

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY - OHIO
JUDGE MC MANAMON
CASE NO. 187066

Doc. 323

SHIRLEEN WYNN, :
 :
Plaintiff, : DEPOSITION OF
 :
-vs- : DR. ANTHONY QUARTELL
 :
CARL A. ROBSON, M. D., and :
L & D FAMILY MEDICINE, :
 :
Defendants. :

TRANSCRIPT OF DEPOSITION, taken by and before
JEANETTE E. VOIGHT, Notary Public and Certified Shorthand
Reporter of the State of New Jersey, at the HILTON AT SHORT
HILLS, 41 John F. Kennedy Parkway, Short Hills, New Jersey,
on Wednesday, May 29, 1991, commencing at 9:15 a. m.

SCANNED
8/31/02

JEANETTE E. VOIGHT
CERTIFIED SHORTHAND REPORTER
1002 CUMMINGS ROAD
MONMOUTH JUNCTION, N. J. 08852
(908) 329-2517

A P P E A R A N C E S :

CHARLES I. KAMPINSKI, ESQ.,
1530 Standard Building
Cleveland, Ohio 44113
Attorney for the Plaintiff.

JACOBSON, MAYNARD, TUSCHMAN & KALUR, ESQS.,
By: ANTHONY P. DAPORE, ESQ.,
1001 Lakeside Avenue, Suite 1600
Cleveland, Ohio 44114-1192
Attorney for Robson & L & D

KITCHEN, DEERY & BARNHOUSE, ESQS.,
By: JOHANNA SFISCKO, ESQ.,
1100 Illuminating Building
Cleveland, Ohio 44113
Attorney for Mt. Sinai Hospital.

REMINER & REMINGER, ESQS.,
By: MARC W. GROEDEL, ESQ.,
113 St. Clair Building, 7th Floor
Cleveland, Ohio 44114
Attorney for Edward Siegler.

I N D E X T O W I T N E S S E S

<u>Witness</u>	<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>
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Dr. Anthony Quartell			
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By Mr. Kampinski	4		
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I N D E X T O E X H I B I T S

<u>No.</u>	<u>Item</u>	<u>Identification</u>
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	(None)	
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1 A N T H O N Y Q U A R T E L L , M . D . ,
2 316 Eisenhower Parkway, Livingston, New
3 Jersey, sworn.

4 DIRECT EXAMINATION BY MR. KAMPINSKI:

5 Q State your full name.

6 A Anthony C. Quartell.

7 Q Doctor, do you have a C. V.?

8 A As a matter of fact I do, and I think I
9 brought it.

10 Q What did you review in this case,
11 Doctor, prior to rendering a report?

12 A I reviewed the medical records of Dr. Carl A.
13 Robson. They began in July 1985. And last visit was
14 April 25th, 1988. I reviewed medical records of Dr.
15 Pamela Murphy from September 1988 through October
16 1988. I reviewed medical records of the Euclid
17 Clinic for the same patient beginning in May of 1989
18 and going on to late October of '89. And I reviewed
19 hospital records of Dr. McCaffey, University Hospital
20 of Cleveland, beginning in December of '89 and
21 carrying through until November '90.

22 Q Have you reviewed any depositions?

23 A Yes, I have.

24 Q Which ones?

25 A I can recall reviewing Dr. Robson's

1 deposition, reviewing the deposition of Dr. Siegler
2 and reviewing--

3 Q One or both, do you know?

4 A I can't remember.

5 Q Do you have your file with you?

6 A No, all I have is my report.

7 Q Where is your file?

8 A My file is in my file cabinet.

9 Q Is there a reason you didn't bring the
10 file?

11 A It's about that big (indicating).

12 Q So you don't remember whether you
13 reviewed both or just one of Siegler's dep?

14 A Right.

15 Q Robson? Siegler?

16 A The cytotechnologist.

17 Q Fogaris?

18 A I remember reviewing that. I might have
19 reviewed other material. I just don't recall.

20 Q Did you review these materials before
21 today's deposition again?

22 A I reviewed the materials that I just described
23 to you. I reviewed them before I rendered this
24 report.

25 Q Okay.

1 A After I rendered the report, during the course
2 of between February and now, Mr. Dapore sent me some
3 other material, and I reviewed that. Obviously I did
4 not use that material in rendering this report.

5 Q What material have you reviewed since
6 your report?

7 A I can't recall exactly what material it was.
8 Might have been depositions. That was Dr. Siegler's
9 second deposition maybe. And some other material. I
10 would get something every few weeks in the mail and
11 look at it.

12 MR. KAMPINSKI: Can we be provided with
13 the list of materials that he's reviewed?

14 MR. DAPORE: Sure.

15 Q You just don't remember as you sit here
16 today?

17 A Not the specific ones.

18 Q Have you brought your correspondence
19 file with you?

20 A No, sir.

21 Q Is there a reason you didn't?

22 A I don't think I have a correspondence file. I
23 just put everything in the case file.

24 Q How many letters have you written to Mr.
25 Dapore and his firm?

1 A I believe this is the only letter I ever
2 wrote.

3 Q Were there any drafts of this report?

4 A Just the one you see before you.

5 Q Any subsequent reports?

6 A No, sir.

7 Q Have you testified in malpractice cases
8 before?

9 A Yes, I have.

10 Q How many?

11 A I'm not sure. It would probably be somewhere
12 in the area of a hundred times that I have reviewed
13 cases. I have testified much less times than that.

14 Q How many would you say?

15 A It would be a guess.

16 Q Give me your best estimate.

17 A I can't; I'd be guessing.

18 Q More than fifty?

19 A I think less.

20 Q More than twenty-five?

21 A Can't say.

22 Q More than ten?

23 A If I couldn't say more than twenty-five, I
24 can't say more than ten.

25 Q See, I don't know unless I ask the

1 question.

2 A Well, maybe I ought to tell you that I can't
3 say.

4 Q All right. You just have no idea?

5 A Correct.

6 Q More than once?

7 A I already said that I've done it. That would
8 indicate that I've done it more than once.

9 Q So somewhere between one and fifty
10 times?

11 A Correct.

12 Q How many times for the defendant?

13 A How many times what?

14 Q Have you testified for the defendant?

15 A Most of those times were for the defense.

16 Q Any of them for the plaintiff?

17 A Never testified in court for the plaintiff.
18 I've reviewed plaintiffs' cases, however.

19 Q How is it that you were retained by Mr.
20 Dapore? Do you know?

21 A I got a telephone call from Mr. Dapore asking
22 me if I was interested in reviewing the case.

23 Q Have you ever reviewed cases for his
24 firm before?

25 A No, sir.

1 Q Do you know Dr. Robson?

2 A No, I do not.

3 Q Do you advertise?

4 A No, sir.

5 Q Have you ever?

6 A No, sir.

7 Q Do you belong to any organizations that
8 officially or unofficially provide defense testimony
9 for other physicians?

10 A Absolutely not. Never have.

11 Q Where do you practice currently, Doctor?

12 A Right here in Essex County, New Jersey.

13 Q And the nature of your practice is what?

14 A Obstetrics and gynecology.

15 Q And you have practiced here for how
16 long? I apologize; I just haven't had a chance to
17 absorb the C. V.

18 A I finished residency in 1976 and I've been in
19 practice in this area since then.

20 Q Since '76?

21 A Correct.

22 Q Have you yourself ever been sued?

23 A Once.

24 Q What was that for?

25 A Failed tubal ligation. Beautiful baby boy,

2

1 eight pounds.

2 Q Are there procedures in New Jersey where
3 claims can be brought absent the lawsuit? In other
4 words, arbitration, review panels, anything of that
5 nature?

6 A I don't think so, but if there are, I have
7 never had any.

8 Q Do you have privileges at any hospitals?

9 A Yes, at St. Barnabas Medical Center.

10 Q Is that the only one?

11 A Yes, that's true.

12 Q Have your privileges ever been suspended
13 or revoked?

14 A No, sir.

15 Q Have you reviewed Dr. Rabin's
16 deposition.

17 A I don't believe so.

18 Q And how about his report?

19 A I don't believe so.

20 Q He was the pathologist retained by Dr.
21 Siegler as an expert.

22 A I don't believe that I've reviewed that.

23 Q Have you reviewed Dr. Engelberg's
24 deposition?

25 A That name is familiar to me. Perhaps I saw a

2 1 report from him or deposition from him.

2 Q You just don't remember which?

3 A Right.

4 Q How about--

5 A He's from California?

6 Q Correct.

7 A Engelberg. I remember that name.

8 Q You just don't know what you reviewed?

9 A Right.

10 Q Doctor Bonnell, B-O-N-N-E-L-L, how about
11 Dr. Bonnell?

12 A I don't believe so. I would recognize that
13 name. I have a friend named Dr. Bonnell here.

14 Q What about Dr. Block?

15 A I'm not sure. I don't know.

16 Q Dr. Rabin, the pathologist retained by
17 Dr. Siegler, testified that if Dr. Siegler had
18 reported mild or moderate dysplasia in August of
19 1987, that Shirleen Wynn probably would have been
20 cured of her disease. Do you agree with that?

21 MR. DAPORE: Objection.

22 THE WITNESS: I couldn't agree with
23 that.

24 Q On page nine of your report you suggest
25 in your first paragraph in the middle of it, what you

2 1 say is: "I do not understand why Dr. Siegler did not
2 place this request on the final laboratory report"--
3 referring to Mrs. Fogaris's findings of dysplasia--
4 "and her suggestion that three-month follow-up be
5 done."

6 I assume from reading that, that you believe
7 that that should have been on this report?

8 A No. I didn't say that. What I said was I
9 didn't understand why she put it down and he didn't.

10 Q Well, as a clinician who relies on
11 pathologists to provide you with accurate readings of
12 pap smears that you send them, don't you want to know
13 when in fact there's a questionable finding on a pap
14 smear?

15 A Could you rephrase that question.

16 Q I don't know. Is there something about
17 it that you didn't understand?

18 A It was kind of long.

19 Q All right.

20 MR. KAMPINSKI: Repeat it.

21 (Last question read back by the
22 reporter.)

23 THE WITNESS: Of course, you always want
24 to know when there's an abnormal finding or
25 questionable finding on anything.

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1 Q All right. If there is even
2 disagreement with respect to the cytotechnologist and
3 pathologist on follow-up on an abnormal pap, isn't
4 that something that you would want to know?

5 A Well, I'm not a pathologist. I don't know how
6 pathologists and cytotechnologists particularly work
7 when they arrive at a final report. I want to know
8 when I get a pap smear report, I want to know what
9 the pathologist thinks of that pap smear report.

10 That pathologist has had questions in his mind
11 while he was reading it, and while he was
12 interpreting it he consulted with three other
13 pathologists about it, talked to four
14 cytotechnologists, went back and looked in the books.

15 I don't particularly think it's a standard for
16 him to report all of that to me. I want to know his
17 final summation. He's the man that's signing the
18 report. He is the court of last resort as far as
19 that pap smear goes.

20 So in answer to your question, I want to know
21 what the pathologist thinks. Do I think that he has
22 an obligation to report to me any discrepancies he
23 might have had in his interpretation of this report
24 with other professionals with whom he may have
25 consulted? I don't necessarily think that that is

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3
1 his standard, but I'm not a pathologist and I'm not
2 qualified to comment on their standards.

3 Q Why don't you, like you said, you don't
4 agree with what at least I indicated to you was Dr.
5 Rabin's opinion regarding whether or not Mrs. Wynn
6 would have been cured had dysplasia been reported,
7 and you said you didn't agree with that. Why not?

8 A Well, I believe what you're telling me is that
9 someone has offered an opinion and this opinion is
10 that if the patient's second pap smear had come back
11 dysplasia, that the patient would be cured today. Am
12 I correct?

13 Q That's correct.

14 A I think that that is a--

15 Q (Interrupting) I said "probably."

16 A Probably would have been. I think that
17 represents a quantum leap in medical logic. There
18 are a great number of steps between a second abnormal
19 pap smear and curing the patient of cervical cancer,
20 which we do not even know she had at the time the
21 second pap smear was taken.

22 Q So haven't you then taken a leap in
23 logic to go from dysplasia to say in curing cervical
24 cancer? Let's assume that all she had, number one,
25 was dysplasia in August of 1987. Dysplasia does

3 1 progress to cervical cancer, right?

2 A Sometimes.

3 Q That's why you do pap smears as a
4 clinician; so you catch it at the earliest possible
5 time, so you catch the potential source of the
6 dysplasia on the pap smears.

7 A Are you telling me if I do pap smears--ask the
8 questions.

9 Q Am I correct so far?

10 A Correct in saying what? You said a lot of
11 things. You are kind of rambling on and I need more
12 specific questions in order to direct more specific
13 answers.

14 Q Do you have a list of other cases that
15 you've testified in?

16 A No, sir.

17 Q You get paid for those cases?

18 A I get paid for my time.

19 Q Sure. And do you get 1099's from people
20 when you get paid?

21 A Sometimes.

22 Q So that your income tax records would
23 reflect the cases that you've testified in?

24 A My income tax records reflect my income and my
25 expenses.

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1 Q And that would include the income and
2 expenses on cases you've testified in?

3 A Of course.

4 Q So that would be a way that we could
5 determine what cases you've testified in?

6 A Who's "we"?

7 Q Me.

8 A I guess if the law allows you the privilege of
9 examining my income tax returns, you could certainly
10 find out a lot about me.

11 Q I'm just trying to find out what basis
12 you've testified in. You say you don't have a list
13 of those; is that correct?

14 A That's absolutely correct.

15 Q How long have you been testifying?

16 A Probably somewhere around five years, six
17 years, I would say.

18 Q How many cervical cancer cases have you
19 testified in?

20 A I honestly cannot recall another one.

21 Q This is the only one?

22 A That I can recall. Mr. Kampinski, to save a
23 little time, let me tell you that my primary
24 function, my job, what I do everyday, is practice
25 obstetrics and gynecology. I limit the time that I

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1 spend reviewing medical malpractice cases to no more
2 than one case a month, and often less than that. I
3 do this because I find it interesting and an adjunct
4 to my professional life. I do not do this as any
5 sort of career or even a cottage industry.

6 Q Why do you do pap smears?

7 A Why do I do pap smears? Well, I do pap smears
8 because as a part of the normal gynecological
9 examination it is considered a standard to perform
10 exfoliative cytology on the cervix to expose any
11 abnormalities.

12 Q So you do it to comply with the standard
13 or do it to try to assist women in catching
14 potentially life-threatening diseases as early as
15 possible?

16 A I dedicate my life to catching potentially
17 life-threatening diseases to women. I do a pap smear
18 because I'm interested in finding out if there are
19 any diseases or abnormalities in the cervix which at
20 times the pap smear can diagnose.

21 Q And one of those diseases is cervical
22 cancer, correct?

23 A Yes, sir.

24 Q And you can catch it at a time prior to
25 it becoming cervical cancer such as when it's

3 1 dysplastic, right?

2 A Right what?

3 Q That--

4 A I couldn't get a question out of that.

5 Q Can you arrest the progression of
6 cervical cancer by diagnosing it at an early time
7 when it's dysplasia?

8 A When it's dysplasia? When it's dysplasia,
9 it's not cancer.

4 10 Q I think that's what I said?

11 A You said a non-sequitur. I can't compute it
12 so I can't answer it. What you said, in my summary,
13 is if you catch cervical cancer when it's dysplasia,
14 can you cure it.

15 Q I said prior to it becoming cervical
16 cancer.

17 A If I'm catching something prior to, that which
18 I'm catching is not indeed cervical cancer, is it?

19 Q That would be the best time to try to
20 catch it, wouldn't it? Is that funny? There's a
21 twenty-eight-year-old woman who's dead. Do you find
22 a great deal of humor in this?

23 A Mr. Kampinski...

24 Q Answer my questions and we'll move along
25 a lot faster.

4

1 A If you can provide me with logical questions
2 asked in a normal, reasonable and comprehensible
3 manner, I would be most happy to answer them. But I
4 cannot allow you to take leaps from one disease to
5 another, to use medical terms of art as loosely as
6 you use them, in an effort to try to get me to answer
7 questions in a manner in which I believe you would
8 like me to answer them. Now, if you want to ask me
9 straightforward questions, Mr. Kampinski, you're
10 going to get straightforward answers. Let's start
11 from the beginning.

12 Q What's your name? Is that straight-
13 forward?

14 A Are you being humorous, Mr. Kampinski?
15 Because I don't think it's humorous that a twenty-
16 eight-year-old woman died. And now you're asking the
17 man who had been introduced to you, and whose name is
18 on the deposition testimony what his name is, and I
19 believe that is an attempt at some sort of bizarre
20 humor.

21 Q You wanted a straightforward question,
22 and I thought we would start from basics.

23 A I'm not going to tell you what my name is
24 again, so if you want to start asking me questions
25 about this case...

4 1 Q Does dysplasia progress to cervical
2 cancer?

3 A What kind of dysplasia?

4 Q Any kind.

5 A Sometimes.

6 Q And is the reason--one of the reasons
7 you did pap smears to try to find abnormalities in
8 cells such as dysplasia so they can be removed prior
9 to them progressing to cervical cancer sometimes?

10 A Question is much too long. You had two parts.
11 If you would like to ask me the question both parts
12 one at a time, I'll be glad to answer them.

13 Q See you in court.

14 (Deposition concluded at 9:30 a. m.)

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ANTHONY C. QUARTELL, M. D.

IN WITNESS WHEREOF, I have hereunto set
my hand and affixed my seal of office at,
_____, State of _____
County of _____, on this _____
day of _____, 19_____.

Notary Public

My Commission Expires _____

E R R A T A S H E E T

Deposition Page

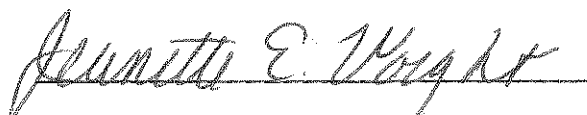
Change or Correction

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C E R T I F I C A T I O N

I, JEANETTE E. VOIGHT, a Certified Shorthand Reporter of the State of New Jersey, do certify that the foregoing is a true and accurate transcript of the deposition of ANTHONY QUARTELL, M. D., who was first duly sworn by me at the place and on the date hereinbefore set forth.

I further certify that I am neither attorney nor counsel for, nor related to or employed by, any of the parties to the action in which this deposition was taken, and further, that I am not a relative or employee of any attorney or counsel employed in this case, nor am I financially interested in this action.



JEANETTE E. VOIGHT, C. S. R.
Certificate Number XI00567

DATE

June 1, 1991