier in
- 20 August just represented contamination -- or,
- 21 actually, colonization of the wound.
- 22 Q Doctor, in your experience, do you treat
- 23 sternal wound infections following bypass
- 24 surgery?

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BY MR. MEADOWS

86

- 1 A Yes.
- 2 P So if there is a record that said 'CX
- 3 negative,' what would that mean to you?
- 4 A That would mean cultures were negative.
- 5 Q If you, as an infectious disease specialist,
- 6 had been consulted with regard to the culture
- 7 that grew Serratia on August 30th, would you
- 8 have done anything differently?
- 9 A No.
- 10 Q Why not?
- 11 A Because that culture represented colonization
- 12 rather than infection.
- 13 Q If you had been consulted as an infectious
- 14 disease specialist when the patient came to
- 15 the emergency room on September 4th, would you
- 16 have done anything different?
- 17 A No.
- 18 Q In your opinion, Doctor, to a reasonable
- 19 degree of medical certainty, do you believe
- 20 there's any connection between the rare
- 21 Serratia mentioned in the culture results of
- 22 August 30th and the infectious process that
- 23 was diagnosed when he returned to the hospital
- 24 I believe on August 9th?

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DEPOSITION OF GARY NOSKIN, M.D.  
BY MR. COTICCHIA

88

- 1 A Yes.
- 2 Q Is that a known complication of bypass
- 3 surgery?
- 4 A Yes.
- 5 HR. MEADOWS: Thank you, Doctor.
- 6 That's all I have.
- 7 THE WITNESS: Thank you, Bill.
- 8 MR. COTICCHIA: I have two more
- 9 questions.
- 10 BY MR. COTICCHIA:
- 11 P Did you see the video of Richard Roldolfi
- 12 depicting his injuries?
- 13 A No.
- 14 P Doesn't every infection start off as a rare
- 15 colonization?
- 16 A Not -- well --
- 17 Q I'm not talking about cultures in a
- 18 laboratory. I mean in real-life situations
- 19 with patients.
- 20 A Well, in real-life situations, every infection
- 21 starts out with just one bacteria.
- 22 MR. COTICCHIA: Thanks.
- 23 MR. MOSCARINO: No more, Bill?
- 24 MR. MEADOWS: Actually, Doctor,

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DEPOSITION OF GARY NOSKIN, M.D.  
BY MR. MEADOWS

89

1 would you hand your CV to the court reporter  
2 to have it marked as Defendant's Exhibit A?  
3 THE WITNESS: I don't have a copy  
4 of mine with me. Perhaps if You could use  
5 someone else's.  
6 MR. COTICCHIA: I have one.  
7 George has one.  
8 MR. MOSCARINO: I have one. I'll  
9 give the doctor, for the record, my COPY -- I  
10 mean, I'll give the court reporter -- I'm  
11 sorry -- my COPY.  
12 THE WITNESS: Okay. I've got it.  
13 (The document was thereupon  
14 marked Defendant's  
15 Deposition Exhibit A for  
16 identification as of May 5,  
17 2000.)  
18 BY MR. MEADOWS:  
19 Q Doctor, Just for the record, would you  
20 identify what has been marked as Defendant's  
21 Exhibit A?  
22 A It's a COPY of my curriculum vitae.  
23 MR. MEADOWS: Thank you, Doctor.  
24 That's all I have.

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91

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DEPOSITION OF GARY NOSKIN, M.D.  
BY MR. MEADOWS

90

1 MR. MOSCARINO: Okay. We'll read  
2 the deposition. Thanks.  
3 MR. COTICCHIA: I want a  
4 transcript, and I want the mini transcript. I  
5 don't need the CD ROM or whatever you call it.  
6 MR. MEADOWS: I'd like to order  
7 it.  
8 AND FURTHER DEPONENT SAITH NOT AT 11:19 A.M.

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## DEPOSITION OF GARY NOSKIN, M.D.

92

1 I have read the above and foregoing, and  
2 it is a true and correct transcript of my  
3 deposition given on the day and date  
4 aforesaid.  
5  
6  
7

\_\_\_\_\_  
GARY NOSKIN, M.D.

Subscribed and sworn to before me this  
\_\_\_\_ day of \_\_\_\_\_, 2000.

\_\_\_\_\_  
Notary Public

My Commission Expires  
\_\_\_\_\_

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# DEPOSITION OF GARY NOSKIN, M.D

Page 1

<p><b>A</b></p> <p>abbreviation 85:23 abdomen 32:6 40:6 41:12 abdominal 40:24 absence 46: 14 Absolutely 20:9 abstracts 83:1 accept 39:2 41:17 acceptable 64:10 accuracy 74:8,13 achievable 21:11 acid 46: 18,19,24 47:4,7,8,10,12 acquiring 37:23 acted 62:15 Actinomyces 47:6 activity 21:12 actual 37:24 66:21 acute 12:1 add 48:12 additions 6:6 adequate 21:12 administrative 67:17,21 admission 9:6 13:24 16:22 18:23 22:9 26:5 32:14 45:13 72:11 78:6,21 80:2 admissions 73:9 admitted 14:20 16:17 29:4 33:23 34:19 37:13 aerobic 46:10,13 affidavit 57:6 affixed 94:8 aforesaid 92:4 93:21 agree 39:6,8 59:15 73:10 74:11,12 75:22 76:6 agreement 4:6 61:1 ahead 8:1 17:7,12 18:16 27:24 35:6 58:21 al 1:7,10 Allow 59:14 alternative 85:13 aminoglycoside 72:24 amount 11:24 16:1 31:20 anaerobic 46:10,15 analysis 79:11 anatomy 25:14 Ancef 20:13,24 21:1 antibiotic 20:5 73:15 74:17</p>	<p>antibiotics 20:8 25:8,8,11 68:16 71:21 72:18 74:10 74:21 antimicrobiai 21:12 72:8 antimicrobials 71:8 71:10 anybody 19:8 anymore 54: 15 Anytime 29: 11 appear 47: 19 appearance 94: 1 appeared 2:6,12,18 appointment 68:6 appropriate 37:18 73:15 approximately 64:16,22 65:7,22 65:24 66:11 70: 11 82:21 April 9:18 59:19 area 4:21,23 6:21 28:20 67:19 82: 13 argument 57:3 aspirate 31:14 assessment 11:9,19 assist 79: 11 assistant 68:4 associate 54:8 68: 10 associated 37:3 51:21 53:14,24 assume 38:8 55:7,18 59:10,14 atelectasis 15:22 attached 59:23 attendings 83:20 attorney 60:22 62:2 August 9:6 14:5 17:17 18:20 19:18 20:10 21:15,19 22:4 30:18 32:16 33:16,22 34:17 35:15 38:10 39:17 47:24 50:7 55:8 72:1,11 76:7 80:2 85:17,19,19 86:7 86:22,24 87:5,20 author 12:12 authored 82:22 availability 71:3 Avenue 2:10,16 average 69:12 aware 38:10,20 77:9 78:4 aztreonam 72:22 a-z-t-r-e-o-n-a-m 72:22 A.D 1:22 93:15 94:9</p>	<p>a.m 1:23 90:8</p> <p><b>B</b></p> <p>background 81:4 81:15 bacteremia 52:7,9 bacteria 7:1 17:13 19:6,9,10 20:7,8 21:13 23:19 24:12 29:23,24 30:15 34:4,5,7 36:12,20 37:2,3 42:12,14 42: 17 46: 12 47:21 48:2,5 71:12 88:21 bacterial 21:9 bacterium 47:5 bad 39:1 based 21:10 24:22 55:19,22 56:10 58:4 84:1,2,3 Basically 57:10 basis 30:2 68:8 became 5:4 77:6 beginning 11:10 25:16 26:6 41:21 behalf 2:6,12,18 61:10,12 64:1 66:1 Bennett 10:8 59:9 Bergan 2:12 8:12 9:11 13:15 22:8 44:16 45:10,21 50:16 76:6,17,23 77:9,11 80:24 83:19 84:7,20 Bergan's 44:11 45:3 58:13 59:4 83:14 83:22 best 20:5 25:10 better 43:14 Bill 56:4 80:20,24 81:2 82:2 88:7,23 bit 6:17 71:24 block 79:6 blocks 79:14 blood 12:4,5,7 24:11 32:10 42: 18 42:19 51:17,21 52:5,6,7 53:15,24 bloodstream 21:11 54:6 boards 5:6,9 board-certified 5:1 5:3,4 64:4 body 48:4 bone 27:8 28:20 29:18,19,21 48:9 50:22 51:4 52:10</p>	<p>79:6 bony 27:6 29:13 book 82:24 bootstrap 26:5 bottom 19:21 boy 64:23 69:23 breach 62:5 break 54:21 72:16 brick 36:3 bricks 38:4 bring 25:3 broke 44:2 broken 76:2 building 2:4,15 36:3 bypass 14:1,3 27: 13 70:5,13 87:23 88:2</p> <p><b>C</b></p> <p>call 44:20 85:20 90:5 called 1:13 4:9 45:5 46:13,14 47:6 54:1 70:3 calls 58:19 capacity 83:19 cardio 70:5 cardiothoracic 51:9 51:10 care 14:6 25:10 43:20 56:2 62:5 62:16,21 66:9,14 67:10 78:24 79:1 84:8,22 caring 84:7 carried 8:6 carrier 7:22 cases 54:18 61:3,6 62:1,7,10,10,22 63:15 64:13,17,24 65:8,13,15,22,24 66:7,12,24 67:3,5 83:11 category 73:1 cause 47:5 49:2,16 50:1,3 54:11 caused 29:22 cavity 21:18,24 CD 90:5 cefa 20:19,20 cefazolin 20:18,21 20:22 74:18 cells 24: 11 cellulitis 7:6 Center 7:14 cephalosporins 72:21 certainly 35: 12 55:15 73:15 83:23</p>	<p>certainty 32:23 49:7 49:10 84:6,23 86:19 Certified 93:3 certify 93:7,22 94:3 cetera 61:8 CHADWICK 1:10 change 56:6 60:2 80:14 87:14 91:2 changed 54: 13 chapters 83:1 characterized 51:17 51:19 charges 42:3 charging 41:24 42:2 chart 45:4 83:14,16 check 23:2 44: 19 checked 44:17 checking 82:2 chest 11:24 12:2 15:21,22,24 21:17 21:24 40:22 41:1 41:11 Chicago 1:21 81:6 93:14 chills 23:23 24:3 chronological 19:19 31:6,7 Cipros 72:19 CIRCUIT 1:5 circumstances 14:23 48:7 Civil 1:15 4:10 claim 64:8 Clair 2: 10 clean 43:15 cleaning 76:4 clear 12:15 62:11 62:14,21 clerkships 83:6 Cleveland 2:5,10,16 clinical 23:22 33:4 51:16,18,24 53:18 54:10 65:20 67:14 68:3 78:18 83:5 85:6 clock 82:2 closely 36:7 cold 47:8,12 48:22 48:23 49:1 collect 50: 19 collection 24: 11 colonization 42:8 42:11 86:11 87:21 88:15 colonized 42: 15 73:6 commencement 93:7</p>
---	--	---	--	--



# DEPOSITION OF GARY NOSKIN, M.D.

Page 2

<p><b>Commission</b> 92:19 94:14 <b>committees</b> 6:9 <b>commonly</b> 37:3 <b>communicated</b> 22:8 45:10 <b>community</b> 37:6 <b>company</b> 8:19 <b>complaining</b> 14:7 <b>complete</b> 6:11 75:17 82:8 93:20 <b>completed</b> 82:9 <b>completing</b> 82:14 <b>complicated</b> 53:2 <b>complication</b> 51:22 70:15 88:2 <b>concentration</b> 21:6 21:8 <b>concern</b> 8:18 43:3 <b>concerned</b> 11:12 48:17 <b>concerning</b> 93:12 <b>concession</b> 25:24 <b>condition</b> 53:14 <b>confusing</b> 18:16 <b>confusion</b> 66:18 <b>connection</b> 86:20 <b>consideration</b> 15:13 34:1,16 <b>considered</b> 29:12 <b>consistent</b> 65:2 <b>constellation</b> 52:23 <b>consultant</b> 70:3 <b>consultations</b> 69:17 <b>consulted</b> 86:6,13 <b>contaminant</b> 42:8 <b>contaminated</b> 42:21 <b>contamination</b> 42:16,22 87:7,20 <b>context</b> 38:24 75:23 <b>contracting</b> 37:12 <b>Control</b> 67:23 <b>controversy</b> 93:10 <b>copies</b> 60:12 <b>copy</b> 11:5 60:3 89:3 89:9,11,22 <b>coronary</b> 70:13 <b>correlation</b> 87:3,10 <b>correspondence</b> 56:7,9,11 57:5 <b>cotichia</b> 2:2,3 3:4,6 4:3,15 8:2,4 12:13 13:7,11 14:15 15:4 17:3,8,14 18:12,17 22:23 23:3 26:12,14,24 28:2 35:14 36:19 36:22,24 37:7,17 38:2 39:2,5 43:8</p>	<p>45:18 46:2,6,8 52:15,19 54:23 55:4,6,23 56:5,15 56:19 57:1,8,11 58:23 59:24 60:1 65:17,18 66:22 72:7 74:4,6 75:8 76:14 77:4,22 78:3,15 79:5,19 79:23 80:8,12,16 80:19 81:12,16,20 82:1 84:9 88:8,10 88:22 89:6 90:3 <b>cough</b> 44:8 48:19 <b>coughed</b> 44:1 48:22 <b>coughing</b> 76:2 <b>counsel</b> 10:14 56:7 94:3 <b>count</b> 6:24 75:14 <b>county</b> 1:3,5,18 93:2,6 <b>couple</b> 44:7 46:22 48:18 65:15 <b>course</b> 39:9,13 53:2 68:19 <b>court</b> 1:5,21 56:20 56:21 89:1,10 93:14 <b>coverage</b> 8:5 <b>cross</b> 84:12 <b>CT</b> 51:6,9 <b>culture</b> 14:11,17,23 15:6,9 17:15 18:20 19:8,18 20:10 21:15,22 22:13,15,16 23:5 23:11,19 26:1 30:15,18,20,23 32:1,6,10,15 38:11,14,18,21 39:18,20 40:2,3 42:19 43:14,17 45:21,23 46:10 47:24 48:4,10 50:6,12,14,18 51:11,13 55:8,9 70:21 74:1 75:17 76:7,7 77:5,6 85:17,18,23 86:6 86:11,21 87:5,7 87:19 <b>cultured</b> 32:15 33:22 42:13 <b>cultures</b> 16:23 17:2 17:16 18:18,22 19:1 30:6 33:16 43:4,9 44:17 51:5 73:8 74:9 77:2 85:10,12 86:4</p>	<p>87:11,13,17 88:17 <b>current</b> 6:7 <b>curriculum</b> 3:10 6:2 6:7,13 68:3 81:13 81:22 82:4 89:22 <b>cut</b> 29:12 <b>CUYAHOGA</b> 1:3,5 <b>CV</b> 82:20 89:1 <b>CX</b> 85:24 86:2 <b>C.S.R</b> 1:17</p> <hr/> <p><b>D</b></p> <p><b>date</b> 11:4 19:17 28:8,13 80:1 92:3 <b>dated</b> 9:2,18 10:16 59:19 <b>dates</b> 46:1,3 <b>day</b> 1:22 69:12 92:3 92:13 93:15 94:9 <b>days</b> 44:7,18 48:18 78:5,21 80:1 <b>dealing</b> 7:9 <b>debridement</b> 25:4,6 27:1,4,19 28:16 28:19 <b>decade</b> 54:13 <b>deep</b> 51:13 <b>defendant</b> 1:11 2:12 2:18 25:23 63:3 <b>defendant's</b> 3:9 89:2,14,20 <b>defending</b> 61:22,23 <b>defense</b> 67:8 <b>defined</b> 36:16 <b>definition</b> 16:13,18 53:7,21 54:5 <b>definitive</b> 26:7 <b>degree</b> 32:22 49:6,9 84:5,23 86:19 <b>dehiscenced</b> 47:18 48:8 <b>dehiscence</b> 14:4,6 14:21 22:10 43:16 44:1,3 48:17 49:11 74:24 75:7 <b>dehiscing</b> 44:10 <b>Department</b> 10:15 67:22 <b>depending</b> 17:6 24:18,19 51:12 72:22 <b>depends</b> 34:6 50:2 50:23 71:2,3 <b>depicting</b> 88:12 <b>DEPONENT</b> 90:8 <b>deposed</b> 13:2 38:9 <b>deposition</b> 1:13 3:9 4:4,5 9:15 10:2,5 10:9 36:8 41:6 44:11,22 47:15</p>	<p>55:2,19,22 58:13 59:5,19,23 74:8 75:20 77:12,18 83:22 89:15 90:2 92:3 93:12,23 94:2 <b>depositions</b> 1:17 4:11 9:11,21,24 10:13 59:11 84:3 <b>derived</b> 68:23 <b>described</b> 24:7 <b>description</b> 40:6 52:8 <b>Despite</b> 25:7 <b>destruction</b> 24:18 <b>determination</b> 43:23 <b>determine</b> 20:5 32:17,21 33:9 34:16 51:1 76:10 76:15 <b>developing</b> 37:4 <b>deviated</b> 84:21 <b>deviation</b> 62:21 67:10 <b>diabetes</b> 52:4 <b>diagnosed</b> 86:23 <b>difference</b> 31:17 41:20 42:7,10 <b>different</b> 24:20 27:9 29:19 34:5 35:2 38:6 39:23 41:12 41:13 44:6 46:11 46:23 53:13 58:19 59:8 62:9 86:16 <b>differently</b> 86:8 <b>Diplomate</b> 93:4 <b>director</b> 67:22 <b>discharge</b> 22:5 30:6 77:3,7 <b>discharged</b> 14:3,20 34:17 76:24 <b>discloses</b> 12:17 32:2 <b>discovery</b> 10:12 <b>discuss</b> 57:24 <b>discussed</b> 60:6 63:14 <b>discussion</b> 74:2 <b>disease</b> 6:21 30:13 34:9 52:4 69:17 70:1 79:18 82:13 83:9 85:7 86:5,14 <b>diseases</b> 4:24 5:5,10 34:13 82:16,18 <b>dispute</b> 55:20 <b>distress</b> 12:2 <b>DNA</b> 32:24 33:8 <b>doctor</b> 12:18,20,22 13:22 21:14 22:13</p>	<p>23:2,11 34:9 38:17 42:1 45:3 50:22 55:7 57:12 60:15 61:11,17,23 64:5,8 65:19,20 66:13 75:11 78:4 80:23 81:24 82:6 84:1,15,24 86:18 87:22 88:5,24 89:9,19,23 <b>doctors</b> 36:6 <b>doctor's</b> 12:23 14:2 81:13,21 82:3 85:9 <b>doing</b> 25:20 43:14 50:21 Don 57:9 <b>dozen</b> 64:23 65:15 65:22,24 66:24 67:3 82:24 <b>dozens</b> 34:4,5 49:16 <b>Dr</b> 4:4,16 8:12 9:11 9:11,13,15,17 13:14,15 14:2 22:8,19 36:8 37:9 39:6 41:6 42:2 44:11,16 45:3,10 45:20 47:15 50:16 55:22 56:9,11 58:13 59:4,18 69:4,4 73:24 74:7 74:16 75:11,19 76:6,17,23 77:9 77:11 80:24 83:14 83:18,22 84:6,20 84:20 <b>draft</b> 57:12 <b>drainage</b> 11:12,24 12:3,14 14:4,8,22 23:24 24:4 29:5,6 47:19 48:9 <b>drugs</b> 72:21 <b>due</b> 48:20 54:18 <b>duly</b> 4:2,12 93:9 <b>duties</b> 67:21 68:11 <b>duty</b> 14:10,23 22:12 22:20 35:23 37:11</p> <hr/> <p><b>E</b></p> <p><b>earlier</b> 85:9 87:6,19 <b>easier</b> 26:9 65:4 <b>education</b> 84:4 <b>effective</b> 25:9 71:8 71:11 72:8 <b>effusion</b> 16:1,4,7,8 <b>eight</b> 65:16 66:3,4,6 <b>Eiler</b> 57:9 <b>Eiler's</b> 56:11 <b>either</b> 44:23 45:17</p>
--	--	---	---	--

# DEPOSITION OF GARY NOSKIN, M.D

Page 3

<p>63:1,15 64:6,8 85:12 elevated 75:14 else's 89:5 emergency 10:15 12:16 13:21,24 86:15 employees 37:8 employment 8:6 Enclosed 57:10 enter 25:19 enterococcal 67:20 Enterococcus 6:19 entire 6:13 24:22 68:22 epidemiology 78:16 78:17 ERRATA 91:1 especially 57:4 essence 54:17 establishes 45:9 et 1:7,10 61:7 Euclid 2:16 evidence 33:14 49:10 exact 11:4 64:9 examination 3:3 4:14 84:12 93:8 examined 4:12 12:18 example 34:8 42:12 42:18 52:1,4 exchange 56:21,22 EXHIBITS 3:9 existence 78:9 experience 6:18 64:3 82:12 84:4 87:22 expert 60:16 63:23 63:24 79:22 experts 69:2 Expires 92:19 94:14 explain 53:20 extensively 6:15 extent 36:11 72:23 eyes 43:13 E-n-t-e-r-o-c-o-c-... 6:20</p> <hr/> <p style="text-align: center;"><b>F</b></p> <hr/> <p>facility 37:22 facts 14:9 58:20 faculty 82:17 faecium 6:20 failure 79:1 fair 54:9 58:10 Fairbanks 1:21 93:14 Fairview 2:18 9:6,7</p>	<p>10:14,15 14:10 33:2 35:18,23 39:10,14 78:5,22 80:3 familiar 34:11 far 17:16 43:13 farther 40:19 41:4 fast 46:18,19,24 47:4,7,8,10,12 51:19 53:22,22 Fellowship 82:16 felt 62:15 67:5,9 Fever 23:23 24:3 49:13,15,17 51:17 51:19 53:23 75:13 file 55:14 filed 38:19,22 84:11 final 22:4 45:22 55:9 find 11:19 48:5 findings 52:24 60:7 fine 28:13 57:1 fingerprinting 33:1 33:8 firm 61:7 62:8 63:2 63:16 five 61:3 62:23 70:14 flap 40:21,24 Floor 2:9 fluid 16:1 fluoroquinolones 72:19 follow 85:10 followed 28:16 74:2 following 12:8 14:3 18:22 20:10 21:4 27:13 30:6 32:13 45:12 70:12 73:9 82:15 87:23 follows 4:13 55:3 foregoing 92:1 93:19 formal 68:19 found 29:15 30:3 45:21 63:3,6 four 48:16 61:9 62:10,22,24 66:1 68:21 fourth 62:18 83:6 frame 17:6 18:11,13 friendly 84:12 front 53:16 71:13 full 4:16 fungi 24:12 further 90:8 93:22 94:3</p> <hr/> <p style="text-align: center;"><b>G</b></p> <hr/>	<p>gary 1:13 3:10 4:4,8 4:18 92:8 93:8 general 10:16 17:9 18:14 52:8 53:5 72:13,17 75:23 78:5 generally 51:5 generic 20:22 gentamicin 72:24 genus 32:20 35:9 george 2:14 89:7 getting 65:6,11 give 25:11 28:8,9,13 31:2,11 32:18 52:1 64:21 68:16 68:17,18 89:9,10 given 63:24 92:3 93:16 giving 61:12 good 5:16 54:20 Gopal 9:11 37:9 59:9 84:20 Copal's 36:8 gotten 23:1 55:20 graduated 81:8,9 Gram-negative 73:23 Great 19:20 greater 16:20 grew 19:1 30:6 86:7 87:11,13 grow 24:15,16 46:11 growing 21:13 71:13 grown 31:21 growth 21:9 22:3,7 30:3 44:15 71:9 guess 62:19 71:18 guide 20:4 guy 16:6 48:15</p> <hr/> <p style="text-align: center;"><b>H</b></p> <hr/> <p>half 42:2 54:18 62:20 hand 6:3 89:1 94:8 handed 10:22 handing 60:9 handwriting 11:22 Hanna 2:15 happen 24:20 happens 24:14 happy 28:12 53:20 headings 59:8 hear 46:4 heard 47:9,14,16 53:9 heart 51:19 53:22 help 11:19 78:1</p>	<p>helpful 15:10 helps 20:4 hemodialysis 7:7 hereunto 94:7 Hi 81:2 high 51:19 history 14:19 28:11 honest 6:1 13 Hopp 1:17 93:3 hospital 1:20 2:18 7:15 9:6 10:16 11:11 14:10 16:17 16:20 19:9 22:12 22:14 33:2,7 35:18,20,23 36:3 36:4 37:4,5,8,24 38:3,5 39:10,14 44:24 45:7 47:10 61:10,15,16,23 64:8 66:12 68:1,2 68:7 69:18 78:5 78:22 79:7 80:3 83:17,20 86:23 93:13 hospitalization 16:14,15 hospitals 7:13,16 hospital's 10:14 78:24 hospital-borne 36:20 78:7 host 71:20 72:17 Hotel 59:2 hour 1:22 42:5 hours 16:20 hypothetical 80:9</p> <hr/> <p style="text-align: center;"><b>I</b></p> <hr/> <p>idea 12:22 identical 33:17 35:3 identification 23:19 48:2 89:16 identified 30:15 59:18 identify 19:9 89:20 identifying 42:16 illinois 1:19,21 5:13 63:22 85:4 93:1,6 93:15 imply 17:13 important 51:11 incision 11:12 14:11 14:24 15:9 41:3 48:8 incisions 14:17 15:6 include 29:13 30:11 68:15 included 83:14 includes 53:22</p>	<p>income 68:22 incubating 16:22 incumbent 75:16 independent 38:21 61:4 INDEX 3:1 indicate 23:20,24 24:5 42:14 48:3 52:17,21 58:8,11 58:16,17 indicated 9:5 93:24 indicates 15:12 42:11 indication 25:22 33:5 individual 50:23 78:14 infected 25:12,13 28:19 71:6 infection 11:23 14:8 15:7,14 16:3,10 16:12,13,19,21 17:1,13,22,23 18:3,4,8 23:18,20 23:21,22 24:1,5,9 24:10,14,23 25:3 26:1,3,6,18,20 27:15,16,18 28:23 29:18 33:14 35:16 35:19,24 36:5 37:1,23 39:10,14 42:14,24 43:4 48:3,6,11,17,21 49:1,4,12,20 50:1 50:2 52:5,7,18 54:6,8,11,17,19 58:8 67:23 71:14 71:17 72:9,23 73:10 75:1,6,16 76:10 86:12 87:8 87:19 88:14,20 infections 19:10 25:10 32:24 35:20 37:4,12 49:2 67:20 70:7,9,12 73:23 87:23 infectious 4:24 5:5 5:10 6:21 30:13 34:9,13 47:2 69:17 70:1 79:17 82:13,16,18 83:9 85:7 86:5,13,22 inflection 72:19 influence 8:14,21 inform 22:12 38:14 55:11 informal 68:15 information 18:14 infrequently 68:9</p>
---	---	---	---	--

# DEPOSITION OF GARY NOSKIN, M.D.

Page 4

<p>inhibitory 21:6 initial 26:1 49:11 injuries 88:12 insight 56:4 insinuation 25:22 insofar 93:11 insurance 7:22 insured 8:12,13 insurer 8:22 interest 8:19,23 interested 56:20 94:6 interests 84:14 internal 5:4,7 82:11 internship 5:18 interrogated 93:11 investigations 78:18 irrelevant 74:23 issues 68:23</p> <hr/> <p><b>J</b></p> <p>J 1:17 93:3 Joe 18:9 25:18 54:22 78:1 80:22 John 10:7 join 68:12 joined 82:17 JOSEPH 2:2,3 judgment 33:4 June 94:15 jury 53:16</p> <hr/> <p><b>K</b></p> <p>kane 1:19 93:2,6 keep 26:9 71:18 keeps 41:3 Keflex 20:14,15 21:2 74:19,20 Kefzol 20:24 kind 13:6 18:5 25:24 26:5 40:24 kinds 49:8 knock 63:20 knowing 14:19 known 44:15 70:16 88:2 knows 80:10</p> <hr/> <p><b>L</b></p> <p>L 2:2,3 lab 19:13,15 36:6,7 37:10 42:19,21 44:20 45:5 50:20 55:11 59:15 85:21 laboratory 31:21 37:10 88:18 labs 22:24 lacerated 27:20 28:6,14,24 51:23</p>	<p>53:3 laughter 41:22 lawsuit 38:19,22 lawyer 64:19 66:2 ayman 27:8 53:17 ayman's 21:7 eave 60:13 ecture 68:7 ectures 68:16 eft 15:24 erner 69:4 ess 68:24 etters 55:17 56:1 56:18 evel 21:10,11 Levy's 41:6 icense 5:15,16,19 icensed 5:12,20 84:24 ight 13:23 14:19 iked 44:14 imine 84:11 imitations 34:11 ine 75:12 91:2 istened 15:20 literally 49:16 literature 53:10 little 40:19 67:18 71:24 location 71:2 longer 26:11 looked 43:13 looking 21:21,23 35:13 76:3 looks 6:24 43:15 lot 6:22 26:8 58:19 71:10 low 51:17,21 53:15 53:23,24 lowest 21:8 low-grade 49:13,15 49:17 lungs 15:20 16:2 L.L.P 2:13 L.P.A 2:2,7</p> <hr/> <p><b>M</b></p> <p>M 2:14 making 25:23 29:19 malpractice 7:21 8:5 63:19 manifestations 52:3 marcescens 7:5,10 16:24 17:21 19:2 19:5,22 20:12 30:7 31:1,15,18 31:19 32:3,7,10 35:10 38:11 39:15 39:17,22 40:4</p>	<p>41:19 45:23 55:10 72:10 nark 10:11,11 narked 3:9 89:2,14 89:20 Markowitz 9:13,18 42:2 56:9,12 57:13,16 59:9 73:24 74:16 Markowitz's 9:15 47:15 55:22 59:18 74:7 75:11,19 Marriott 59:2 Massey 57:18,19,20 60:7,15,24 61:7 materials 83:13 85:17 math 65:16 matter 27:6 29:13 45:8 78:13 matters 93:10 meadows 2:8 3:5,7 22:22 27:21 54:20 55:18 75:5 77:1 80:21,23,24 81:3 81:14,18,23 82:5 84:15,18 88:5,24 89:18,23 90:6 means 12:15 13:17 13:21 21:6 26:20 93:17 medical 7:14,21 8:12,14,23 9:1,4 12:18 30:14 32:19 32:22 37:20 45:2 49:6,10 53:9 61:13 62:4 63:19 63:23,24 65:20 66:14 67:22 68:7 68:12,17 69:1,2 81:5,6,6 83:5 84:1 84:6,23 86:19 medications 72:8 73:2,13 medicine 4:21 5:4,7 5:12,20,23 7:12 13:21 65:21 67:13 67:14 73:17 82:11 85:1,7 medicolegal 68:23 meet 79:1 meetings 83:2 member 6:10 Memorial 1:20 93:13 mention 30:5 mentioned 86:21 met 83:10 84:8 methods 46:16</p>	<p>Meyers 13:2 MIC 21:4,6 Microbacterium 47:4 microbiologists 37:11 microbiology 10:7 19:16 21:22 24:1 31:10,21 45:8 microorganisms 24:13,15 microscope 46:21 mind 40:11 nine 89:4 nini 90:4 nimial 21:6 minimize 35:24 37:12 minutes 54:21 misinterpretation 58:12 misleading 18:16 misspoken 66:19 mistaken 18:7 20:15 74:17 misunderstood 65:21 mitis 23:15 30:1,4 30:21 39:11 87:9 moderate 31:14,18 31:23 32:2 modern 34:13 month 44:4 months 11:4 mortar 36:4 38:4 moscarino 2:13,14 4:6,7 7:24 12:11 13:5,9 14:13 15:1 17:2,5,10 18:9,15 25:18 26:19 27:22 35:4 36:17,21,23 37:15 38:23 43:6 45:14,24 52:12 54:22,24 55:16,24 56:8,17,23 57:2 57:16 58:18 59:22 60:15,23 61:7,14 61:16,22 62:2,8 63:1,7 65:10 66:16 72:3 75:2 76:12 77:17,24 78:12 79:2,21 80:4,20,22 88:23 89:8 90:1 Moscarino's 11:3 63:16 motion 84:11 muscle 52:10 mutual 84:13</p>	<p>n-a-r-c-e-s-c-e-n-s 7:6 M.D 1:10,13 3:10 4:8 92:8 93:8</p> <hr/> <p><b>N</b></p> <p>YAD 12:1 name 4:16,17,18 7:21 20:22 38:17 80:23 named 10:7 13:2,12 names 20:24 Yancy 1:17 93:3 NEAL 1:10 necessarily 31:6 39:4 52:17 58:8 necessary 25:6 43:9 43:18 47:24 48:10 69:7 73:7 need 25:3 48:12 90:5 needed 33:5 negative 35:8 44:18 77:3 86:3,4 negligence 58:9,11 58:16,17 62:4,11 62:14 63:6,10 67:6 negligent 63:4 66:13 negligently 66:8 neither 84:20 never 47:9,14 69:9 new 79:22 Nocardia 47:6 nonspecific 49:15 49:24 normal 15:18 Northwestern 1:20 7:14 8:7 67:24 82:7,17 93:13 noskin 1:13 3:10 4:4 4:8,16,18 22:19 39:7 92:8 93:8 nosocomial 16:12 16:13 17:1,21 19:5,10 36:12,15 36:21 37:1 58:7 70:9 notarial 94:8 Notary 1:18 92:16 93:5 94:12 Note 58:7 noted 24:4 26:13 30:16 notes 57:24 58:4,24 59:3,4,8,10,13 60:12 93:20 notice 6:14 58:7</p>
---	--	---	--	--

# DEPOSITION OF GARY NOSKIN, M.D.

Page 5

November 9:3 10:20 57:14,21 60:4 umber 31:2,11 64:22 umbered 58:1 lumbers 31:5 64:9 66:21 umerous 7:1 urses 37:9 urse's 11:18 ursing 11:9 37:20 4-o-s-k-i-n 4:18 V.E 2:10	rganisms 24:16 35:11 46:23 47:3 76:15 rifices 48:4 steomyelitis 29:16 29:17,18,22 utbreak 78:22 80:3 utbreaks 78:17 utcome 25:17 26:16 84:14 94:6 utcomes 78:19 utline 78:2 utside 74:3 utstanding 22:24 xygen 46:12,14	67:7,15,16 68:24 85:5 percentage 67:12 68:22 ercentages 66:20 ercents 64:10 erform 32:24 erformed 15:20 eriod 69:16 ermanent 5:18 erson 53:10,11 63:4 ersons 93:24 ertaining 1:16 4:11 ihone 85:14,20 hysician 4:20 13:12,18,21 22:17 22:19,20 23:1 43:22 71:1 85:11 hysicians 20:5 71:4 84:7,21 iperacillin 73:14 lace 54:20 laced 46:21 laintiff 1:8,14 2:6 4:9 26:17 67:4 leural 15:24 16:4,7 16:8 osition 56:6 63:9 66:7,12 ositive 22:15 42:20 77:5,6 possibilities 49:8 possible 75:16 postoperatively 48:18 powerful 25:7 practice 5:12,20 6:22 7:12 34:10 65:20 67:13,14 85:1,6 practiced 5:23 practices 13:14 practicing 65:19 preceding 30:5 preparation 74:19 prepared 57:14,21 83:18 prescribed 20:13,16 presence 24:12 46:12 47:21 74:9 present 2:1 12:2 16:21 70:21 76:1 76:16 93:23 presents 47:18 pressure 51:17,21 53:15,24 pretty 6:10 70:15	revent 21:13 35:19 35:20 36:5 37:22 70:18 71:12 reventing 71:9,15 revention 67:23 revious 13:24 93:7 rimarily 60:23 67:20 rimary 83:4 rivileges 7:12,15 7:18 robability 32:19 robably 40:20 43:10 61:9 62:24 64:12,23 66:10 67:8 68:24 69:23 70:14 79:16 82:23 82:24 83:1 roblems 78:4 rocedure 1:16 4:10 29:11 56:3 rocess 10:12 24:14 27:19 86:22 roduction 24:17 rofessional 8:15 67:12 82:12 85:6 rofessor 68:4,4,10 ronounce 20:19 roper 53:7 84:13 rotective 8:13,14 8:23 rove 35:8 rovided 11:2 rovisions 1:15 4:10 Public 1:18 92:16 93:5 94:12 publications 82:20 82:21,23 published 6:9,16 pure 30:3 purposely 25:20 pursuant 1:14 4:5,9 pus 24:17 29:7 47:19 48:10 put 18:13 45:2 putting 18:10 38:24	<b>R</b> are 19:21 20:11 30:7 38:11 45:23 55:9 70:15 86:20 87:5 88:14 ate 51:19,20 53:22 53:23 eading 12:9 eads 55:9 eality 75:24 eal-life 88:18,20 eason 15:5 18:9 43:24 44:3 48:2 48:14,20 54:2 66:20 84:10,10 91:2 easonable 32:18,22 49:6,9 84:5,22 85:11 86:18 eceive 5:15 ecess 55:1 ecognize 12:20 ecord 4:17 10:15 10:19 12:12,17 15:11 24:4 25:23 30:14 45:2,7,9,11 54:24 55:5 57:9 60:9 61:13 74:3,5 82:2 86:2 89:9,19 ecords 9:1,4,7,8 19:13,15,16 24:23 44:21,23 57:10 58:5 83:17,18 84:2 -educed 93:17 eference 12:4 eferral 13:12,18 referred 20:18 47:20 referring 23:8 38:3 refused 55:21 refusing 56:13 regard 82:20 86:6 regarding 57:3 79:7 regardless 63:21 Registered 93:4 regular 68:8 related 16:9,14,15 27:15 49:11 52:17 54:17 78:18 94:4 relation 93:10 Relatively 68:9 relevance 76:5 REMINER 2:7,7 remove 25:12 28:19 render 78:24 rendered 62:3 rephrase 35:22 72:6 report 9:13 10:20
<b>O</b> bjected 17:11 bjecting 18:10 bjective 8:15 btain 22:21 85:12 btained 85:19 btaining 85:14 bviously 26:2 43:3 47:17 76:10 ccupation 4:19 ccur 37:5 ccurred 5:17 22:4 28:24 44:4 ccurs 16:14,16,19 ccoffice 11:3 14:2,2 44:23 45:4 62:2 83:14,16 official 75:17 OH 2:5,10,16 ohio 1:2,5,15 4:10 63:22 once 22:14,16 64:15 ones 9:5 ongoing 62:17 Ontario 2:4 open 44:2 76:2 opened 40:12,15 43:12 51:1 75:15 opening 76:3 open-heart 16:6,9 opinion 29:2 30:2 32:13 62:3 63:24 78:11,24 80:14 84:5,19 86:18 87:14 oral 74:18 order 19:19 31:6,7 90:6 ordered 12:2 43:4 55:7 76:6 ordering 22:17,18 22:19 organism 24:19 31:20,22 47:6	<b>P</b> pages 3:10 pain 49:22,22,24 50:1,3 75:14 panel 34:6 panels 35:13 paper 7:4 papers 6:8,15 7:1,9 paragraph 30:5 part 6:10 25:13,14 44:9 54:9 64:13 64:15 94:1 participate 68:19 participated 82:22 particular 17:15 particularly 15:9 parties 84:13 93:24 94:5 pass 5:6,9 pathologist 79:17 patient 7:6 11:23 13:22 20:6 47:17 51:2 61:15,17 64:1,7,14,15,18 65:9,14 66:1,8 73:5 75:13 86:14 patients 16:16 23:23 35:19 36:1 37:13,23 64:22 69:11,18,21,24 70:1,5,11 88:19 patient's 38:14 44:5 64:18 66:2 Paul 2:12 pay 81:21 paying 82:3 pectoralis 40:21 peer-review 82:23 people 37:21 38:5 53:9 54:14 62:9 percent 59:14 64:1 64:16,17,21 65:1	<b>Q</b> qualify 71:23 quarter 65:5 67:3 questioned 74:8,12 questions 11:23 14:8 18:11 25:21 26:8 35:5 72:12 80:17 82:19 88:9 quite 6:17 quote 75:13		

# DEPOSITION OF GARY NOSKIN, M.D

Page 6

<p>19:24 20:4 26:2 30:12 41:18 42:23 57:7,22 60:2,6 61:5 64:7 69:4 85:13 <b>reporter</b> 89:1,10 93:4,5 <b>reports</b> 22:16,18,21 45:8 69:1,8 75:18 <b>represent</b> 80:24 87:18 <b>represented</b> 62:9 86:11 87:7,20 <b>representing</b> 61:15 61:16 62:14 63:3 63:7 <b>request</b> 64:18 <b>requested</b> 79:10 <b>require</b> 54:5 73:5 <b>research</b> 6:17 67:18 67:19 <b>residency</b> 81:10,24 82:6,8,9,10,14,15 <b>resident</b> 13:2 38:20 45:5 85:20 <b>residents</b> 9:22,23 37:9 38:9,13 44:20 62:15,15 83:8 <b>resist</b> 2:1 <b>resistant</b> 74:22 75:9 <b>respiratory</b> 31:10 32:1 37:21 49:3 51:20 52:9 53:22 <b>responsibilities</b> 67:17 83:3,4,7 <b>responsibility</b> 22:14 22:20 35:18 38:13 85:10 <b>result</b> 24:16,17 26:17 75:6 <b>resulted</b> 44:9 <b>results</b> 22:13,21 23:1 45:9 76:23 85:12,14,18 86:21 <b>resumed</b> 55:3 <b>returned</b> 86:23 <b>review</b> 8:15 24:22 30:14 55:19 56:10 58:5 60:20 61:13 64:17 83:17 84:1 84:2 85:16 <b>reviewed</b> 9:2,4,10 9:12 60:18,21,24 61:6,21 62:1 63:15 64:6,13,23 65:8,14,15,22 66:23 83:11,13,22 <b>reviewing</b> 68:23</p>	<p>85:12 <b>rewire</b> 14:6 <b>re-admitted</b> 14:5 45:19 <b>richard</b> 1:7 10:2 22:5,9 35:16 72:1 78:21 79:7 80:1 88:11 <b>ridolfi</b> 1:7 10:3,5 11:11 12:17 14:1 15:13 16:24 18:18 20:12 24:3,23 25:13 26:4 27:20 28:6 29:3 33:7 34:17 35:16 40:12 42:6 43:24 45:19 47:17 59:1 74:18 76:24 84:8 88:11 <b>Ridolfi's</b> 14:2 22:5,9 39:9 50:10 72:1 72:10 74:10 78:6 78:21 79:7 80:2 <b>ripping</b> 48:19 <b>risk</b> 35:24 37:12 42:24 70:16 <b>Robert</b> 2:12 <b>ROM</b> 90:5 <b>room</b> 12:16 13:24 86:15 <b>rotate</b> 83:8 <b>rough</b> 57:12 <b>round</b> 65:1 <b>rounds</b> 68:13 <b>rule</b> 35:1,7 47:20 48:11 <b>rules</b> 1:15 4:10 56:20,21 <b>run</b> 17:17 <b>R.D.R</b> 1:18</p> <hr/> <p>S</p> <p><b>SAITH</b> 90:8 <b>sample</b> 42:20 46:21 50:20 <b>sanguinous</b> 12:5,6 <b>saw</b> 51:1 83:16 <b>school</b> 81:5,6,7 <b>scientific</b> 83:2 <b>seal</b> 94:8 <b>second</b> 72:20 <b>secondary</b> 24:2 <b>seeing</b> 57:4 <b>seen</b> 10:19,22 69:9 79:6 <b>semantics</b> 19:12 36:2 <b>send</b> 22:16 50:20 <b>sense</b> 19:12 <b>sent</b> 22:18 42:18</p>	<p><b>Sep</b> 52:14 <b>separated</b> 5:13 <b>separation</b> 48:9 <b>sepsis</b> 51:15,16,18 51:23 52:5,16 53:2,3,5,7,10,14 53:19,21 54:5,8 54:18 <b>September</b> 9:8 14:7 15:11 17:18 18:23 23:5 28:15 29:4 30:20,24 31:9 32:1,5,9,14 33:17 33:23 34:19 35:15 35:17 39:20 40:2 43:5 45:12,19,22 72:2,11 73:10 86:15 87:1,2,8,13 87:18 <b>septic</b> 53:11,13,13 54:1 <b>septicemia</b> 54:15 <b>sequence</b> 3:14 <b>sero</b> 11:24 12:3,8, 4 12:15 <b>Serosanguinous</b> 12:7 <b>Serratia</b> 7:5,10 16:24 17:21 19: 19:5,22 20:11 21:1 30:7,24 31:15,17,18 32:2 32:7,10,13,15 33:10,18,19,21,22 34:18 35:10,16 36:11,14,23,24 37:1,5 38:11 39:15,17,22 40:3 41:18 45:23 55:9 71:9,11,11,22 72:9,18 73:3,11 73:16,21 74:21 75:9 78:7,22 80:3 86:7,21 87:6,12 87:13,18 <b>service</b> 69:14,14,20 83:9 <b>set</b> 94:7 <b>sets</b> 77:2 <b>setting</b> 44:8 48:18 76:1 <b>settled</b> 62:12 <b>SHEET</b> 91:1 <b>shock</b> 53:11,13,13 54:1 <b>shorthand</b> 93:3,17 93:20 <b>showed</b> 15:22,24 38:11</p>	<p><b>shows</b> 23:14 30:21 30:23,24 31:14 32:6,10 39:21 <b>sign</b> 71:5 <b>signature</b> 12:21,23 13:3 <b>significance</b> 11:8 30:9,10 38:7 <b>significant</b> 30:11 <b>simple</b> 26:15 <b>site</b> 24:19 29:12 42:18 49:22 <b>sites</b> 41:12,13 <b>sitting</b> 53:16 <b>situation</b> 16:5 33:11 50:24 <b>situations</b> 88:18,20 <b>six</b> 65:5,16 66:3,4,6 <b>skin</b> 42:13,13 50:10 <b>slide</b> 46:21 <b>Slight</b> 11:23 <b>small</b> 15:24 16:1 <b>somebody</b> 52:8 63:7 <b>sorry</b> 65:17 87:2 89:11 <b>sorts</b> 49:7 73:22 <b>so-called</b> 46:24 <b>speak</b> 57:20 <b>speaking</b> 17:8,15 <b>specialist</b> 30:13 79:18 86:5,14 <b>specialize</b> 4:21,23 <b>specializing</b> 82:18 <b>species</b> 32:20 35:9 <b>specific</b> 16:18 66:20 72:13 <b>specifically</b> 73:4 <b>specimen</b> 21:24 <b>spell</b> 4:17 6:19 <b>spend</b> 6:22 67:13 85:5 <b>spoke</b> 57:19 <b>sputum</b> 32:2 <b>SS</b> 1:3 93:1 <b>St</b> 2:10 <b>staff</b> 37:20,20 <b>stain</b> 46:19 47:3,7 <b>stained</b> 46:22 <b>stains</b> 46:23 <b>stamp</b> 23:6 <b>standard</b> 2:4 43:20 62:4,5,16,21 66:9 67:10 79:1 84:8 84:22 <b>stands</b> 12:1 <b>start</b> 11:10 17:16 41:19 88:14 <b>started</b> 5:17 <b>starts</b> 88:21</p>	<p><b>state</b> 1:2,19 4:16 29:3 93:1,6 <b>stated</b> 42:23 <b>statement</b> 13:6,8 45:12 48:13 75:22 <b>states</b> 5:21,24 11:9 41:18 45:4 75:12 85:3 <b>stationery</b> 59:2 <b>sterile</b> 42:17,19 50:19 <b>sternal</b> 14:21 28:20 29:8,10,16 42:23 44:2 47:18 48:19 49:2 70:7,12 74:24 75:6,14 87:8,23 <b>sternum</b> 40:13 44:5 51:3 71:5,6 75:15 76:2 <b>stomach</b> 41:1 <b>stop</b> 26:10 <b>straighten</b> 31:5 <b>Street</b> 1:21 2:4 93:14 <b>Strep</b> 23:14 30:1,21 33:9,16 39:11 <b>Streptococcus</b> 23:15 30:4 87:9 <b>stricken</b> 13:10 <b>students</b> 68:8,11,12 68:17 83:5 <b>studies</b> 33:15 <b>study</b> 20:1 78:17 <b>submit</b> 60:6 <b>submitted</b> 60:3 <b>Subscribed</b> 92:12 <b>subsequent</b> 9:17 59:17 87:12,17 <b>sued</b> 61:17 63:18 <b>suffered</b> 28:14 <b>suggest</b> 54:16 <b>suing</b> 61:15 <b>suit</b> 94:5 <b>Suite</b> 2:16 <b>summarizing</b> 38:16 74:7 <b>Superior</b> 1:20 93:14 <b>supplemental</b> 57:6 <b>supposed</b> 49:5 <b>surface</b> 42:12 50:9 <b>surgeon</b> 43:12,22 51:6 76:3 <b>surgeries</b> 27:10,15 40:14 <b>surgery</b> 14:1,4 16:6 16:10 27:13 28:16 29:16 30:3 42:24 44:5,7 48:16</p>
--	--	---	---	---

# DEPOSITION OF GARY NOSKIN, M.D

Page 7

70:13 87:24 88:3 surgical 29: 11 surgically 25: 12 susceptibility 20: 1,3 20:4 21:5 33:15 34:3,6 35:3,13 susceptible 20:7 suspect 48:20 60:19 suspected 32:24 suspended 7: 19 sustain 28:6 sustained 26: 17 27:20 swab 50:19 sworn 4:2,12 92: 12 93:9 symptom 16:3 49:14,18,19,23 52:21 71:5 74:24 symptoms 24:7 syndrome 23:22 51:16,18,24 52:2 52:3,23 53:18,21 54:10,12 system 74: 10 S42718 1:1 91:1	testify 44: 14 93:9 testimony 16:8 18:1 50:4 61:5 75: 12 93: 16 94:7 testing 34:3 Thank 6:5,12 60:11 67: 11 77:23 80:17 80:18 81:15 88:5 88:7 89:23 thanks 42:6 88:22 90:2 therapists 37:21 thereof 94:6 thing 19:12 34:2 48:12 55:17 79:17 79: 18 third 77:5,6 83:6 third-generation 72:20 thousand 69:23 three 40: 14 44: 18 48:15 61:9 63:9 63:12 68:21 70:14 75:3 times 40: 12 64:3 75:4 time-frame 25:21 26:8 tissue 24:18 25:12 27:2,7,9 29:20,21 79:6,14 today 10:23 11:6 42: 1 60:13 top 21:21 59:1 tracheal 31:14 trade 20:24 training 84:4 transcribed 93:18 transcript 56:11 90:4,4 92:2 93:20 transmittal 56:17 trauma 44:8 treat 20:6 71:21 72:18 73:2,13 87:22 treated 66:8 73:14 treating 43:21 71:1 71:11,16,19 72:9 treatment 27: 16 28:9 39:9,13 51:12 72:1 73:5 73:21,22 79:8,12 treu 2:13 60:16 61:7 trial 64: 14 trouble 12:9 true 21:1 22:3,7 33:15 76:22 92:2 93:19 truly 32:21 87:18	iruth 93:9 try 26:4 37:22 71:12 trying 17:24 18:13 18:13 26:22 78:1 79: 14 tube 2:19 tuberculosis 47:5 turn 19:13 21:14 23:4 31:9 twice 36: 16 two 35:4 41:12,13 46: 11 54:2 163:9 63:12 64:23 65:22 65:24 66:24 67:3 69:15 72:12 77:2 87:3,10 88:8 two-thirds 67:9 two-week 69:16 two-year 82: 15 type 7:1 36:12 37:1 37:2 42:24 50:2 51:5 55:20 types 24: 13 25:9 46:11 47:3 typewritten 93:18 typically 45:1	variation 59:14,15 varies 69: 13 various 24:19 62:9 ventricle 27:20 28:6 28:14,24 51:23 53:1,3 verbal 85:14 video 88:11 viral 48:23 49: 1,4 virtue 85:20 viruses 24: 12 vitae 3:10 6:2,7,13 68:3 81:13,22 82:4 89:22 vs 1:9	WILLIAM 2:8 wires 44:2 48: 19 withdraw 46:6 wood 63:20 Woodhall 13:13,14 word 12:8 21:4 53:8 71:19 words 23:21 work 36:7 37:22 38:5 68:19 69:13 wound 11:23 19:16 19:18 21:16,17,21 21:22,24 23:4,11 23:24 29:8,10,12 30:20,23 32:6 38:10 39:18,20 40:2,9,15 41:11 41:13,16 43:4,12 43:15,17 44:10 45:22 47:18 48:16 49:2,11,22 50:6 50:12,14,18,19,2 70:7,12,22 71:3 74:24 75:6,6,14 76:7 87:8,21,23 wounds 39:23 writing 6:17 93:17 written 6:14 7:9 63:24 85:13 wrong 6: 19 46:1,3 65: 11 wrote 7:4 9:2 10:20 19:24 61:5 64:7 78:10	
T		U		W	X
take 6:3 10:4 11:14 14:11 19:19 25:10 29:19 34:15 50:18 54:21 taken 1:19 4:5 10:13 21:15 32:16 50:6,9,12,13,14 50:15,18 51:12 59:3 70:21 93:13 93:21 talk 68:18,18 talked 7:5 76:20 87:6 talking 38:4 40:9 49:5 71:15,16,24 72:4 88:17 Tan 69:5 teaching 68:16 83:3 83:4,7 technician 10:7 technicians 37:10 telephone 2: 12 temperature 15:17 15:17 53:23 temporary 5: 16 term 47:9,14 53:6 54:8 79:14 terminated 7: 18 terms 21:7 54:14,16 73:4 82:23 test 21:9 34:7	tissue 24:18 25:12 27:2,7,9 29:20,21 79:6,14 today 10:23 11:6 42: 1 60:13 top 21:21 59:1 tracheal 31:14 trade 20:24 training 84:4 transcribed 93:18 transcript 56:11 90:4,4 92:2 93:20 transmittal 56:17 trauma 44:8 treat 20:6 71:21 72:18 73:2,13 87:22 treated 66:8 73:14 treating 43:21 71:1 71:11,16,19 72:9 treatment 27: 16 28:9 39:9,13 51:12 72:1 73:5 73:21,22 79:8,12 treu 2:13 60:16 61:7 trial 64: 14 trouble 12:9 true 21:1 22:3,7 33:15 76:22 92:2 93:19 truly 32:21 87:18	ultimate 25:17 26:16 unable 32: 17 unaware 38:18 understand 14:18 28:4 34:2 45: 15 45:16 47:23 53:17 72:4 understood 77:22 underwent 27: 10 university 7: 14 68:6 unnecessary 81:17 unstable 44:6 71:5 use 34:3 46: 16 47:10,12 54:15 71:19,21 72:18,20 72:21,24 73:17,19 79: 15 89:4 usually 54:7		waiving 57:3 want 10:16 13:1 25:21 26:4 28:13 34:16 55:7,11 56:6,8 57:2 66:2 1 70:18,24 71:18 72:14,15,23 78:10 78:23 79:19 81:4 81:14 90:3,4 wanted 31:7 60:19 way 21:14 25: 10 26:9 32:21 41:21 50:18 56:22 69:13 83:10 84:24 85:23 94:4,5 ways 46: 11 weeks 48:16 69:15 welcome 77:24 80:19 well 8:11 11:10 13:1 16:18 18:2 19:13 21:21 23:22 24:10 27:1,7,8 28: 10 32:20 35:21 36:6 36:14 38:3 39:24 41:19 43:24 45:11 48:23 49:3,18 50:17 51:3,18,22 52:11 53:9 58:16 62:8 64:4 66:23 68:10 69:23 71:17 71:20 72:12 76:6 76:15,20 77:12 78:20 79:10 82: 15 88:16,20 we're 19:9 40:9 42:15 49:5 69:14 69: 14 we've 17:16 48:8 76:20 79:10 WHEREOF 94:7 white 24:11 75:14	X-ray 12:2 15:21,22 15:24
		V			Y
		VA 7:15 valid 19:7 Van 2: 12 8:12 9:11 13:15 22:8 44:11 44:16 45:3,10,20 50:16 58:13 59:4 76:6,17,23 77:9 77:11 80:24 83:14 83:19,22 84:7,20 Vancomycin 75:9			Yeah 13:7 26:21 41:23 66:17 80:7 80:21 year 5:17 69:22,23 70:12,14 83:6 years 34:10 61:3 68:21 yes-or-no 28: 10
					I
					10 59:14 75:12 100 64:16 65:7 11:19 90:8 1132:10 1370 2:4 14th 28:15 142 23:7 1422 2:16 153:10