

State of Ohio, )  
County of Cuyahoga. )

- - -

IN THE COURT OF COMMON PLEAS

- - -

DEWEY GLEN JONES, et al., )  
Plaintiffs )  
v. )  
MERIDIA HURON HOSPITAL, )  
et al., )  
Defendants. )

DOC. 372

Case No. 306012  
Judge Lillian Greene

- - -

THE DEPOSITION OF DAVID S. RAPKIN, M.D.

WEDNESDAY, AUGUST 6, 1997

- - -

The deposition of DAVID S. RAPKIN, M.D., a witness herein, called for examination by the Plaintiffs, under the Ohio Rules of Civil Procedure, taken before me, Lauren I. Zigmont-Miller, Registered Professional Reporter and Notary Public in and for the State of Ohio, pursuant to notice, at Cleveland Anesthesia Group, Inc., 3601 South Green Road, Beachwood, Ohio, commencing at 7:40 p.m., the day and date above set forth.

- - -



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20	MR. CASEY	49, 52, 62, 75, 97, 99, 100
21	MS. WINKER	13, 16(2), 18, 22, 26, 41, 131
22	MR. WALTERS	85, 100
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ALSO PRESENT:  
 Keith McGregor - Videographics

1 (Thereupon, Plaintiffs' Exhibit 1 to the  
 2 deposition of David S. Rapkin, M.D., was  
 3 marked for purposes of identification.)  
 4  
 5 DAVID S. RAPKIN, M.D.,  
 6 a Witness herein, called for examination by the  
 7 Plaintiffs, under the Rules, having been first duly  
 8 sworn, as hereinafter certified, deposed and said as  
 9 follows:  
 10 CROSS-EXAMINATION  
 11 BY MR. ALLEN:  
 12 Q. Doctor, I introduced myself earlier,  
 13 Charles Allen for the plaintiff. If I ask you a  
 14 question you don't understand, let me know, I'll  
 15 rephrase it. If you need to take a break, take a  
 16 break. Do whatever you need to do.  
 17 If you could, tell me what medical  
 18 records you've reviewed.  
 19 A. I've reviewed the case records from  
 20 Meridia Huron Hospital, three volumes of that, that I  
 21 was given by Mr. Casey's law firm; I've reviewed the  
 22 depositions of Dr. Senchyshak, Dr. Adamek, Dr. O'Neill  
 23 and Dr. Kaplan. Yesterday I was given the depositions  
 24 of Dr. Badri and Dr. Ho, and I really haven't had a  
 25 chance to review them yet.

1 Q. What purpose was receiving Dr. Badri and  
2 Dr. Ho's depositions?

3 A. Just to be complete.

4 Q. Did you request that?

5 A. In discussions with Mr. Casey I told him  
6 the depositions I had and he said, he gave me the  
7 others.

8 Q. So you plan on reviewing those before you  
9 go to trial?

A. I'll look at

11 Q. Other than the opinion letter that you  
12 produced in this case, have you generated any other  
13 materials, notes, et cetera?

14 A. Nothing other than my notes in reviewing  
15 the case.

16 Q. And have you got those with you?

17 A. No, I don't.

18 Q. What did you do, just hand write them out?

19 A. Just hand writing and making little  
20 documents as I go through it.

21 Q. Can you produce that at some other time?

22 A.

23 MR. CASEY: Yes

24 BY ME: Yes

25 Q. Did you review any specific literature for

1 the purpose of this case?

2 A. I looked in one of the textbooks about  
3 pulmonary edema just to review that briefly.

4 Q. And what were you looking for?

5 A. I was looking on the relationship of  
6 intrathoracic pressure and pulmonary edema.

7 Q. Do you remember what textbook that was?

8 A. It was written by a guy named Berry from  
9 the University of Virginia called The Anesthetic  
10 Management of Difficult and Routine Pediatric Patients,  
11 which deals with pulmonary -- had a chapter in  
12 pulmonary edema.

13 Q. And that chapter, did that chapter just  
14 deal with pediatrics or did it deal with general  
15 pulmonary --

16 A. It dealt primarily with pediatrics, but  
17 the same material applies.

18 Q. Do you have a specialty of pediatric  
19 anesthesiology or something like that?

20 A. No. I'm a general anesthesiologist, I do  
21 a lot of all types of cases.

22 Q. When was the first time you were contacted  
23 by the law firm that hired you?

24 A. This was I'd say about four or five months  
25 ago.

1 Q. Have you had any conversations with any of  
the defendants in this case?

3 A. I met Dr. [redacted] at a baseball game.

4 Actually, we didn't talk about the case at all.

5 Q. When was that?

6 A. This was two weeks ago.

7 Q. Did you know him before that?

8 A. No.

9 Q. How were you introduced to Dr. Adamek?

1 A. Dr. Adamek is an anesthesiologist at  
1 St. Michael's Hospital now and I'm at Deaconess  
1 Hospitals and the hospitals have the same parent chain.

13 Q. Who is that?

14 A. Primary Health Systems.

15 Q. There was a whole group of you were there,  
16 is that the deal?

17 A. Yes.

18 Q. Baseball outing?

19 A. M-hm.

20 Q. How much time did you spend to review the  
21 case before you wrote your letter?

22 A. A pretty significant amount of time. It  
23 was probably, in pure reviewing the case and the  
24 depositions before I wrote the letter was I'd say 10 to  
15 hours. There's a lot of material to go through in

1 this case.

2 Q. Then since that time how much time have  
3 you spent?

4 A. Probably about that time again on this.  
5 This was several hours writing the paper and going  
6 through further depositions. I got Dr. Kaplan's  
7 deposition in the mail the other day and reviewing  
8 that.

9 Q. And you were retained to give opinions  
10 strictly for the residency program; is that correct?

11 A. I was retained by Reminger & Reminger in  
12 representing the hospital to give opinions about the  
13 case and in specifically about the role of  
14 Dr. Senchyshak.

15 Q. Do you have -- are you going to offer  
16 expert opinions as to the care given by Dr. Ho?

17 A. As an anesthesiologist I'm not sure I can  
18 give direct opinions about Dr. Ho's work in regard to  
19 the case. I read his notes in the chart, but I wasn't  
20 going to -- I'd rather not -- I wasn't going to make  
21 any comments regarding his work.

22 Q. Does the same thing hold true for  
23 Dr. Badri?

A. Yes. I mean, I'm not a general surgeon, I  
25 wouldn't claim to make any opinions about that.

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1 Q. Okay. What did you have any opinions as to  
 2 medical causation as to what happened that created Dewey Jones' present condition?  
 3  
 4 A. Well, I'm a Board certified  
 5 anesthesiologist. What questions you ask me I'll  
 6 answer to the best of my ability.  
 7 Q. What about the opinions as to life  
 8 expectancy of the plaintiff?  
 9 A. I would have no opinions on that.  
 10 Q. Okay. Let me just understand your  
 11 opinions as to the role of each of the doctors and how  
 12 they interacted. So Dr. Ho was an internist who was  
 13 asked to medically clear the patient for surgery,  
 14 correct?  
 15 A. M-hm.  
 16 Q. Is that the entire role that you  
 17 understood Dr. Ho to have?  
 18 A. Dr. Ho was the primary physician caring  
 19 for him and caring for him on a long-term basis. In  
 20 this hospitalization he provided a medical clearance,  
 21 but he had a longer involvement with Mr. Jones.  
 22 Q. Longer involvement?  
 23 A. I mean longer term, previous involvement  
 24 taking care of him in the other hospitalizations.  
 25 Q. Which hospitalizations are you aware of

Page 11

1 that he was the primary care doctor?  
 2 A. The two hospitalizations in 1994, the one  
 3 in August and the one in September.  
 4 Q. Is it your understanding that Dr. Ho was  
 5 looked at to call on any consults that were necessary  
 6 to medically clear Dewey Jones?  
 7 A. Let me ask you to repeat the question.  
 8 Q. Is it your understanding that it was  
 9 Dr. Ho's role and duty to call in any consults, such as  
 10 cardiology, pulmonology, et cetera, that may be  
 11 necessary to medically clear Dewey Jones for surgery?  
 12 A. No.  
 13 Q. Explain that; why not?  
 14 A. It's my understanding that Dr. Ho was  
 15 taking care of the patient medically and could -- he  
 16 was taking care of the patient medically and he was  
 17 clearing the patient as he saw fit as the internist  
 18 taking care of the patient.  
 19 I don't -- it's his -- it's in his role  
 20 to call for consults if he feels they're necessary, but  
 21 I don't know that he felt -- if none were required in  
 22 his opinion then they weren't.  
 23 Q. And in his opinion he felt a pulmonology  
 24 consult was needed, correct?  
 25

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1 who requested the pulmonary consult.  
 2 Q. All right. To clarify it's not  
 3 Dr. Ho's role to diagnose the severity of the  
 4 gallbladder?  
 5 A. Right.  
 6 Q. That was Dr. Badri?  
 7 A. Right.  
 8 Q. Do you feel that Dr. Adamek had a role as  
 9 to diagnose the severity of the gallbladder?  
 10 A. No. I think that was Dr. Badri's role.  
 11 Dr. Adamek was purely the anesthesiologist.  
 12 Q. All of the pre-op diagnostic tests needed  
 13 to be performed to determine the severity of the  
 14 gallbladder, that was entirely in the hands of  
 15 Dr. Badri as you understand it?  
 16 A. Yes.  
 17 Q. And Dr. Ho, his entire ballpark was to  
 18 medically clear the patient to see if he was ready for  
 19 surgery, correct?  
 20 A. Again, I would say that Dr. Ho's role was  
 21 to look at the patient as an internist and the areas  
 22 that he was taking care of and to see that the patient  
 23 was optimized as well as possible.  
 24 Q. Now, do you feel that Dr. Adamek had a  
 25 duty to call in independent consults if he felt they

Page 13

1 were necessary.  
 2 MS. REINKER: Objection.  
 3 A. If he felt -- if he felt they were  
 4 necessary and if Dr. Adamek felt that he didn't have  
 5 the information he needed, then he had the obligation  
 6 to call either an internist, the cardiologist to get  
 7 that information before the operation.  
 8 Q. To step further, Dr. Adamek's role then  
 9 was to care for the pre-op, intraoperative and  
 10 postoperative care of Dewey Jones, correct?  
 11 A. Dr. Adamek's role was to take care of the  
 12 patient intraoperatively, to make certain that the  
 13 patient was ready preoperatively for the operation, and  
 14 to assist getting the patient into the postoperative  
 15 period.  
 16 Q. As it is?  
 17 A. As you take the patient into the recovery  
 18 room to assist the nurses, make sure they've got all  
 19 intensive care unit if necessary where other doctors  
 20 would take over the role of managing the patient.  
 21 Q. What was the role of the resident  
 22 Dr. Senchyshak, in this case?  
 23 A. Dr. Senchyshak's role was to assist  
 24

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1 to

2 Q. Does Dr. Senchyshak have a -- is his role

3 to independently provide medical care?

4 A. No, it's not.

5 Q. His role then is to take orders from

6 Dr. Adamek and then follow through with that?

7 A. Absolutely, to work alongside and

8 underneath Dr. Adamek. As a junior resident in this

9 case, Dr. Senchyshak had no independent authority in

10 the case and he was purely under the direction of

11 Dr. Adamek.

12 ( So everything he did intraoperatively --

13 p i vely, intraop an postoperati

14 should have been at the direct direction of Dr. Adamek?

15 A. Absolutely.

16 Q Okay. If he went outside of th t role

17 then he was acting inappropriately, correct?

18 A. He was acting inappropriately if that

19 happened and Dr. Adamek was acting inappropriately in

20 allowing him to do that, in allowing him the latitude

21 to do that. Dr. Adamck needed to -- if he felt that

22 was a possibility, Dr. Adamek needed to supervise Dr.

23 more

24 Q. Need more hands on?

25 A.

Page 15

1 Q. So is it your understanding then it should

2 have been Dr. -- scratch that. Is it your

3 understanding that Dr. Senchyshak attempted a reversal

4 of anesthesia without the direct supervision of

5 Dr. Adamek?

6 A. I don't know that to be the case. I saw

7 no information in the depositions that that was the

8 case.

9 The way this should happen is that

10 Dr. Senchyshak and Dr. Adamek would discuss the

11 operation and to devise an anesthetic plan. Dr. --

12 Q. Before?

13 A. Before the case and constantly during the

14 case to make sure that there were no changes going on.

15 Dr. Adamek needed to be aware at every step of the case

16 what was happening, to be in the room frequently to

17 make certain of what was happening.

18 A discussion of whether to reverse the

19 patient should have occurred numerous times during the

20 case. They might have had one opinion before the case

21 began, they may have had another opinion at the

22 beginning of the case, they may have had another

23 opinion when there were only 25 cc's of urine output

24 halfway through the case, and they may have had another

25 opinion at the end of the case. That's got to be

Page 1

1 attending anesthesiologist.

2 Q. Do you have any criticisms as to the care

3 rendered by Dr. Adamek?

4 MS. REINKER: Objection.

5 A. I think that there are a number of places

6 that can be looked at closely in this case. I think

7 first of all you have to --

8 MS. REINKER: Note an

9 objection to this whole line of

10 questioning.

11 A. Continue?

12 Q. jc ahead.

13 A. I think one needs to look at the

14 preoperative preparation of the patient first of all

15 and whether Dr. Adamek had all the information that was

16 necessary with regard to the patient's cardiac status,

17 if the echocardiogram from August was looked at as well

18 as the echocardiogram that had been done a couple days

19 before had been looked at

20 I think there was a as to

21 whether or not -- on the echocardiogram report that I

22

23

24 had the to call a and find

25 out was

Page 17

1 and how he handled fluid. I think that there needed to

2 have been discussion with Dr. Ho as to his exact fluid

3 status in the case.

4 Then I think -- then going on to the

5 monitoring of the case, I think you needed to have more

6 exact monitoring than what was done. I think a

7 Swan-Ganz catheter, an arterial line needed to have

8 been placed. I think that if one wasn't placed

9 initially during the case, when urine output was only

10 25 cc's at 10:30 the Swan-Ganz needed to have been

11 placed at that point to find out what the patient's

12 volume status was.

13 I think at the end of the case, given

14 the patient's underlying condition, the obesity, the

15 hypertension, the hypertrophic cardiomyopathy, I think

16 it was foolish to try to extubate the patient, and I

17 think at that -- and I think that the monitors would

18 have showed that.

19 Q. A Swan-Ganz would have been a help?

20 A. Would have been very helpful.

21 Q. And it's your opinion that it's

22 Dr. Adamek's responsibility to oversee when extubation

23 was attempted?

24 A. Absolutely, and if extubation is to be

25 attempted. One of the things as an attending

1 anesthesiologist that you do is -- well, the two most  
2 important parts of the case are the beginning of the  
3 operation and the end of the operation. You need to  
4 have a plan going into the beginning of the case and  
5 you need to have a plan at the end of the case in what  
6 you're going to do.

7 If you're going to reverse the patient  
8 you need to have a plan of the doses to reverse with  
9 and when you're going to reverse and if anything is  
10 to change to  
11 out, especially if you've got a junior resident, the  
12 junior resident has to know what the plan is.

13 Q. And Dr. Senchyshak was a junior resident?

14 A. Exactly.

15 Q. So --

16 MS. REINKER: Move to strike  
17 the entire answer.

18 MR. ALLEN: Pardon me?

19 MS. REINKER: I'm moving to  
20 strike his entire answer.

21 MR. ALLEN: okay.

22 BY MR. ALLEN:

23 Q. Now, if we can -- you told to me that  
24 Dr. Adamek should have been aware of every state of the  
25 operation, every portion, critical portion of the

1 operation when it occurred. Now, whose responsibility  
2 is it to know when an important stage of the operation  
3 are occurring, when extubation or reversal --

4 A. It's Dr. Adamek's responsibility to know  
5 that. When I'm taking care of a patient, I don't  
6 depend on a nurse anesthetist or a resident telling me  
7 when to be in the room, it's my responsibility to know  
8 when those times are going to be. That's one of the  
9 reasons why you go into -- when you're supervising  
10 someone you go into a room frequently so you know  
11 what's happening, you know where the surgery is at that  
12 point and you know exactly what's going on each step of  
13 the way.

14 Q. And do you feel that Dr. Senchyshak if he  
15 felt that the patient needed to be extubated that he  
16 should have gone and got Dr. Adamek to ask his opinion  
17 at that time?

18 A. I think if Dr. Senchyshak had -- I think  
19 for any major event in the operation Dr. Adamek needed  
20 to be involved in it. Dr. Senchyshak didn't have the  
21 knowledge base to know what to do, and I think  
22 Dr. Adamek needed to have known that in knowing that  
23 this was a resident in his fourth month of training and  
24 not to expect him to know what's going on.

25 I think the question comes -- when

1 you're asking should Dr. Senchyshak call, I think the  
2 problem is that Dr. Senchyshak may not have even had  
3 the knowledge base to know when there was a problem and  
4 when to call. That's why Dr. Adamek needs to be around  
5 and needed to be nearby at all times.

6 Q. You feel like Dr. Senchyshak didn't have  
7 the level of training or expertise to know the fact  
8 that the high risk status of Dewey Jones required more  
9 hands-on of Dr. Adamek; is that true?

10 A. I think that that's true. I think that  
11 there were some things in Dr. Senchyshak's deposition  
12 that showed he was beginning to understand what was  
13 going on when he asked Adamek about the Swan-Ganz  
14 catheter, if that was necessary.

15 The relationship between the low urine  
16 output, the congestive heart failure, the hypertension,  
17 the effects on the heart of the hypertension and how  
18 that relates to the sleep apnea I think were all above  
19 Dr. Senchyshak's level of knowledge at that point.

20 Q. So at or around the time of extubation,  
21 about 12:30, until the time the Dr. Heart record was  
22 called, somewhere right after 1:00, are you critical of  
23 anything, any care that was given to Dewey Jones at  
24 that time?

25 A. was not an

1 decision to reverse the patient and attempt to extubate  
2 him. I think that's one aspect. I think the second  
3 aspect is the patient was then allowed to buck and the  
4 blood pressure went up. The blood pressure -- may I  
5 to

6 Q. M-hm.

7 A. The blood pressure, for example, at 12:00  
8 was 120/60 with a pulse rate of around a hundred.  
9 After 12:30, after the patient was reversed, the blood  
10 pressure shot up to anywhere between, it looks like,  
11 160 to 170 over 80 to 90, and I think that that blood  
12 pressure shouldn't have been allowed to go up, I think  
13 the blood pressure needed to have been controlled  
14 better.

15 Q. How would you have been able to control  
16 that better?

17 A. You would use vasodilators at that point,  
18 something like -- the ideal drug in this situation  
19 would have been nitroglycerin.

20 Q. What was the effect on Dewey's heart of  
21 that bucking? Is that what you mean by bucking?

22 A. By bucking what I'm referring to is the  
23 act of coughing on the tube affecting the intrathoracic  
24 pressure. When that happens the blood pressure  
25 frequently will go up. The blood pressure going up can

1 adversely affect the heart and the output of the heart.  
 2 ) So t' your opi that the patient  
 3 bucked and then th blood pressure went up and then we  
 4 had the effect on the heart?

5 A. The blood pressure could have gone up for  
 6 two reasons. The blood pressure could have gone up  
 7 from bucking and coughing on the endotracheal tube.  
 8 The other thing that the pressure could have gone up on  
 9 is the operation had ended, the anesthetic isoflurane  
 10 was turned off, and the fact of turning that off and  
 11 having the endotracheal tube in place could have caused  
 12 the blood pressure to go up. Frequently at the end of  
 13 an operation blood pressure will go up even if a  
 14 patient is not bucking just as they're awakening from  
 15 an operation.

16 MS. REINKER: Move to strike.  
 17 BY MR. ALLEN:

18 Q. How do you prevent the patient from  
 19 bugging?

20 A. You would need to -- there's a couple  
 21 methods you can do that. One is by doing a much more  
 22 controlled extubation and reversal. If a patient  
 23 starts bucking you can re-paralyze the patient, you can  
 24 give a drug such as Lidocaine can frequently decrease  
 25 the bucking, or you can remove the endotracheal tube.

1 ) All t You say more cont  
 2 extubation, explain that to me.

3 A. Just a slower extubation, turning down the  
 4 anesthetic at a slower rate.

5 Q. Okay. And in your opinion, once the  
 6 bucking occurred and then the increase of the blood  
 7 pressure, did this then cause the oxygen desaturations  
 8 at that time, or what caused the oxygen desaturations  
 9 in your opinion?

10 A. That certainly is one thing that could  
 11 have caused the oxygen desaturation, bucking on the  
 12 tube will frequently do that. The patient's pulmonary  
 13 edema could also have caused the oxygen saturation to  
 14 fall.

15 Q. How did the pulmonary edema come about in  
 16 your opinion?

17 A. I think it's a complicated process.  
 18 There's several factors that were happening. One is  
 19 that the -- one is that the blood pressure started  
 20 rising. A second is that the patient by bucking -- let  
 21 me go back.

22 The blood pressure starting to rise  
 23 will decrease the output of the heart and cause a  
 24 backup into the heart into the lungs of fluid. A  
 25 second area which could have led to the pulmonary edema

1 was the change in intrathoracic pressure by bucking the  
 2 patient. The third could be the underlying volume  
 3 status of the patient that's going on.

4 Q. His volume status was too high?

5 A. Potentially. It's hard to assess exactly  
 6 what his volume status is. When you look at the course  
 7 of the anesthetic and you look at the urine output, for  
 8 example, two things can be happening. First of all, a  
 9 patient of Dewey Jones' size should be putting out  
 10 approximately a half cc per kilogram per hour in urine  
 11 output. Dewey Jones weighed 310 pounds, approximately  
 12 140 kilograms, so he should be putting out about 70  
 13 cc's an hour.

14 In the two-hour period that they were  
 15 in the operating room from 9:15 until 11:30, two hours  
 16 and 15 minutes, he produced 25 cc's of urine. There's  
 17 two causes for that. One is he doesn't have enough  
 18 volume on board, and the second reason is that he's in  
 19 some amount of fluid overload and is not able to put  
 20 out the volume.

21 The Swan-Ganz catheter would help  
 22 diagnose that, and that's one of the reasons why the  
 23 Swan-Ganz catheter was needed. Right now what they  
 24 were doing was essentially putting fluid into a box  
 25 without knowing exactly what was in the box, and the

1 Swan-Ganz would have helped to find that.

2 Q. What the volume of the box was?

3 A. Exactly.

4 Q. So if the Swan-Ganz was in place at, say,  
 5 12:30, can you tell me within a reasonable degree of  
 6 medical certainty what the volume of the fluid overload  
 7 was in Dewey Jones?

8 A. If you had the Swan-Ganz and you had the  
 9 numbers and you had the relationship between the  
 10 beginning of the case and the end of the case, you'd  
 11 have a much better understanding of what was going on  
 12 within his lungs at the time.

13 Q. But you can't tell that by just looking at  
 14 the records what a Swan-Ganz would have said at 12:30,  
 15 correct?

16 A. No, you can't, because you don't know --  
 17 you have trouble assessing, as I said, if he was  
 18 hypovolemic or hypervolemic.

19 Q. And anybody that would attempt to guess at  
 20 what it was at 12:30 would be just purely speculating,  
 21 correct?

22 A. Right.

23 Q. Now, the Swan-Ganz being in place, was  
 24 that solely Dr. Adamek's responsibility in your  
 25 opinion?

1 A. Yes, it is.

2 MS. REINKER: can I just have

3 a continuing objection so we don't go

4 through all this stuff?

5 MR. ALLEN: yes.

6 BY MR. ALLEN:

7 Q. So it was completely Dr. Adamek's

8 responsibility.

9 Do you hold any responsibility as to

10 Dr. Badri for making sure as the surgeon that it was in

11 place?

12 A. No.

13 MR. JONES: objection.

14 Never mind.

15 A. No, I don't. I think it's purely the

16 anesthesiologist's responsibility. He's the one who

17 understands what's going on with the -- who needs to

18 understand what's going to go on with the volume status

19 during the operation and the stress of the operation.

20 The surgeon's responsibility in this

21 situation is to do the operation. The surgeon needs to

22 trust his anesthesiologist and make sure that the right

23 decisions are being made at that end of the table.

24 Q. Take me through what in your opinion

25 occurred after the pulmonary edema accumulated.

1 A. What time would you like me to start at?

2 Q. You can walk me from 12:30 on.

3 A. Okay. At 12:30 the reversal was given.

4 He was given five milligram of neostigmine and one

5 milligram of Robinul. They were essentially

6 assisting -- they were essentially assisting his

7 ventilation between 12:30 and 12:45. The notes in the

8 deposition from Dr. Senchyshak I saw discuss the

9 bucking at that time.

10 The blood pressure had gone up. Some

11 point after 12:45 they again put the patient either

12 back on the ventilator or were controlling his

13 ventilation by hand. At 1 --

14 Q. What's the status of his lungs at this

15 point?

16 A. It's hard to know. The oxygen saturation

17 was going down, it had gone down to 90 and 89, but it's

18 hard to know whether that's due to the bucking and just

19 not breathing or whether that's due to pulmonary edema.

20 There's not enough information.

21 Q. Correct me on, please.

22 A. Between 1:00 and 1:15 it's impossible to

23 know what's happening because there's nothing written

24 in the chart.

25 Q. Whose responsibility is it to chart

1 between 1:00 and 1:15?

2 A. Dr. Adamek's.

3 Q. What is your understanding between 1:00

4 and 1:15 of what Dr. Senchyshak is doing?

5 A. It's my understanding that he was sent out

6 of the room on errands.

7 Q. What kind of errands?

8 A. He mentioned in the deposition to get

9 things. I don't think he was -- I don't remember him

10 being specific in the deposition.

11 Q. To get things for the care of Dewey Jones?

12 A. You know, I really don't know.

13 Q. Okay. But Senchyshak was out of the room

14 between 1:00 and 1:15?

15 A. Right.

16 Q. Who was in the room?

17 A. Adamek was in the room.

18 Q. Anybody else that you're aware of?

19 A. No one that I can say for certain.

20 Q. So between 1:00 and 1:15 it's hard to tell

21 what is occurring, at 1:15?

22

23 Q. Continue from there.

24 A. Well, basically between 1:00 and 1:15

25 there's nothing written in the chart other than that

1 Dewey Jones was on eight liters of oxygen. There's no

2 pulse oximeter values, there's no blood pressure, no

3 heart rate values, nothing is written in the chart.

4 At 1:15 the blood pressure is 200/90 with

5 a pulse rate of 80. And then between 1:15 and 1:30 the

6 Dr. Heart is called. There's a note at 1:15 that

7 there's bradycardia and occasional PVC's and then

8 there's some blood pressures that are written in,

9 140/120 during the Dr. Heart.

10 But at no point is there any evidence

11 exactly what is leading up to the Dr. Heart. I think

12 the Dr. Heart was called at 1:15. There's nothing in

13 the chart to indicate what's going on between 1:00 and

14 1:15 and what drugs, if any, were given by Dr. Adamek.

15 Q. So just around 1:15 you tell me the blood

16 pressure is high?

17 A. Right.

18 Q. So what's the reason for the blood

19 pressure shooting up like that in your opinion?

20 A. It could be two things. One, he could be

21 continuing to buck or, two, it could be from the drugs

22 that were given in Dr. Heart. He was given three doses

23 of epinephrine between 1:15 and 1:18, and those doses

24 of epinephrine can increase the heart rate.

25 Q. Is that appropriate?

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1 A. You know, I wasn't there at the time. It  
2 would be real hard for me to assess what was going on  
3 and to make any judgment on the arrest and the  
4 management of the arrest. I don't know what the blood  
5 pressure was and the pulse leading up to that point, so  
6 I can't make an assessment of that.

7 If you had told me that the patient was  
8 arresting and had no blood pressure and no pulse, yes,  
9 it's appropriate, but there's no record of exactly what  
10 the blood pressure and pulse is leading up to that  
11 point.

12 Q. So do you have any criticisms as to the  
13 care given to Dewey Jones during the Dr. Heart record?

14 A. The only criticism I've got is the end  
15 results.

16 Q. Being what?

17 A. Being there was a blood gas taken at 1:29  
18 which showed a pH of 6.9, a PCO2 of -- a PCO2 -- let me  
19 get the exact value. A pH of 6.9, a PCO2 of 88 and a  
20 PO2 of 78, which means to me that at 1:29 he wasn't  
21 being ventilated adequately, nor was his acidosis being  
22 treated properly.

23 Q. What would have been the proper  
24 ventilation at that time?

25 A. Again, it would be difficult for me to

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1 make that opinion not being there at that time. There  
2 are -- you have monitors to help guide you with the  
3 ventilation, an end tidal CO2 monitor and a pulse  
4 oximeter, and you would use those monitors to help  
5 guide you. There's nothing written in the chart in the  
6 anesthesia record to indicate what those monitors were  
7 showing at that point.

8 Q. Okay.

9 A. The other thing is it would have been nice  
10 if a -- this is where an arterial line would have been  
11 helpful to assess his acid base status and pH level  
12 before 1:29.

13 Q. How would that have helped?

14 A. That would have helped because you could  
15 have gotten a blood gas earlier, and if that were the  
16 case and his pH were 6.9 and his PCO2 were 77, those  
17 numbers could have been treated earlier.

18 Q. What would you have done to treat?

19 A. Well, with a pH of 6.9 you would need to  
20 get bicarb and with a PCO2 of 77, or of 88 rather,  
21 you've got a patient that's being inadequately  
22 ventilated, you would have increased your ventilation  
23 on the patient.

24 Q. So other than Dr. Adamek, are you aware of  
25 anybody else there treating the patient at that time?

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1 A. It says cardiology department arrived at  
2 1:15 in the anesthesia record. I don't know which  
3 cardiologist.

4 Q. So in your opinion, the damage that was  
5 caused -- excuse me, scratch that. In your opinion,  
6 the damage that occurred between 1:15 and 1:30, is that  
7 what caused Dewey Jones to be in a continual vegetative  
8 state?

9 A. I don't think I said that at all.

10 Q. I'm just asking.

11 A. I think that it's hard to say exactly when  
12 the damage occurred. Most likely it was a longer term  
13 hypoxia that could have occurred at any point between  
14 1:00 and 1:30.

15 Actually, I mean, there's nothing to  
16 say what his oxygen saturation is between 1:00 and 1:15  
17 and 1:15 and 1:30, so it would be difficult to say  
18 exactly when the damage occurred. You can say that  
19 it's not something that happened over two minutes, I  
20 think this is something that happened over a longer  
21 period of time.

22 Q. And between 12:30 and 1:00 can you  
23 quantitate the amount of damage that was done to Dewey  
24 Jones at that time?

25 A. I don't think it's possible to quantitate

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1 the damage. I don't think you can come up with that  
2 information. I think that the one thing you can say is  
3 until 1:00 the oxygen saturation was acceptable at 89  
4 percent, so he was not hypoxic at that point. So most  
5 likely the damage happened after 1:00.

6 I mean, I think you're on a slippery  
7 slope and I think the damage may be beginning to occur,  
8 but it's hard to qualify exactly when that damage  
9 occurred and when the point of no reversal occurred.

10 Q. Is there anything else you can tell me  
11 about your opinions as to the resuscitation efforts by  
12 Dr. Adamek or whoever between 1:00 and 1:30?

13 A. I think that that's the most important  
14 part is that the end result of the bad blood gas and  
15 the end result to Mr. Jones and his state were that you  
16 could conclude that it wasn't a successful  
17 resuscitation.

18 Q. When is the most recent blood gas before  
19 the 1:29 blood g

20 A. There wasn't one during the operation. I  
21 don't know -- there may have been one preoperatively, I  
22 don't remember offhand.

23 Q. Are you critical of anesthesia care for  
24 not having an arterial line in place to monitor his  
25 blood gases?

1 A. I'm critical of them for not having an  
 2 arterial line because it would have allowed, one, the  
 3 measurement of blood gases if it were necessary and,  
 4 two, it would have allowed to be recording of his blood  
 5 pressure. And I think that in a patient with Mr.  
 6 Jones' medical background, as I said, the severe  
 7 hypertension and congestive heart failure, I think that  
 8 that is critical to have.

9 Q. And just to clarify it, do you feel that  
 10 Dr. Senchyshak had any role in requesting that an  
 11 arterial line be placed preoperatively?

12 A. I think Dr. Senchyshak's role is to do  
 13 what Dr. Adamek instructed him to do and it's  
 14 Dr. Adamek's decision on what monitors to place.  
 15 Dr. Senchyshak can suggest things, and he did suggest  
 16 putting in a Swan-Ganz catheter for example, but it's  
 17 Dr. Adamek's role as the attending anesthesiologist to  
 18 make those decisions.

19 Q. Just direct you to point to Exhibit 1.  
 20 That's your opinion letter, Doctor. You stated that  
 21 Senchyshak was in -- the first page -- the fourth month  
 22 of his anesthesiology residency. Then on the second  
 23 page you make note that he had been in another program  
 24 for 11 months. So it's your opinion that he had 13  
 25 months worth of experience as an anesthesiologist?

1 A. No. My opinion is that he was in his  
 2 fourth month. He got no credit for that time at  
 3 Cincinnati and he voluntarily withdrew, so you would  
 4 have to assume that -- if the American Board of  
 5 Anesthesiology would recognize no credit there, you  
 6 would assume that he's in his fourth month of training  
 7 and you would assume that that's his knowledge base.  
 8 You'd have no way of knowing what he gathered from that  
 9 time at Cincinnati, if anything.

10 Q. So in a practical day-to-day setting you  
 11 would just disregard the 11 months because you don't  
 12 know the type of training that he got; is that what  
 13 you're saying?

14 A. I think you'd absolutely have to disregard  
 15 the 11 months. You have no -- you don't know what he  
 16 got out of it, out of the time, you don't know what he  
 17 did during that period. The fact that he got no credit  
 18 is the most important, is an important factor. If he  
 19 had gotten six months credit, it's one thing, but he  
 20 got no credit at all.

21 Q. You talk -- the third full paragraph,  
 22 second page -- a resident with Senchyshak's level of  
 23 experience, and then you say that -- if I misstate  
 24 something, let me know -- he's able to understand  
 25 anesthetic implications of the patient's disease

1 process.

2 A. Begin to understand.

3 Q. Begin. So he's in the beginning stages?

4 A. Absolutely.

5 Q. Okay. So meaning that you -- would you  
 6 expect him to understand the significance, say, of  
 7 congestive heart failure in a patient like this?

8 A. I think you begin to understand what  
 9 congestive heart failure meant to an anesthesiologist,  
 10 ways of treating it, ways of dealing with it, ways of  
 11 monitoring it. I don't know that he'd be able to  
 12 understand and I don't think he would have the  
 13 sophistication to understand how to take care of a  
 14 patient with a complicated disease process with  
 15 congestive heart failure compounded with sleep apnea  
 16 compounded with hypertension with a hypertrophic  
 17 cardiomyopathy.

18 Q. And does the obesity add into the risk  
 19 factors?

20 A. Absolutely.

21 Q. Okay. What other risk factors make this a  
 22 complicated anesthesia case in your opinion?

23 A. I think that those are the factors. The  
 24 obesity, the congestive heart failure with the recent  
 25 admission for congestive heart failure, the

1 hypertension, the cardiomyopathy with the significant  
 2 left ventricular dysfunction and the sleep apnea are  
 3 the important factors.

4 Q. The fact that he had a previous TIA, would  
 5 that come into it?

6 A. It would be important to know and it -- it  
 7 would play a role, yes. I had forgotten that.

8 Q. How would that play a role?

9 A. You'd be concerned with his blood  
 10 pressure. You would want to avoid marked swings in  
 11 blood pressure with a history of TIA's.

12 Q. Now, just break down the obesity. What  
 13 risk does the obesity have on his anesthetic care?

14 A. It affects it a number of ways. First of  
 15 all, the airway. It makes the intubation potentially  
 16 more difficult just because there's more body mass to  
 17 deal with and the chest is often right up by, right up  
 18 by the chin, and that can make the act of intubation  
 19 more difficult. With regard to that, it also can make  
 20 the extubation more difficult, there's more possibility  
 21 of an obstructed airway after the operation is over.

22 With regard to monitoring --

23 Q. Just slow you down. Is that because of  
 24 the weight on the chest -- why is that?

25 A. It's typically -- it can be because of the

1 weight on the chest. It can be -- just the -- it would  
2 be the weight on the chest and just the size of the  
3 airway also. People who are obese tend to have a  
4 higher incidence of sleep apnea and airway obstruction.  
5 It's just basically due to the anatomy of the airway  
6 and the chest on the --

7 Q. Let's talk about the sleep apnea then.  
8 How does that increase the risk of anesthesia?

9 A. That would markedly affect the ventilation  
10 at the end of the operation when you're going to  
11 extubate a patient. Someone who has sleep apnea tends  
12 to obstruct their airway while they're sleeping. As an  
13 operation is over, if someone is still relatively  
14 drowsy they often don't have full muscle strength, they  
15 may be more prone to obstruct their airway.

16 Q. Now, in this particular case do you feel  
17 that the sleep apnea had a particular role with making  
18 the extubation complicated?

19 A. I don't think in this situation -- let me  
20 break the question down into two parts. It should have  
21 affected the planning going, leading into the  
22 extubation. The fact that the patient had sleep apnea  
23 should have made Dr. Adamek less likely -- should have  
24 indicated to him that the patient should be more awake  
25 before he extubated the patient. So they should have

1 Q. Now, as far as the hypertrophic  
2 cardiomyopathy, talk to me about that. What are the  
3 risk factors associated with the care during  
4 anesthesia?

5 A. What I would be looking at with that is  
6 what the patient's ejection fraction is with regard to  
7 the cardiomyopathy. He had an echocardiogram from  
8 August which showed -- which was read as having  
9 significant left ventricular dysfunction. What that  
10 means is that he's not able -- he's not able to eject  
11 all the blood in his heart and it would make him more  
12 prone to a backup of fluid and more prone to congestive  
13 heart failure.

14 Q. Okay. And that is due to the thickening  
15 of a wall of the heart; is that correct?

16 A. In this situation the chest x-rays showed  
17 cardiomegaly, so it showed an enlarged heart, and often  
18 the enlarged heart just doesn't beat as efficiently.

19 THE WITNESS: can we take a  
20 break for about two minutes?

21 MR. ALLEN No problem.  
22 (Thereupon, there was a brief recess.)

23 BY MR. ALLEN:

24 Q. Now, as we're still looking at the third  
25 paragraph it says, at that point in a resident's

1 planned on leaving him intubated for a longer period of  
2 time until he was totally awake and then extubated him  
3 if they were going to extubate him.

4 Q. Is there a minimum time that you would  
5 have suggested?

6 A. It depends on the patient.

7 Q. Can you glean from the record the length  
8 of time that you would have waited before extubating?

9 A. No. You have to look at the patient  
0 directly.

1 The second area where I don't think it  
2 makes a difference -- in this case I don't think it  
3 makes a difference because it doesn't appear that the  
4 patient was extubated. If the tube is in place, that  
5 should negate the sleep apnea. The sleep apnea, as far  
6 as I'm concerned, would relate just to the extubation  
7 and the act of extubating.

8 Q. Does the bucking have anything to do with  
9 the sleep apnea in your opinion?

0 A. I don't think so, no.

1 Q. What was the cause of the bucking?

2 A. The bucking was waking up on the tube  
3 having no anesthetic in his system and having the tube  
4 being a stimulus in his airway and he was reacting to  
5 the stimulus. It's basically a gag reflex.

1 training -- we're talking the fourth month, correct?

2 A. Right.

3 Q. -- a typical patient should have a  
4 relatively simple, uncomplicated medical history, and  
5 should not require a complex anesthetic, correct?

6 A. Right.

7 Q. Explain to me, in your opinion, was it  
8 that Dr. Senchyshak should not have been involved in  
9 the anesthetic care to begin with of a patient like  
10 Dewey Jones?

11 A. I think that that's --

12 MS. REINKER: Objection.

13 A. I think that the ideal patient for someone  
14 at that point in his training is a relatively simple --  
15 is a patient with a relatively simple, uncomplicated  
16 medical history. Often the nature of training programs  
17 and cases are that you'll start off with a simple case  
18 in the operating room that day and then a more  
19 complicated case will come in.

20 What has to happen in that situation is  
21 that the attending anesthesiologist needs to realize  
22 that that's a complicated case and spend more time in  
23 the operating room. I remember early in my training I  
24 had a patient that had a Swan-Ganz catheter and it was  
25 a very complicated case, the attending anesthesiologist

1 never left, never left the room and basically made all  
2 the decisions, and as a junior resident you were  
3 basically observing.

4 Q. So in your -- if I understand the opinion  
5 correctly then, it's not so much that he would have  
6 had an uncomplicated patient but if he had a  
7 complicated patient it would have been a the  
8 entire time by the attending?

9 A. Right. To elaborate, the typical patient  
10 should be simple, but often just the nature of cases,  
11 you'll start off with a hysterectomy in an operating  
12 room and the next case may be some very complicated  
13 gallbladder case like this. It just -- sometimes it's  
14 impossible to switch residents back and forth from room  
15 to room, so the attending anesthesiologist has to know  
16 what's going on and how difficult the case is and  
17

18 Q. What is it about the patient's surgery  
19 itself that makes it complicated?

20 one of the easiest operations. In this situation it's  
21 the

22 Q. It's the history of the patient?

23 A. Yes.

24 Q. Is the patient not the procedure

1 Again, that's the ejection fraction. That can be based  
2 on an echocardiogram or a cardiac catheterization to  
3 get that information.

4 Q. Okay. Now as far as -- as we go on from  
5 there, in your letter you gave me two examples or you  
6 gave two examples and those are pretty  
7 self-explanatory. In this case -- the fourth  
8 paragraph -- Senchyshak did exactly what's expected.  
9 I think we've covered that. I just don't want to  
10 duplicate anything.

11 So in your opinion, should Dr. Adamek  
12 have been in the room at the time of the beginning of  
13 induction?

14 A. At the beginning of induction, absolutely.

15 Q. Did you get from the record or the  
16 deposition that he was not there at the beginning of  
17 induction but came in during induction?

18 A. I got from Adamek's deposition that he  
19 came in during the induction and watched the induction.  
20 Offhand, I don't remember that coming up in  
21 Senchyshak's deposition.

22 Q. All right. If Dr. Adamek was in in  
23 the middle of induction and would hold any  
24 responsibility on the part of the resident for  
25 beginning the induction without his attending there

1 Yes?

2 A. Right.

3 Q. The fact that -- I think I skipped over  
4 congestive heart failure as a possible risk factor for  
5 anesthesia. Is there anything -- can you explain to me  
6 why that would be a problem with him?

7 A. Well, that goes -- it goes along with the  
8 cardiomyopathy and the fact that if you don't -- if  
9 your heart isn't able to eject the blood that it will  
10 lead to congestive heart failure. That's why the  
11 echocardiogram showing a significant left ventricular  
12 dysfunction was so important and why it was necessary  
13 to know what the patient's ejection fraction was.

14 Q. That would have been known if a Swan-Ganz  
15 was in place, correct?

16 A. No. Actually, the Swan-Ganz would not  
17 have given the ejection fraction. That would have  
18 been -- a cardiologist could have read that from the  
19 ejection fraction -- or from the echocardiogram and  
20 that will give you that information. The Swan-Ganz  
21 catheter will give you the pressures within the lungs  
22 and within the heart.

23 Q. Does it give the amount of force that the  
24 heart's pumping out?

25 A. No, it won't do anything of the sort.

1 A. If Dr. Senchyshak had started the  
2 induction without the attending present, that I would  
3 have a problem with.

4 Q. Why is that?

5 A. Because Dr. Adamek needed to be present  
6 for the induction of his patient. The attending  
7 anesthesiologist needs to be present when the  
8 operations are beginning. Giving a small amount of  
9 sedation is one thing, but giving a -- if he had given  
10 the Sodium Pentothal without Dr. Adamek in the room, I  
11 would be concerned about that.

12 Q. Would it have been important for  
13 Dr. Adamek to have been there at the time that the  
14 incision was made?

15 A. Specifically at the incision, no. I think  
16 Dr. Adamek needed to know -- would need to know when  
17 the incision was occurring, if and what response  
18 Mr. Jones had to the incision.

19 response if he wasn't there?

20 A. He could walk in two minutes later and  
21 take a look at the chart and see if there was a change  
22 in blood pressure when the incision occurred.

23 Q. When you look at the record at the time of  
24 incision, do you see any critical stage for Dewey  
25

1 Jones' blood pressure or overall health?  
 2 A. What I see is he comes into the room at  
 3 9:25 approximately according to the record. The blood  
 4 pressure is stable until 10:00, 10:10. The induction  
 5 starts at around 10:00. Shortly after the induction  
 6 the blood pressure falls from 160/80 to about 100/40 at  
 7 that point and incision is made shortly thereafter and  
 8 the blood pressure starts rising back to its  
 9 preoperative level.

10 Q. So no problem?

11 A. I don't see a problem. It's something  
 12 that frequently occurs with a patient. You're giving a  
 13 large dose of Sodium Pentothal, it can drop the blood  
 14 pressure. As long as it's taken care of and treated  
 15 properly. If the blood pressure had been allowed to  
 16 remain at a hundred, I'd have a problem. It looks like  
 17 they made the incision, shortly after as the blood  
 18 pressure fell that helped bring the blood pressure up.

19 Q. Are you aware of any of the communication  
 20 between the resident that saw this patient the night  
 21 before and Dr. Adamek?

22 A. I am not aware of any communication. The  
 23 only thing I've got to go on is Adamek's signature on  
 24 the preoperative record.

25 Q. Do you understand that there was an

1 evaluation the night before?

2 A. There was -- I saw -- I assumed that there  
 3 was an evaluation the night before. This note is dated  
 4 at 8:00 in the morning on the day of surgery. I  
 5 assumed that there was an evaluation the night before  
 6 because I saw an order in the chart from the night  
 7 before, so I assume that someone from anesthesia had  
 8 seen the patient.

9 Q. So if someone from anesthesia had seen the  
 0 patient the night before in your assumption, where in  
 1 the record should they have charted what they found?

2 A. They should have charted it -- it would  
 3 depend on the specific -- each hospital has a different  
 4 system. I'm assuming that this preoperative record was  
 5 filled out the night before. It looks like a different  
 6 handwriting than the handwriting that was at 8:00, that  
 7 says 8:00.

8 Q. So it's your assumption that -- this  
 9 pre-op anesthesia record that was dated 10-20-94 at  
 0 8:00, what part of the record, in your opinion, was  
 1 filled out the night before? If you can, just read  
 2 that into the record.

3 MR. CASEY: Assuming you  
 4 can read it.

5 ///

1 BY MR. ALLEN:

2 Q. Just make the best.

3 A. What I'm seeing is NPO midnight.  
 4 Allergies none. Meds: Procardia, Capoten, Lasix,  
 5 Lanoxin. Airway has got a blank line next to it. I'm  
 6 not sure what this says below airway. Circulation, it  
 7 looks like it's making some comment about S2 and S3,  
 8 which I'm assuming -- which is related to his  
 9 heartbeat.

10 Respiration, it says clear to  
 11 auscultation. Neuro, it says alert and oriented times  
 12 three. Past surgical history, it says zero. Next to  
 13 other it says cholecystitis, cholelithiasis, so I'm  
 14 assuming that's the diagnosis. Then it says PMH --  
 15 which stands for past medical history -- hypertension,  
 16 congestive heart failure, sleep apnea, obesity.

17 Then it gives the lab values of the  
 18 patient. Chest x-ray, it says unchanged. No  
 19 congestive heart failure. There's a line I can't read  
 20 and then it says something pulmonary consult and I  
 21 believe it says spirometry reading. But there's no  
 22 date on this. It's purely a guess on my part as to  
 23 whether -- as to when this note was written.

24 Q. Assume for me this note was not written  
 25 the night before, that there was no note written in the

1 chart the night before by the resident that saw this  
 2 patient. You would be critical of that, would you not?

3 A. It wouldn't be optimal, but it's something  
 4 that occurs periodically. Often an operation is  
 5 scheduled the morning of surgery and then you see the  
 6 patient as the patient comes down to the operating  
 7 room. It's something that we see, we do frequently.

8 Q. But no matter what year a resident is,  
 9 residents by that time know that you chart, if it's not  
 10 done it's not charted, if it wasn't done it's not  
 11 charted?

12 A. I'm not sure I understand your question.

13 Q. By this time, no matter what year the  
 14 resident is, they know that if they evaluate a patient,  
 15 they see a patient, they should write it in the chart,  
 16 correct?

17 A. One would think, yes.

18 Q. No matter what year, right?

19 A. Right.

20 Q. So would you not be critical of the  
 21 resident if he did not write it in the chart the night  
 22 before what his evaluation was?

23 MR. CASEY: Objection;  
 24 asked and answered.

25 A. It would certainly be optimal to do that,

1 and that would be the nature of their training program  
2 and how residents or , what residents are told, but one  
3 would expect that they would write a note in the chart  
4 if they see a patient. It's basic knowledge.

5 Q. It would be below the standard of care for  
6 a resident to fail to chart a pre-op evaluation,  
7 correct?

8 A. I have a problem with the expression below  
9 the standard of care because it probably wouldn't make  
10 any difference to the outcome in the operation of the  
11 operation. I mean, whether a resident writes a note in  
12 the chart or not, it's still up to the people taking  
13 care of the patient to know what's going on with that  
14 patient and they can be the ones who write it in the  
15 chart. So that's why I have a problem with that.

16 Q. So it could be a breach of the standard of  
17 care but not cause any damage; is that what you're  
18 saying?

19 A. It wouldn't cause any damage. I'm not  
20 sure that I would call it a breach of the standard of  
21 care. It would not be optimal if he didn't write it.  
22 I'm not sure how you would relate standard of care if  
23 there's no relationship between its outcome.

24 Q. Assuming that standard of care is separate  
25 than outcome, it would be a violation of standard of

1 A. Yes.

2 Q. We got a chance to talk to Dr. Cascorbi  
3 this afternoon.

4 A. M-hm.

5 Q. He said a couple things I'm going to  
6 paraphrase for you since I don't have the exact  
7 deposition transcript at this time. But assuming that  
8 he said the following, would you agree or disagree, I'm  
9 going to ask you two questions.

10 Assuming that he said that the resident  
11 in this case, Senchyshak, should have recognized due to  
12 Dewey Jones' condition that reversal of anesthesia  
13 should not have been attempted without the attending  
14 present, do you agree with that statement?

15 MR. CASEY: I object to  
16 that characterization, but you can answer  
17 if you understand.

18 A. I would prefer to turn the question or to  
19 turn the statement around and say it was Dr. Adamek's  
20 responsibility to have been there and to have discussed  
21 this before with Dr. Senchyshak. There has to be a  
22 level of communication between the resident and the  
23 attending anesthesiologist and it's the attending  
24 anesthesiologist's responsibility to make certain that  
25 the resident understands what the plan is.

1 care, correct?

2 MR. CASEY: Charles, move  
3 on. He's already answered this three  
4 times.

5 A. I have -- I mean, I don't think -- I think  
6 it doesn't make a lot of difference, so I'm not sure I  
7 would put it as a standard of care. It's certainly  
8 something that you would expect someone to do and it's  
9 certainly something that's optimal, but frequently for  
10 one reason or another there's nothing written in the  
11 chart.

12 Q. What is your definition of standard of  
13 care, violation of the standard of care?

14 A. I think the standard of care is that the  
15 appropriate things be done in caring for a patient at  
16 the level of community standards.

17 Q. And does that standard of care have  
18 anything to do with whether or not damage was caused to  
19 the patient in your definition?

20 A. You could certainly have a violation or  
21 breach of the standard of care if damage wasn't caused.

22 Q. Now, you were, I understand, trained at  
23 Case Western?

24 A. Yes.

25 Q. Internship, residency?

1 Q. So you disagree with that statement?

2 A. I would -- I would disagree with the  
3 statement. I feel it's the attending  
4 anesthesiologist's responsibility at that point to know  
5 what's going on and to have communicated a plan to the  
6 resident.

7 Q. And I'm paraphrasing again because I don't  
8 have the exact testimony to go off of, but he also  
9 testified that the resident, Senchyshak, should have  
10 recognized that due to Dewey's condition that he should  
11 not have attempted to put the patient on room air  
12 unless he was under the direct supervision of Dr.  
13 Adamek.

14 A. I don't think the patient -- from what  
15 I've seen in the record, the patient was never on room  
16 air. What it looks to me like in going through this,  
17 if you look at the line under isoflurane where it says  
18 ISO, it says air and then slash O2. The original  
19 record, the record usually reflects nitrous oxide and  
20 oxygen. The nitrous oxide is crossed out and it's  
21 written air O2.

22 During the operation at 10:00 they  
23 start on zero liters of air, eight liters of oxygen.  
24 They go during the maintenance of the operation to  
25 three liters of nitrous oxide and three liters of

1 air. At the end of the operation at 12:30 they go back  
2 to zero liters of air and eight liters of oxygen. So  
3 the patient was never on room air.

4 If the patient were on room air I would  
5 think that would be a grave problem. Any patient  
6 waking up from anesthesia, be it someone with Dewey  
7 Jones' history or anyone who is healthy, needs to have  
8 an enriched oxygen environment waking up from an  
9 operation. That's what helps get rid of the  
10 anesthetic.

11 Q. What is the X stopping here right at this  
12 time?

13 A. That means the anesthetic was turned off,  
14 the isoflurane was turned off. The concentration he  
15 was on at this point between 12:15 and 12:30 was .6  
16 percent, and at 12:35 it looks like that was turned  
17 off.

18 Q. So according to the record, in your  
19 opinion he was never on room air?

20 A. No.

21 Q. Now, do you -- other than -- you know  
22 Dr. Cascorbi. Tell me your relationship with him when  
23 you were a resident there.

24 A. He was the chairman of the department and  
25 I had -- he was one of the instructors. I mean, I

1 acting chairman?

2 A. Right. I've been in the same job for the  
3 last nine years. Our group now goes to Mt. Sinai  
4 Hospital, Deaconess Hospital, Richmond Heights Hospital  
5 and Mt. Sinai's Ambulatory Center.

6 Q. Why are you licensed in Florida?

7 MR. CASEY: Good place to  
8 retire?

9 BY MR. ALLEN:

10 Q. Do you have plans to go to Florida any  
11 time soon?

12 A. No, I really don't. It's one of these  
13 things that it's much easier to get licensed to a state  
14 that you might move to at some point soon after you've  
15 gotten your medical license and passed your boards, so  
16 that was why I did that. Also, my inlaws have a  
17 condominium in Florida and spend some time there and  
18 periodically when I'm down there if my father-in-law  
19 needs medicine I help get it.

20 Q. Other than that, have you ever practiced  
21 medicine in Florida?

22 A. No, only in Ohio.

23 Q. Do you know any of the -- I don't believe  
24 I've asked. Do you know any of the defendant doctors  
25 besides Dr. Adamek meeting him one time? Do you know

1 worked with him in the operating room occasionally. He  
2 helped plan my career and gave me letters of  
3 recommendation when I applied for my present job.

4 Q. Do you think highly of him?

5 A. Extremely.

6 Q. Now, you spent your fellowship there also,  
7 correct?

8 A. Right.

9 Q. Then from 1988 on, take me through what  
10 you've been doing from that time to the present.

11 A. I finished my residency in the end of June  
12 of 1988 and around July 15th, July 20th I began working  
13 with Cleveland Anesthesia Group at Mt. Sinai Hospital  
14 and I've remained part of Cleveland Anesthesia Group to  
15 this point. In 1991 we took on another hospital, which  
16 is Deaconess Hospital, and over the last four months  
17 since April I've been more at Deaconess Hospital, but I  
18 still go to Mt. Sinai.

19 The way we work is on any given day we  
20 have six doctors at Mt. Sinai and two doctors at  
21 Deaconess. The person that was at Deaconess primarily  
22 was in a car accident and I've taken over his role  
23 since that point and that's why I'm the acting  
24 chairman.

25 Q. He was in a car accident and you became

1 Dr. Ho or Dr. [redacted]

2 A. No.

3 Q. Do you know Dr. Senchyshak have you met  
4 him?

5 A. I met him one time.

6 Q. And when was that?

7 A. That was about four months ago and that  
8 was in passing at Reminger & Reminger.

9 Q. Did you discuss this case with him in  
10 passing at Reminger & Reminger?

11 MR. CASEY: He discussed  
12 the case with me when he was there, not  
13 with Dr. Senchyshak.

14 MR. ALLEN: He discussed  
15 the case with you?

16 MR. CASEY: Right. It was  
17 a meeting that we had together.

18 MR. ALLEN: with Dr.  
19 Senchyshak?

20 MR. CASEY: No. I had met  
21 with Senchyshak, then I met with Rapkin.

22 BY MR. ALLEN:

23 Q. But you never met directly with  
24 Senchyshak?

25 A. No.

1 Q. It was just a hi, hello, and then you were  
2 gone sort of thing?

3 A. He sat in the room for a few minutes and  
4 basically I discussed things with Mr. Casey because  
5 this was near the beginning of my work on the case and  
6 I had a fair amount of questions.

7 Q. What was your biggest area of concern?

8 A. I was looking a lot at the charting and  
9 what was going on. I mentioned that gap between 1:00  
10 and 1:15 and I didn't know what was going on at that  
11 point.

12 Q. Is that when you learned that he was out  
13 of the room running errands?

14 A. I think I learned that from the  
15 deposition.

16 Q. Other than that, were there any other  
17 concerns that you had?

18 MR. CASEY: Charles,  
19 you're getting a little far into work  
20 product now. I'm going to object if you  
21 go much further.

22 MR. ALLEN: I just want to  
23 know the area of concern.

24 MR. CASEY: I understand.

25 MR. ALLEN: Then I'll pull

1 BY MR. ALLEN:

2 Q. The questions which I have are what  
3 concerns you had that filled in the blanks in which you  
4 got information from Dr. Senchyshak that helped you  
5 understand what was going on?

6 A. What I asked Mr. Casey about, the other  
7 main areas of the charting I had problems with were the  
8 things that were crossed out.

9 Q. And what was crossed out?

10 A. The thing I was looking at were that it  
11 looked like there were changes in the pulse oximetry  
12 values, there was a change in the norflurane of whether  
13 that was given at 12:25, and there was a cross-out on  
14 the notes on the side, number three where it says  
15 patient not responsive to verbal commands in terms of  
16 eye opening, hand squeezing, and I asked Mr. Casey what  
17 was going on with that.

18 Q. Did Mr. Senchyshak tell you -- is that  
19 where you got in your opinion letter #at he crossed it  
20 out at the insistence of Dr. Adamek?

21 A. I think I got that from the deposition.  
22 To be honest, it was -- I don't know exactly what the  
23 time frame was with regard to the deposition versus  
24 this. I know I had the deposition before I wrote my  
25 report.

1 out, okay.

2 A. You know, I had a number of conversations  
3 with Mr. Casey. I mean, we went through a lot of  
4 things, and I'm sure after talking to Mr. Casey he  
5 talked to Dr. Senchyshak, but I just -- there were a  
6 lot of areas of concern I had with regard to -- I mean,  
7 especially the monitoring. But, I mean, over the  
8 course of -- over the course of the case, I mean, I  
9 asked Mr. Casey a lot of different areas.

10 Q. Just talking about the areas that you had  
11 concern that you addressed with Dr. Senchyshak to fill  
12 in the blanks.

13 A. I didn't address anything with  
14 Dr. Senchyshak, I addressed my concerns to Mr. Casey.

15 MR. CASEY: Dr. Senchyshak  
16 and Dr. Rapkin have never had any  
17 conversations. I have always had  
18 conversations with Dr. Rapkin, and we  
19 won't go any further into those  
20 conversations because that's my work  
21 product.

22 MR. LANDSKRONER: If it forms the  
23 basis of the doctor's opinion in any way  
24 and it was relied on in any way, then it's  
25 discoverable.

1 Q. And your report was letter what day?

2 A. My report was written in May, it was dated  
3 May 5th.

4 Q. So now, Doctor, besides the occasions to  
5 go to Reminger & Reminger for this case, have you ever  
6 had any dealings with that law firm before?

7 A. Yes.

8 Q. Tell me about those.

9 A. I have -- early in my training I dealt  
10 with -- I did one case with them, that was about seven  
11 or eight years ago. I actually don't remember the  
12 case. At the present time I'm doing two other cases  
13 with them.

14 Q. Tell me -- I'm sorry.

15 A. I'm sorry?

16 Q. Tell me about the case seven or eight  
17 years ago, were you an expert?

18 A. I was an expert in the case.

19 Q. You formed opinions defending a doctor,  
20 correct?

21 A. Yes. I did -- my hunch is that it was  
22 real early in being out of residency and I probably did  
23 a lousy job and that's probably why I wasn't asked to  
24 do any more work for several years.

25 Q. For seven, eight years.

1 A. Now I'm doing two other cases with them.  
 2 That actually makes up -- I've been doing more and more  
 3 malpractice work. The bulk of my work is plaintiff's  
 4 work. I'm doing about six plaintiffs' cases right now.

5 Q. We'll get there. The two other cases that  
 6 you're reviewing besides this case, what do those  
 7 involve?

8 A. One involves --

9 MR. CASEY: I'm going to  
 10 object and not let him answer in terms of  
 11 if those cases are ongoing. You can ask  
 12 him if they have anything to do with  
 13 anything that's involved in this case, but  
 14 those cases are ongoing and I don't want  
 15 him to have deposition testimony on the  
 16 record when he has not yet been deposed in  
 17 those cases. So I'm not going to let him  
 18 answer those questions.

19 BY MR. ALLEN:

20 Q. You haven't been deposed in those cases?

21 A. Either.

22 Q. Do either one of those cases have to do  
 23 with anything that relates to this case?

24 A. No.

25 Q. About the induction of anesthesia,

1 correct?

2 A. One more time, could you ask the question?

3 Q. I'm sorry. The reason -- your insurance  
 4 company retains them to defend your cases, correct?

5 A. Right.

6 Q. The first one that was dismissed, did it  
 7 have anything to do with issues similar to this case?

8 A. No.

9 Q. Did you give deposition testimony?

10 A. No, it never got far enough.

11 Q. What happened with it? Did it get  
 12 settled?

13 was a case.  
 14 dismissed. It was someone who -- I was doing the  
 15 cardiac anesthesia on a patient. A typical routine is  
 16 to leave a cardiac patient intubated after an  
 17 operation, after a heart operation. This patient had a  
 18 heart bypass operation, I left the patient intubated,  
 19 the patient subsequently had a tracheostomy and they  
 20 sued the cardiac surgeon, they sued me.

21 Q. For?

22 A. For leaving the patient intubated.

23 Q. Too long?

24 me  
 25 patient intubated. It would have been negligence if I

1 Swan-Ganz extubation?

2 A. Totally different.

3 Q. None of those had a high risk patient with  
 4 cardiomegaly, congestive heart failure, hypertension?

5 A. No.

6 Q. Obesity?

7 A. None.

8 MR. CASEY: Thank you,  
 9 Charles.

10 MR. ALLEN: sure.

11 BY MR. ALLEN:

12 Q. Now, other than the expert work with that  
 13 firm, have they ever defended you in a lawsuit?

14 A. I have had my name mentioned in two  
 15 lawsuits, one has been dismissed, the other will be  
 16 dismissed shortly, and Reminger & Reminger is the law  
 17 firm that our malpractice insurance company retains.

18 Q. That's PIE?

19 A. No.

20 Q. What is that?

21 A. We deal with Medical Protective right now.  
 22 Previously we dealt with Frontier.

23 Q. I'm sorry. So you are -- the same  
 24 insurance company that you handle, that handles your  
 25 insurance, also retains them as defendant counsel,

1 would have extubated the patient.

2 Q. Right. So as far as the case that's about  
 3 to be dismissed, what is that'?

4 A. That's a lady who came in for a hip  
 5 fracture --

6 MR. CASEY: Again, I'm not  
 7 going to let him testify to this. This is  
 8 an ongoing case, Charles. It has not yet  
 9 been discussed.

10 BY MR. ALLEN:

11 Q. Is it similar to this case?

12 A. It's nothing to do with this case, nothing  
 13 similar.

14 Q. Have you given testimony in the case?

15 A. No.

16 Q. Can you give me the name of the case,  
 17 who's suing you?

18 A. The family's name is Kupiac.

19 Q. That's due to care at which hospital?

20 A. That was at Deaconess.

21 Q. Now, the other law firm is Jacobson &  
 22 Maynard. Assume they've never defended you before?

23 A. No.

24 Q. Have you ever been retained by them as an  
 25 expert witness?

1 A. No.

2 Q. Have you ever had any dealings with any of

3 the lawyers that are sitting around the room today?

4 A. No. I met Jacobson one time.

5 Q. Now, let's walk through. I guess seven or

6 eight years ago is when you started doing med-mal work;

7 is that correct?

8 A. Really just about one year ago. I mean, I

9 did the one case and then I didn't do anything else

10 a year ago.

11 Q. And then a year ago -- within the last

12 year you've done three cases for defense work, okay,

13 what you just talked about. Tell me about the other

14 cases that you ve done.

15 A. I've done work for -- I've done two cases

16 with Nurenborg, Plevin in Cleveland. Both are ongoing

17 right now. One involves --

18 MR. CASEY: Don't testify

19 to any case that's ongoing.

20 MR. LANDSKRONER: we don't want

21 to know about those.

22 A. I'm dealing with one case that is also

23 ongoing with the firm of Dinn, Hochman & Potter.

24 Q. Are you on which side?

25 A. Plaintiffs. And then two cases in

1 was in residency. At the time he ran the intensive

2 care unit, the surgical intensive care unit. I worked

3 with him occasionally in the operating room. I have

4 the highest respect for Dr. Nearman. He was one of my

5 favorite attending anesthesiologists to work with.

6 Q. Other than that relationship in the

7 residency program, have you had any other sort of

8 relationship with him, personal?

9 A. Running into him socially once in a while,

10 I mean, just in passing and saying hello to him. He's

11 a very pleasant fellow and he always keeps in -- always

12 says hello to people.

13 Q. Have you had any conversations with him

14 about this case?

15 A. No.

16 Q. How about Dr. 'asci bi?

17 A. No.

18 Q. Do you know Dr. John Conomy?

19 A. No.

20 Q. Do you know Dr. -- I guess that's it.

21 Other than that, I'm going to ask you

22 some of the plaintiffs' experts. Tell me if you know

23 any of these guys. Dr. Joseph Bussey?

24 A. No.

25 Q. Dr. Joel Kaplan?

1 Pittsburgh that are ongoing, but it's plaintiff's work.

2 Q. So tl those ve ie

3 anything else tl last year?

4 A. And I've had discussions with another

5 plaintiff's case, the firm is Hermann, Cahn &

6 Schneider, and that's ongoing also.

7 Q. Do you have any cases a you're

8 reviewing at this point that you haven't decided to

9 take or not to take. other than what you've talked

10 about?

11 A. No.

12 Q. Have you given -- how many depositions

13 have you given?

14 A. This is my first.

15 Q. Now, do you know Dr. John Downs?

16 A. No. I read his report, that's my only

17 knowledge.

18 Q. Do you know Dr. Schlanger?

19 A. No, never heard of him.

20 Q. Dr. Nearman, Howard Nearman?

21 A. I know him.

22 Q. Tell me about your relationship with

23 Mr. Nearman.

24 A. Dr. Nearman was one of my attending

25 anesthesiologists at UH, University Hospitals, when I

1 A. I know of him.

2 Q. How do you know of him?

3 A. Dr. Kaplan is an extremely well thought of

4 person in anesthesiology. I've heard him speak at

5 lectures, I've read sections of his books, and I

6 respect him highly. He's very well thought of in

7 anesthesia circles.

8 Q. Do you have his book on cardiac

9 anesthesia?

10 A. You know, I don't have his book, I've read

11 chapters of it though or seen chapters of it anyway.

12 Q. Have you ever met him, talked with him?

13 A. No.

14 Q. Do you know a cardiologist Dr. Marc

15 Semigran?

16 A. No.

17 Q. Alvin Kahn?

18 A. No.

19 Q. Dr. Francis Barnes, Columbus?

20 A. No.

21 Q. Dr. Greendyke?

22 A. No.

23 Q. Dr. Greenhouse?

24 A. No.

25 Q. A surgeon by the name of Dr. Marshall

1 Orloff?  
 2 A. No.  
 3 Q. A cardiologist by the name of Dr. Paul  
 4 Thompson?  
 5 A. No.  
 6 Q. And I . Jerry Winkler?  
 7 A. No.  
 8 Q. Tell me at your meeting today as it  
 9 relates to working with residents.  
 10 A. I don't work with residents right now, I  
 11 work with nurse anesthetists and nurse anesthetist  
 12 students. At Mt. Sinai we have an active nurse  
 13 anesthesia program so we deal -- and nurse anesthesia  
 14 school, so we're dealing with students in training at  
 15 all times and we deal with -- and I supervise nurses  
 16 for many of my cases.  
 17 Q. When was the last time you supervised a  
 18 resident?  
 19 A. The last time I supervised a resident? I  
 20 supervised a dental resident. I haven't supervised an  
 21 anesthesia resident since I was in residency.  
 22 Q. When did you become Board certified?  
 23 A. 1989.  
 24 Q. Why did you do that?  
 25 A. It's the natural course. When you finish

1 certified. I don't think that that's necessarily  
 2 wrong.  
 3 Q. Do you know if that hospital had a policy  
 4 that these doctors were supposed to be Board certified?  
 5 A. Are you talking in my residency?  
 6 Q. Your residency.  
 7 A. I don't know if they had a policy or not.  
 8 They never discussed that with me.  
 9 Q. Have you ever had a patient go into a coma  
 10 after anesthesia?  
 11 A. I've had patients who haven't woken up and  
 12 subsequently died. I don't think I've had a patient  
 13 that went into a long-term coma.  
 14 Q. So you've never given care for a patient  
 15 in a long-term coma?  
 16 A. No.  
 17 Q. Other than your role as an  
 18 anesthesiologist, have you ever been asked to come in  
 19 and give an independent evaluation to medically clear a  
 20 patient for surgery?  
 21 A. No. It's always been in my role as an  
 22 anesthesiologist.  
 23 Q. And that is done before surgery and you  
 24 have the ability to stop the surgery if you feel that  
 25 the surgery should not proceed?

1 your residency you take your boards and you pass your  
 2 boards. It helps you further in your career,  
 3 demonstrates your knowledge base.  
 4 Q. How does it demonstrate your knowledge?  
 5 A. By taking the exam, answering the  
 6 questions.  
 7 questions.  
 8 Q. Were you ever pervis in the residency  
 9 program by a non-Board certified anesthesiologist?  
 10 MR. CASEY: If you know.  
 11 A. I believe so, yeah.  
 12 Q. Do you know who it was?  
 13 A. I believe it was  
 14 were rumors that a couple of the people were not Board  
 15 certified. It wasn't something that was common  
 16 knowledge and it wasn't stated. I've got a couple of  
 17 opinions, but I'm not sure that I would say for the  
 18 record that they were or mention their names because I  
 19 don't know if I'm accurate.  
 20 Q. I'm not asking you to do that.  
 21 But it was your understanding or your  
 22 belief that everybody that was teaching you in the  
 23 residency was Board certified, correct?  
 24 I believe so, yeah.  
 25 there may have been a few people who weren't Board

1 A. Yes. What typically happens is surgeons  
 2 will often ask for an anesthesia consult of someone  
 3 that they're concerned about. You'll go and see the  
 4 patient and you'll make recommendations as to if they  
 5 need any consults or if the patient is fine. You also  
 6 will frequently typically see the patient the night  
 7 before.  
 8 One of the purposes of seeing the  
 9 patient the night before is to be able to take care of  
 10 any work that needs to be done on that patient so the  
 11 patient is ready for surgery, such as if they need a  
 12 cardiologist to evaluate the patient or they need some  
 13 more information on the chart that you're able to do  
 14 that before the operation is scheduled so that the  
 15 operation isn't delayed. One of the things that annoys  
 16 me is their  
 17 Q. Right. And so -- that you've had that  
 18 occasion that operations due to the health of the  
 19 patient?  
 20 Q. And that's part of your role?  
 21 A. Absolutely.  
 22 Q. And so you -- again, you've called in  
 23 independent consults, cardiologists, etcetera?  
 24 A. M-hm, yes. Typically what I'll do is I'll

1 call the -- I may call the internist and tell him this  
2 is specifically what information I need to have or I'll  
3 call the cardiologist directly and say I need to have  
4 this much information. I try to direct the consult to  
5 where I want it to be.

6 As the anesthesiologist I know what  
7 information I want, I know what's helpful to me.  
8 What's helpful to me is for someone to say he's got an  
9 ejection fraction of 20 percent, he's got an ejection  
10 fraction of 50 percent, that's helpful to me.

11 Q. Do you know from reading the records and  
12 the depositions whether Dr. Adamek received that  
13 information from a cardiologist preoperatively?

14 A. There's no -- there's nothing in the  
15 deposition that I saw that says he got the information.  
16 What I got from the deposition, from his deposition is  
17 that he got involved in the case at the time of  
18 induction, from his deposition that is. From  
19 Dr. Senchyshak's deposition it appeared that he was  
20 involved a little before, he was involved in the  
21 hallway before the induction. But there's nothing to  
22 indicate that the information -- that he had  
23 information of that kind.

24 Q. There's no indication from his deposition  
25 or from the record that Dr. Adamek had any information

1 their disease processes, before you can take care of a  
2 patient. It would be like a lawyer sitting down at  
3 trial without even having talked to the patient or  
4 reviewed the records. There's too many critical things  
5 that can go on.

6 Q. So he should have been aware and evaluated  
7 the patient before going into the operating room,  
8 correct?

9 A. Absolutely.

10 Q. Now, are you here to give any opinions as  
11 to the degree in which the gallbladder was diseased, if  
12 any?

13 A. No.

14 Q. Are you here to give any opinions as to  
15 what the gallbladder pathology report says?

16 A. No.

17 Q. Doctor, are you aware of whether or not  
18 Dewey Jones had cor pulmonale?

19 A. I actually don't remember that from the  
20 echo report. The facts that stuck in my mind were the  
21 left ventricular dysfunction.

22 Q. If he had that would that make any  
23 difference as to the insertion of the Swan-Ganz in your  
24 opinion?

25 A. No. I think that even if he had elevated

1 before the beginning of the anesthesia in this case,  
2 correct?

3 MR. CASEY: objection.

4 That's not what he just said, Charles. He  
5 said according to Senchyshak.

6 A. Ask your question one more time, please.

7 Q. There's no indication from the record or  
8 from the deposition that Dr. Adamek came in with any  
9 knowledge of Dewey's previous care before the beginning  
10 of anesthesia?

11 A. Well, except that I'm looking at the  
12 pre-op record which Dr. Adamek signed. The A there I  
13 assume is his signature. That would indicate to me  
14 that he had seen the preoperative evaluation, so he  
15 knew going in that the patient had hypertension, CHF,  
16 sleep apnea and obesity.

17 Q. Do you recall what his statement was in  
18 his deposition as to when he read that?

19 A. No, I don't recall.

20 Q. If he stated that he read that during the  
21 beginning of induction, would you be critical?

22 A. Absolutely. The reason I'd be critical is  
23 he's taking over the care of a patient that he doesn't  
24 understand, and I think you absolutely have to  
25 understand what's going on with a patient, understand

1 right ventricular -- elevated pulmonary artery  
2 pressures from cor pulmonale it would still give you a  
3 trend, and the trend is what's important as the case  
4 progresses. If he had significant cor pulmonale, that  
5 would also be another area that Dr. Adamek would need  
6 to have the information on from a cardiologist.

7 Q. You won't give any opinions as to whether  
8 or not Dewey Jones was a candidate for any alternatives  
9 to surgery?

10 A. No.

11 Q. And have we discussed, in your opinion,  
12 all the risk factors of Dewey Jones before going into  
13 the operation, Doctor?

14 A. I think we have.

15 Q. And overall would you consider him a very  
1 high risk patient?

17 A. I'd consider him an extremely high risk  
18 patient.

19 Q. Are you critical for them stopping  
20 Mr. Jones' anti-hypertensive medications the night  
21 before and that affecting his anesthesia care?

22 A. I wasn't aware they stopped his  
23 anti-hypertensive medicines.

24 Q. He is on NPO the night before

25 A. Right. I actually didn't look as to

1 whether he had gotten his meds the morning of surgery.

2 Q. Is that something that an anesthesiologist  
3 would make sure occurred, that he got his meds either  
4 the morning of or the night before?

5 A. It could either be the anesthesiologist or  
6 the surgical resident. You frequently write an order  
7 that says NPO past midnight except for meds, medicines.

8 Q. Pardonme?

9 A. You can -- frequently either the  
10 anesthesiologist or the surgeon or the surgery resident  
11 will write an order that says NPO after midnight except  
12 for the various medicines he's on.

13 Q. So if he didn't have his  
14 anti-hyperintensive medications before surgery from  
15 midnight on, how would that affect the way he was  
16 monitored intraoperatively?

17 A. It probably made no difference.

18 Q. Would it have added to the problems that  
19 he had at or around the time of extubation, would it  
20 have made it more likely to go into fluid overload?

21 A. It would be hard to say. I don't know if  
22 I could answer that question.

23 MR. CASEY: You don't have  
24 to have an opinion on everything.

25 ///

1 A. It was not up to the appropriate  
2 standards. He should have had his medicines the  
3 morning of surgery.

4 Q. Now, as far as Dewey Jones' high risk  
5 status, he was at a higher risk to developing pulmonary  
6 edema, correct?

7 A. Yes.

8 Q. Higher risk of developing cardiac arrest  
9 or cardiopulmonary arrest in your opinion?

10 A. Well, I don't know that he was at a higher  
11 risk of a cardiac arrest, he was certainly at a higher  
12 risk of pulmonary edema. I mean, cardiac arrest -- I  
13 mean, the patient -- someone who comes into an  
14 operating room walking and breathing we like To think  
15 doesn't have that high of a risk of having a cardiac  
16 arrest in the operating room.

17 Q. But the fact of his heart condition, would  
18 that --

19 A. ... more ... --

20 Q. Somebody without?

21 A. Exactly.

22 Q. And so the same goes for some sort of  
23 pulmonary problems, edema, pulmonary edema, et cetera,  
24 he's at a higher risk for developing pulmonary  
25 problems?

1 BY MR. ALLEN:

2 Q. But --

3 A. It's certainly optimal for him to have had  
4 his medicines. Whether it had any effect, it's hard to  
5 say. Certainly if he had been monitored with a  
6 Swan-Ganz catheter and arterial line and they would  
7 have seen elevated pulmonary artery pressures and given  
8 him nitroglycerin and Lasix at that point it would have  
9 done the same thing as giving him his  
10 anti-hypertensives in the morning. In fact, it  
11 probably would have done it better.

12 Q. So by the fact that the resident failed to  
13 say NPO except for meds the night before as your  
14 interpretation of the record, would that be a failure  
15 of the standard of care on the part of the resident  
16 himself who wrote that note?

17 A. You know, it's a fairly small issue. I  
18 don't know if I would put that as a breach in the  
19 standard of care. I mean, one dose of Procardia and  
20 one dose of Lasix, I'm not sure that you could say  
21 that's a breach of the standard of care if he didn't  
22 have that.

23 Q. So you have no opinion that that's a  
24 breach of the standard of care, or you feel like it was  
25 within the standard of care to do that?

1 A. Yes.

2 Q. Now, he was given -- Dewey was given  
3 oxygen the morning of surgery, you're aware of that?

4 A. Yes.

5 Q. What is your understanding of the reason  
6 for that?

7 A. I don't know the reason. I saw it in a  
8 nurse's notes. I saw nothing in the progress notes as  
9 to why that was done. It's something that's frequently  
10 done though before an operation. Many times I'll have  
11 a nurse call me before an operation and ask if she can  
12 start oxygen and I'll always answer yes. I mean, it  
13 never hurts.

14 Q. So to your knowledge -- you don't have any  
15 knowledge why it was turned on, why he was given  
16 oxygen?

17 A. No.

18 Q. Do you have any opinion as to whether that  
19 was beneficial of Dewey Jones?

20 A. I think it probably didn't make a lot of  
21 difference.

22 Q. Pretty close to the end here.

23 Do you have an opinion as to whether  
24 the Swan-Ganz had been in place that -- scratch that.  
25 Generally when a Swan-Ganz is in place are you always

1 able to control the patient's blood pressure with the  
2 proper use of vasodilators, nitrates?

3 A. You're not always able to do it, it helps  
4 guide you in doing it, and the arterial line helps  
5 guide you in doing it. Some patients just can be very  
6 difficult to manage.

7 Q. But it's more likely than not that you'd  
8 be able to guide that, correct?

9 A. It would -- like I said, it would guide  
10 you, but often the stresses of an operation can make it  
11 and a patient's underlying condition can make it  
12 difficult to control the blood pressure.

13 Q. Do you believe that Mr. Jones' cardiac  
14 arrest -- do you believe it was a cardiac arrest  
15 eventually?

16 A. I'm sort of taking it from the anesthesia  
17 record and the fact that a Dr. Heart was called and the  
18 drugs they gave he did have -- and it says that  
19 compressions were done -- that there was a cardiac  
20 arrest.

21 Q. Do you believe that that was precipitated  
22 or caused by the pulmonary edema?

23 A. I think that that was a major factor in  
24 it, yes.

25 Q. Do you believe this is an acute onset of

1 A. You know, the process may have begun.

2 It's hard to say how severe it was at that point.

3 Q. And did you tell me earlier that you were  
4 not aware of Dewey's present state, or are you aware of  
5 his present condition?

6 A. I'm aware that he's still comatose in a  
7 rehabilitation facility.

8 Q. Other than that do you know anything else?

9 A. No.

10 Q. What role did his noncompliance have on  
11 Dewey's management, health care management by  
12 anesthesia?

13 A. Actually, it had very little role because  
14 as an anesthesiologist what you're looking at is what  
15 his state is at the present time. He had been in the  
16 hospital for several days and his blood pressure had  
17 been controlled, so the noncompliance of when he was  
18 out of the hospital didn't have as much effect.

19 Let me go back, though, to what I just  
20 said. The fact that he was noncompliant probably  
21 affected his cardiac status and may have worsened his  
22 congestive failure and his left ventricular  
23 dysfunction.

24 Q. Coming in?

25 A. Coming into it that may have made his

1 pulmonary edema?

2 A. Define the word acute. I think that this  
3 is a patient that was prone to it given his underlying  
4 conditions. I think it may have been developing during  
5 the case. I think that he may have gotten pushed over  
6 the edge after he started bucking and after the blood  
7 pressure started rising.

8 It would have been nice to have had a  
9 Swan-Ganz catheter in earlier in the operation to  
10 assess if he was beginning to develop it. I mean, it's  
11 hard to say that he developed the pulmonary edema at  
12 1:00 or at 12:45. I think it was an ongoing process  
13 that became markedly exacerbated after 12:30.

14 Q. And it could have started as early as  
15 10:30 or 11:00?

16 A. It's hard -- it's hard to say when. It's  
17 hard to make a guess. I mean --

18 Q. There's a possibility of that?

19 A. Yes, there is. I'm certainly concerned  
20 about the low urine output at 11:30. I mean, that's  
21 the -- the operation is going along uneventfully.  
22 That's the first sign I see of something that is not  
23 where it should be.

24 Q. So in your opinion, it could have started  
25 as early as that time?

1 underlying condition worse. That would be the way the  
2 noncompliance would have an effect. But at the time he  
3 went for the operation his blood pressure was  
4 controlled and he appeared optimized.

5 Q. Just to clarify it, within a reasonable  
6 degree of medical certainty, greater than a 51 percent,  
7 it's your opinion that the pulmonary edema was  
8 precipitated by volume or fluid overload?

9 A. No. I don't think you can say that for  
10 certain. I think if you had a Swan-Ganz catheter in  
11 you might have had a better handle on saying that. I  
12 don't think you can say that fluid overload was the  
13 critical factor in causing the pulmonary edema.

14 Q. So more likely than not -- you cannot say  
15 in that instance more likely than not it was fluid  
16 overload that caused the pulmonary edema?

17 MR. WALTERS: objection to  
18 form.

19 A. Can I still answer?

20 Q. Yes.

21 A. Looking at the fluid they gave him during  
22 the case, he got 2100 cc's of fluid. For a man of  
23 Dewey Jones' size, that's not an unreasonable amount of  
24 fluid. When you look at the rest of the case and you  
25 look at the urine output, it's where -- it's where you

1 need the Swan-Ganz catheter to determine where his  
2 volume status was.

3 Q. Let me just ask you this question. Do you  
4 have an opinion within a reasonable degree of medical  
5 knowledge of the cause of the pulmonary edema?

6 A. I think that the cause of the pulmonary  
7 edema was multi-factorial. I think you had a patient  
8 with underlying medical conditions who during an  
9 operation got fluid, had no urine output or very little  
10 urine output that may have led to a relative increase  
11 of volume, an increase in lung water.

12 Then you had a marked increase in  
13 afterload by the high blood pressure after he was  
14 reversed and the anesthetic was turned off, that being  
15 after 12:35, and you had the bucking which increased  
16 your intrathoracic pressure. I think you've got all  
17 those factors causing pulmonary edema. I think it  
18 would be very difficult to say that only one of those  
19 factors caused it.

20 Q. So it's multi-factorial?

21 A. Exactly.

22 Q. Do you have an opinion one way or another  
23 if he was in active congestive heart failure before  
24 surgery?

25 A. From the chest x-ray he wasn't, and that

1 would be one of the main diagnose -- one of the main

3 I didn't examine him. You would want to listen to his  
4 lungs. There was a note from the anesthesia resident  
5 who saw him that he was clear to auscultation. So  
6 those would be two of the areas you'd look at.

7 Q. So do you have -- within a reasonable  
8 degree --

9 A. Within a reasonable degree it appears that  
10 he wasn't in congestive heart failure going into the  
11 operation.

12 Q. Let me just get some other quick  
13 information here. Doctor, how much do you charge to  
14 review a case?

15 A. My charges now are \$275 an hour to review  
16 a case.

17 Q. And then deposition time?

18 A. \$350 an hour.

19 Q. 350?

20 A. Yes.

21 Q. And then your trial testimony?

22 A. I haven't testified yet at trial, so I  
23 don't know.

24 Q. You haven't decided what that's going to  
25 be?

1 A. No. I probably will do the \$350 an hour,  
2 unless you tell me that's unreasonable.

3 Q. I'm not going to say anything.

4 MR. JONES: You're going to  
5 ask Charles if your charge is  
6 unreasonable. I think that's an  
7 indication of what's going on.

8 BY MR. ALLEN:

9 Q. You got to lower the depo time and  
10 increase the trial time.

11 Have those review fees gone up since  
12 you started?

13 A. No.

14 Q. That's been --

15 A. That's what I charged.

16 Q. -- for the last year?

17 A. Yes.

18 Q. Does the money go directly in your pocket  
19 or does it go into your company?

20 A. It goes to me.

21 Q. You don't donate that to any charities or  
22 anything like that?

23 A. No.

24 Q. Just briefly describe for me your average  
25 day. How much time do you spend on an average in the

1 hospital, how much do you spend administratively,  
2 percentagewise?

3 A. I spend -- I'm typically in the hospital  
4 7:00 in the morning. My day will go anywhere between  
5 3:00 and 5:00 or 6:00 in the late afternoon. Typically  
6 on an average day I will do anywhere between four and  
7 10 to 12 operations a day. The great bulk of my time,  
8 probably 95 percent of it is doing anesthesia.

9 Administration fortunately is a very small amount of  
10 time. I go to about two to three meetings a month.  
11 I've been able, just been able to minimize the amount  
12 of administrative time. It doesn't take me that long  
13 to do it.

14 Q. Do you have any -- I notice you didn't  
15 write any articles. Have you anything in progress at  
16 this point?

17 A. No, I've got no publications. I basically  
18 don't do research. I'm a clinical anesthesiologist, I  
19 do anesthesia every day.

20 Q. Just about to wrap it up.

21 Have you ever -- this is your first  
22 deposition. Did you ever go out and read any articles  
23 or see any videotapes to help you --

24 A. No.

25 Q. -- to be an expert witness?

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1 A. No.

2 Q. Did you go to any seminars?

3 A. No.

4 Q. Did you attend any portions of a medical

5 seminar that may have been directed toward giving

6 medical opinions?

7 A. No.

8 MR. CASEY: You see if he

9 had, he would know he's not supposed to

10 put his hands up in front of his face when

11 he's in front of a video camera.

12 BY MR. ALLEN

13 Q. And in general, this is the first time

14 you've testified in a case involving a very high risk

15 patient in which a Swan-Ganz was not placed and which

16 there's --

17 A. This is the first time I've testified in

18 any case.

19 Q. And the first time you've been involved in

20 review of any case like this, correct? The cases that

21 you've reviewed are similar to this, correct?

22 A. They're not similar to this, no, but there

23 are cases involving high risk patients.

24 Q. Did it have anything to do with the

25 insertion of a Swan-Ganz?

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1 A. There's one case that has to do with

2 whether a Swan-Ganz was inserted or not.

3 Q. Did it have to do with the care of

4 residents?

5 A. A resident was involved in that case,

6 also.

7 Q. So you're looking at it on the part of

8 the --

9 A. The plaintiff's side.

10 Q. -- the plaintiff's side?

11 A. Yes.

12 Q. As to whether the resident care was

13 appropriate?

14 A. Yes. Well, I'm not looking at it as to if

15 the resident's care was appropriate, I'm looking at it

16 as to whether the anesthesia care was appropriate.

17 Probably I'm looking at the anesthesiologist.

18 MR. ALLEN: I'll pass him

19 for right now.

20 MR. CASEY: Before we get

21 to you Susan, we'll go to Steve.

22 MR. WALTERS: I don't have

23 any questions.

24 MR. JONES: I have no

25 questions either.

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1 MS. REINKER: I would like to

2 take a two-minute break just to get a

3 glass of water, if I could.

4 (Thereupon, there was a brief recess.)

5 - - -

6 EXAMINATION

7 BY MS. REINKER:

8 Q. Dr. Rapkin, when you came in this room

9 tonight, were you under the impression you were going

10 to be giving trial testimony?

11 A. Mr. Casey has told me that I might be

12 called to testify.

13 Q. Did you actually realize you were being

14 videotaped to be shown to a jury at trial?

15 A. I had heard that there might be

16 videography here also.

17 Q. You told us that you had some patients who

18 died, rather who did not wake up from anesthesia and

19 who died; is that true?

20 A. That's not the way I said it. What I said

21 is that there have been patients that have had bad

22 outcomes, which typically when you do a lot of high

23 risk cases can happen. I do a lot of cardiac

24 anesthesia and sometimes patients go into operations

25 where they have no realistic chance of coming out. The

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1 other thing we do when I'm at Mt. Sinai is we do a lot

2 of trauma and there's a lot of gunshots, and people who

3 get shot sometimes don't do well.

4 Q. Have you had patients who did not wake up

5 from anesthesia and then later died? Can you answer

6 that yes or no?

7 A. I've had patients who --

8 Q. Doctor, can you answer it yes or no? Has

9 that ever happened to you?

10 A. They were essentially almost dead at the

11 end of the operation.

12 Q. Were you sued for any of those cases?

13 A. No.

14 Q. Did you consider your care negligent in

15 any of those cases?

16 A. No.

17 Q. Who hired you in this case?

18 A. Reminger & Reminger.

19 Q. Do you know what lawyer it was?

20 A. It was Mr. Casey.

21 Q. Have you ever had any conversations with

22 Mr. Allen?

23 A. Never.

24 Q. Had you -- were you just talking to him

25 out in the hall?

1 A. No.  
2 Q. Or any lawyer who represents the plaintiff  
3 in this case?

4 A. No.  
5 Q. Have you ever received any correspondence  
6 from the plaintiffs' lawyers in this case?

7 A. All the correspondence I've received has  
8 been through Mr. Casey.

9 Q. Okay. Now, you said that you first  
10 testified or got involved in a medical-legal case as an  
11 expert witness in roughly 1990 was it? You said --

12 A. It was something like that, 1990, 1989.

13 Q. What lawyer asked you to get involved in  
14 that case?

15 A. There was a case from Reminger & Reminger.

16 Q. Do you remember the lawyer's name?

17 A. It may have been Les Spisak. I don't  
18 remember for sure.

19 Q. It's kind of unusual for somebody that new  
20 in practice to get asked to be an expert. Do you know  
21 how they got your name or how you got involved?

22 A. It may have been through one of my  
23 partners who does a lot of work with Reminger &  
24 Reminger.

25 Q. Do you have any friends who are lawyers?

1 A.

2 Q. Anybody in your family who's a lawyer?

3 A. No.

4 Q. Did you get into this kind of work through  
5 friends of yours who are lawyers?

6 A. One of the cases I'm doing now, one of the  
7 plaintiff's cases, is through a friend who's is lawyer.

8 Q. Are you personal friends with anybody in  
9 the Reminger firm?

10 A. No.

11 Q. But they are currently representing you in  
12 two cases?

13 A. They are currently representing me in one  
14 case.

15 Q. And there have been cases in the past  
16 where they represented you?

17 A. There was one other case. That case --  
18 that case was dismissed.

19 Q. And you are currently an expert witness  
20 for them in two cases?

21 A. I am working with them at the present time  
22 on three cases.

23 Q. Three cases. Is that including this one?

24 A. That's including this one.

5 Q. Okay. So they're representing you in one,

1 you're working with th s a retained t in three  
2 cases?

3 A. Right. I think the reason for that is  
4 they are, they're the largest defense -- they do a lot  
5 of the defense work and if I want to do some defense  
6 work I need to work with Reminger & Reminger.

7 Q. How many other firms in town do defense  
8 work?

9 A. I havenoidca.

10 Q. So you don't know whether they do a lot of  
11 defense work or not compared to other law firms?

12 A. That's true.

13 Q. And you currently have, did you say six  
14 plaintiff's cases that you're involved in?

15 A. Yes.

16 Q. So you're currently serving as an expert  
17 witness in nine cases?

18 A. Yes.

19 Q. Do you count this one was a plaintiff's  
20 case or a defense case?

21 A. Defense case.

22 Q. You understand that your role in this case  
23 was to defend Dr. Senchyshak?

24 A. I was hired by Reminger & Reminger to work  
25 on the defense of the hospital and, in particular,

1 Dr. Senchyshak.

2 Q. So your role was to defend all the  
3 residents, and particularly Dr. Senchyshak?

4 A. Well, the only one I've been involved with  
5 really is Dr. Senchyshak. I don't feel qualified to  
6 defend a surgery resident or medicine residents.

7 Q. So your role in this case is to get  
8 Dr. Senchyshak off the hook, so to speak?

9 MR. CASEY: Objection.

10 A. My role is to defend Dr. Senchyshak, and I  
11 advised Mr. Casey at the beginning of the case as to  
12 whether I thought his actions were defensible.

13 Q. Have your opinions changed at all since  
14 you first reviewed this case?

15 A. Actually, my opinions are pretty much the  
16 same.

17 Q. Did you ever go to law school or take any  
18 law school courses?

19 A. No.

20 Q. How did you meet Mr. Jacobson?

21 A. On the golf course actually. It was in  
22 passing, someone introduced me to him. I doubt he  
23 would remember me.

24 Q. The six cases in which you're a  
25 plaintiff's expert, they're all against

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1 anesthesiologists?  
 2 A. One is an oral surgery case where a local  
 3 anesthetic was injected and caused a reaction.  
 4 Q. And the rest of them are all against  
 5 anesthesiologists?  
 6 A. Yes.  
 7 Q. Do you work for any kind of services or  
 8 agencies that recruit doctors?  
 9 A. No.  
 10 Q. Have you ever thought about doing that?  
 11 A. No.  
 12 Q. Since you're currently involved in nine of  
 13 those cases, what percent of your income is now derived  
 14 at the present time from your medical-legal  
 15 evaluations?  
 16 A. It would -- last year it was five percent  
 17 maybe.  
 18 Q. Is that increasing any do you *think* this  
 19 year?  
 20 A. It might be a little higher this year. It  
 21 may -- it's going -- it will be under ten percent.  
 22 Q. You wrote a report in this case May 5th,  
 23 1997?  
 24 A. Yes.  
 25 Q. Have you written any other reports?

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1 A. On this case?  
 2 Q. Yes.  
 3 A. No.  
 4 Q. Have there been any supplemental, a  
 5 memorandum that you've provided to anybody?  
 6 A. No.  
 7 Q. When you wrote this report did you hold  
 8 the opinions that you rendered here today?  
 9 A. Yes.  
 10 Q. Why didn't you state those opinions in  
 11 your report?  
 12 A. Because I was asked to give an opinion  
 13 about the role of Dr. Senchyshak.  
 14 Q. So this -- I'm sorry, go ahead.  
 15 A. Basically that was my role.  
 16 Q. Okay. So you held the opinions you  
 17 rendered here today, but you did not put them in your  
 18 report?  
 19 A. That's correct.  
 20 MR. CASEY: I would object  
 21 to that.  
 22 BY MS. REINKER:  
 23 Q. Were you asked not to put them in your  
 24 report?  
 25 A. No. Mr. Casey purely asked me to write a

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1 report about the role of Dr. Senchyshak.  
 2 Q. So at the time you signed this report, it  
 3 was not a completely accurate summary of the opinions  
 4 you held in the case, correct?  
 5 MR. WALTERS: I'll object.  
 6 MR. CASEY: Objection.  
 7 A. I think that's not the case. I had  
 8 opinions about the causation of the case, I didn't put  
 9 that in there. I specifically wrote a report about the  
 10 role of Dr. Senchyshak.  
 11 Q. Now, you currently are primarily at  
 12 Deaconess Hospital?  
 13 A. I'm at Deaconess and Mt. Sinai. About 80  
 14 percent of the time I'm at Deaconess, the other 20  
 15 percent I'm at Mt. Sinai.  
 16 Q. Are you acting chief at Deaconess or are  
 17 you chief at Deaconess?  
 18 A. Acting chief.  
 19 Q. Are you a candidate to be chief?  
 20 A. We expect that the doctor who was the  
 21 chairman will be back in probably another six months to  
 22 a year. He had fairly major injuries from his car  
 23 accident.  
 24 Q. What's the name of your group?  
 25 A. Cleveland Anesthesia Group.

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1 Q. Do you know any of the other physicians  
 2 employed in the group that Dr. Adamek was with?  
 3 A. Yes.  
 4 Q. Deaconess Hospital is owned by what  
 5 organization?  
 6 A. Primary Health Systems.  
 7 Q. And the hospital -- do you know what role  
 8 Dr. Adamek now has?  
 9 A. He is employed by Primary Health Systems  
 10 at St. Michael's Hospital.  
 11 Q. So both hospitals are employed by the  
 12 same -- owned by the same group?  
 13 A. Yes. They own -- Primary Health Systems  
 14 owns Deaconess Hospital and St. Michael's, Mt. Sinai,  
 15 Richmond Heights, Mt. Sinai's Ambulatory Center.  
 16 Q. Has there ever been any discussion about  
 17 closing either St. Michael's Hospital or Deaconess  
 18 Hospital?  
 19 A. Not that I'm aware of.  
 20 Q. How about closing the surgical suites at  
 21 one of those two hospitals?  
 22 A. Again, not that I'm aware of.  
 23 Q. These two hospitals are a few miles apart,  
 24 right?  
 25 A. You know, I've actually never been to

1 St. Michael's, so I'm not exactly sure where it's  
 2 located. I know it's relatively close, but I have no  
 3 idea how close.  
 4 Q. In fact, on the west side of Cleveland,  
 5 other than Metro, I think the other two hospitals are  
 6 Deaconess -- in the lower west side area are Deaconess  
 7 and St. Michael's, right?  
 8 A. And Metro.  
 9 Q. I said other than Metro.  
 10 A. And Lutheran.  
 11 Q. Lutheran is kind of the other side of town  
 12 or in a different area, right?  
 13 A. Right.  
 14 Q. So in a way, you and Dr. Adamek might be  
 15 considered to be at competitor hospitals?  
 16 A. Absolutely not, absolutely not.  
 17 Q. What kind of a ballgame was this?  
 18 A. Indians.  
 19 Q. Now, Deaconess does not have an anesthesia  
 20 residency program, does it?  
 21 A. No.  
 22 Q. Do you know if they ever did?  
 23 A. I don't know.  
 24 Q. How about Mt. Sinai?  
 25 A. Mt. Sinai had an anesthesia residency

1 A. Nurse anesthesia students.  
 2 Q. Who assists you in practicing anesthesia  
 3 at these different hospitals?  
 4 A. I have nurse anesthetists and the nurse  
 5 anesthetist students also assist.  
 6 Q. At both hospitals?  
 7 A. At both hospitals, yes. The nurse  
 8 anesthetist students are only at Mt. Sinai and  
 9 Mt. Sinai Hospitals, which is Mt. Sinai and Mt. Sinai's  
 10 Ambulatory Center. At Deaconess we have nurse  
 11 anesthetists and Richmond Heights we have nurse  
 12 anesthetists.  
 13 Q. At Deaconess what's the ratio of nurse  
 14 anesthetists to anesthesiologists?  
 15 A. On any given day we have one to two  
 16 anesthesiologists and we have three to four nurse  
 17 anesthetists.  
 18 Q. How many operating rooms are going at the  
 19 same time on the average at Deaconess?  
 20 A. Usually four, or up to four.  
 21 Q. So would there be a CRNA, a nurse  
 22 anesthetist, in each room?  
 23 A. There would either be a CRNA or a doctor  
 24 in each room.  
 25 Q. You supervise the CRNAs?

1 years ago in the '60s. I don't know when it ended.  
 2 Certainly since I've been in the group we've never had  
 3 an anesthesia residency.  
 4 Q. Do you know why they don't have an  
 5 anesthesia residency anymore at Mt. Sinai?  
 6 A. I could probably give an opinion, but it  
 7 would be a guess.  
 8 Q. Did they lose the program, do you know?  
 9 A. I have no idea.  
 0 Q. Since you've been an attending you have  
 1 never worked in an institution with residents, right?  
 2 A. There are surgical residents and dental  
 3 residents and medicine residents and pediatric  
 4 residents and obstetrical residents. We don't have  
 5 anesthesia residents, we teach nurse anesthetist  
 6 students.  
 7 Q. So since you've been an attending you have  
 8 never played a role working with anesthesia residents?  
 9 A. That's correct.  
 0 Q. Since you've been an attending you've  
 1 never been in the it that Dr. Adamek a in with  
 2 Dr. Senchyshak?  
 3 A. That's true.  
 4 Q. Io many -- did you say they nurse  
 5 tl residents?

1 A. Yes.  
 2 Q. How many CRNAs are you usually supervising  
 3 at any one time?  
 4 A. Typically two, occasionally three.  
 5 Q. If there were three, that would be three  
 6 different rooms going?  
 7 A. Yes.  
 8 Q. And you'd be responsible for those three  
 9 rooms?  
 10 A. Yes.  
 11 Q. Usually it's two rooms?  
 12 A. Usually it's two rooms.  
 13 Q. Are there cameras in the operating rooms?  
 14 A. No.  
 15 Q. So you can't be in one room watching  
 16 what's going on in the other rooms?  
 17 A. No.  
 18 Q. So occasionally things will happen in  
 19 another room while you're tied up in one room and you  
 20 may not know exactly what's happening in the other room  
 21 at the same time?  
 22 A. It's my job to know as much as possible  
 23 about what is going on in each operating room and I'm  
 24 responsible for that. If something happens in an  
 25 operating room that I'm not aware of, it's my job to

1 find out what that is and to take the appropriate  
2 actions.

3 Q. Now, have you ever been doing an  
4 intubation or working, say, in room one or whatever you  
5 would be doing in one room while there's a case going  
6 on in maybe room two and room three?

7 A. Yes.

8 Q. So there are things happening in room two  
9 and room three that you couldn't possibly know about  
10 because you're doing an intubation in room one?

11 A. That's true. But again, it's my job to  
12 know what's going on in each room at all times. If I  
13 think something's going to happen in one room, I won't  
14 tie myself up in another room at that point. I mean, I  
15 know when a case is about to finish, I know when  
16 something critical is going to happen at a point and I  
17 won't tie myself up doing something else at that point.

18 Q. So is it your testimony that it is humanly  
19 possible for you to know what is going on in all three  
20 rooms at the same time?

21 A. Yes, it's humanly possible to know what's  
22 going on in multiple operating rooms.

23 Q. Have you ever had an event happen in  
24 another room and then you were called to that room  
25 after it happened?

1 A. Yes.

2 The other aspect of that is if --

3 MR. CASEY: Doctor, there's  
4 no question to you.

5 THE WITNESS: okay.

6 MR. CASEY: We don't want  
7 to be here until midnight.

8 THE WITNESS: okay.

9 BY MS. REINKER:

10 Q. How does it work at Mt. Sinai, is it the  
11 same way, that you might be involved in two or three  
12 rooms at the same time?

13 A. Yes.

14 Q. And they don't have video cameras in those  
15 rooms?

16 A. Right.

17 Q. Have you ever had the experience where a  
18 nurse anesthetist did something that you did not know  
19 they were going to do?

20 A. Yes.

21 Q. Did you ever have a situation where you  
22 were maybe a little annoyed at them for doing something  
23 without calling you or telling you?

24 A. Yes.

25 Q. Have you ever had a situation where they

1 did something that you had perhaps told them not to do,  
2 they went ahead and did it anyway?

3 A. Offhand I can't recall, because our nurse  
4 anesthetists are told that they're to do what they're  
5 instructed to by the anesthesiologist, so I can't -- I  
6 don't remember any blatant disregard for anything I  
7 said.

8 Part of working as part of a team with  
9 nurse anesthetists or, in this situation, with  
10 residents is you are a team and decisions have to be  
11 made and things have to be followed. That's one of the  
12 ways you know what's going on in each room. For  
13 example, I tell the nurse anesthetist to call me as the  
14 operation is finishing and they're about to extubate so  
15 I can be present at that point.

16 Q. So if a nurse anesthetist violated that  
17 understanding and went ahead and did something either  
18 contra to your instructions or contra to policy, you  
19 would be pretty upset about that?

20 A. I'd be upset and we'd probably figure out  
21 some form of discipline.

22 Q. How long is the anesthesia residency?  
23 It's three years, isn't it?

24 A. It's three years. When I was doing it it  
25 was a one-year internship and two-year residency and I

1 did an optional fellowship. Now that fellowship is  
2 required.

3 Q. It's three years of what, 12 calendar  
4 months each year or 11 months?

5 A. Twelve calendar months.

6 Q. No vacation time at all?

7 A. With vacation time in there, four weeks.

8 Q. So roughly 11 months?

9 A. Yeah, right.

10 Q. Now, you did meet Dr. Senchyshak at some  
11 point before you prepared your report?

12 A. Yes.

13 Q. Just so I'm clear about this, you were  
14 having a meeting with Mr. Casey and Dr. Senchyshak was  
15 in the room?

16 A. I don't know the exact sequence of it. I  
17 was having a meeting at Rcminger & Rcminger with  
18 Mr. Casey going through things and Dr. Senchyshak came  
19 by. I don't know if he had a later meeting with  
20 Mr. Casey. My meeting consisted of conversations with  
21 Mr. Casey.

22 Q. Now, when you said Dr. Senchyshak came by,  
23 did you meet him, did you shake his hand?

24 A. Yes.

25 Q. Was he in the same room that you were in

1 with Mr. Casey?  
 2 A. Yes. I was in a conference room with  
 3 Mr. Casey and Dr. Senchyshak came in and it was in  
 4 passing. He said hello and he was there for a little  
 5 while.  
 6 Q. How long of a while?  
 7 A. Ten minutes, 15 minutes, I don't know. I  
 8 don't remember the exact amount of time.  
 9 Q. Did he sit down?  
 0 A. Yes.  
 1 Q. Did he say anything at all?  
 2 A. Mr. Casey may have asked him a couple  
 3 questions. I pretty much monopolized the conversation  
 4 with Mr. Casey.  
 5 Q. You knew that he had done some training in  
 6 Cincinnati for one year?  
 7 A. Yes.  
 8 Q. Now, if he had gotten credit for that year  
 9 he would have been a third of the way through the  
 0 anesthesia residency?  
 1 A. Yes.  
 2 Q. Do you know how many calendar months he  
 3 actually spent in Cincinnati?  
 4 A. I believe it was in his deposition that it  
 5 was 11 months in Cincinnati.

1 Q. Is it your testimony that a resident has  
 2 no responsibilities whatsoever toward the patient?  
 3 A. No. It's my testimony that the attending  
 4 anesthesiologist directs the resident and makes the  
 5 important decisions. The resident assists the  
 6 attending anesthesiologist in taking care of the  
 7 patients, but the attending anesthesiologist is the one  
 8 who makes the decisions.  
 9 Q. What responsibility does the resident have  
 10 towards this patient?  
 11 A. To follow the directions of the attending  
 12 anesthesiologist as it pertains to taking care of the  
 13 patient.  
 14 Q. By the way, you don't hold any academic  
 15 appointments, correct?  
 16 A. No.  
 17 Q. No publications?  
 18 A. No.  
 19 Q. And no research projects?  
 20 A. No. As I was telling Mr. Allen, I do  
 21 anesthesia, I work at that.  
 22 Q. Do you know of any other residents who've  
 23 completed 11 months of a program and then gotten no  
 24 credit for it?  
 25 A. No, I don't. There was a resident that

1 Q. So he did the full 11 months of the first  
 2 year?  
 3 A. Yes.  
 4 Q. Do you know if he didn't get credit for  
 5 it.  
 6 A. No, I don't.  
 7 Q. As far as you know, he appeared at work  
 8 every day and remained --  
 9 A. I have no -- I don't know.  
 0 Q. Is it your testimony that he learned  
 1 absolutely nothing whatsoever in that 11 months?  
 2 A. It's my testimony that it would be  
 3 difficult to quantify exactly what he learned because  
 4 he received no credit for it and there must have been a  
 5 reason he received no credit for it, but I don't know  
 6 the reason.  
 7 Q. You have no idea what the reason is?  
 8 A. No.  
 9 Q. But we can assume he learned something in  
 0 11 months in Cincinnati?  
 1 A. I have no idea. I have no idea of how you  
 2 even quantify how much he knew and learned.  
 3 Q. And then he had three months at Huron  
 4 Road?  
 5 A. Right.

1 applied for a job with us one time that had received  
 2 six months of credit after working close to 11 months  
 3 or 12 months, but I don't know anyone who received no  
 4 credits.  
 5 Q. Doctor, do you hold Dr. Cascorbi in as  
 6 high regard as you hold Dr. Kaplan?  
 7 A. Yes, for different reasons.  
 8 Q. Now, Dr. Cascorbi told us this morning  
 9 that the use -- or this afternoon -- that the use of a  
 10 Swan-Ganz catheter in this patient is something that  
 11 reasonable physicians would disagree about could  
 12 differ, that a particular physician might choose  
 13 not to use it because of the potential risk but the  
 14 another reasonable physician could choose to  
 15 use it  
 16 A. M-hm.  
 17 Q. Do you disagree with Dr. Cascorbi's  
 18 opinion?  
 19 A. No, I don't. I think that people have  
 20 different opinions about things.  
 21 Q. People have different opinions about  
 22 Swan-Ganz catheters?  
 23 A. Yes.  
 24 Q. Is it your understanding that Dr.  
 25 Senchyshak left the operating room at 1:00 p.m. and was

1 gone for a full 15 minutes?

2 A. My recollection from the deposition is  
3 Dr. Senchyshak was in and out of the operating room.

4 Q. Now, during that period of time, Doctor,  
5 Dr. Adamek was working with Mr. Jones, with the  
6 patient?

7 A. M-hm.

8 Q. Now, how could he both work with Mr. Jones  
9 and chart at the same time?

10 A. Very easily. It doesn't take a lot of  
11 effort to turn around and write a blood pressure on the  
12 chart and a pulse oximeter reading, and if not, one  
13 thing that as anesthesiologists that we often do if  
14 we're so tied up with taking care of a patient is that  
15 we'll write a note after the fact of exactly what went  
16 on and what the blood pressures were to try to recreate  
17 the events to make a more accurate chart.

18 Q. You would recreate the events in  
19 hindsight?

20 A. Yes. What I have a problem with in this  
21 is that there's no -- it's not clear what was happening  
22 between 1:00 and 1:15, if any drugs were given that  
23 could have reversed the pulmonary edema or reversed the  
24 high blood pressure or reversed the bradycardia. It's  
25 not clear what was done.

1 Q. Have you ever been in a situation where  
2 you were working on a patient who was perhaps having a  
3 difficult time and you asked one of the other people in  
4 the room to do some charting?

5 A. Absolutely. I've asked -- I've  
6 called -- in those situations I've asked for another  
7 anesthesiologist to come in and give me a hand, I've  
8 asked for another -- I've asked for someone else to  
9 come -- asked for the nurse anesthetist to do the  
10 charting and I'll pay attention to the patient. But  
11 the charting is very important.

12 Q. So you expect the nurse to be doing it?

13 A. A nurse anesthetist to be doing it, not a  
14 circulating nurse who wouldn't be trained to do it.

15 Q. So you would think that the nurse  
16 that I be qualified to do this kind of  
17 charting though?

18 A. Oh, absolutely.

19 Q. In fact, they tell me that  
20 without even you asking if you're busy?

21 A. Yes. The bottom line is that it needs to  
22 get done. It's important for the record, it's  
23 important to be able to justify what actions you've  
24 taken.

25 Q. It's your opinion that if for some reason

1 it didn't get done, everybody was too busy to do it,  
2 it's okay to recreate in hindsight what happened?

3 A. I think it's less optimal, but I think  
4 it's certainly something to add to the chart to write a  
5 detailed note of exactly what happened and what drugs  
6 were given and why those drugs were given.

7 Q. By the way, there were some questions  
8 asked to you about Dr. Adamek not being present in  
9 induction. Is that Dr. Adamek?

10 A. Yes.

11 Q. You think did anything right that  
12 case at all?

13 A. There's some areas -- I think the  
14 anesthetic management for the middle of the case or the  
15 beginning of the case to the middle of the case was  
16 okay, the blood pressure stayed stable, that part was  
17 done well.

18 Q. By the way, you know he was in and out of  
19 the room during the case?

20 A. Yes, I would expect that.

21 Q. Now, during the time of induction it's  
22 important for an attending to be in the room?

23 A. Absolutely.

24 Q. If for some reason Dr. Adamek was tied up  
25 somewhere else and the actual induction was done by one

1 of his partners, another attending --

2 A. Right, there was a note in his deposition  
3 that Dr. Bause was there.

4 Q. If that's what happened, that would be  
5 okay; you would have no problem with that, would you?

6 A. Right. I would have expected there to be  
7 something in the chart that Dr. Bause was present at  
8 that point.

9 Q. But that has sometimes happened in your  
10 experience, I would guess?

11 A. Right. That does frequently happen or  
12 periodically happen, and we write our name in the chart  
13 when that happens. If someone else is there for the  
14 induction, that gets written in the chart.

15 Q. When do you find out exactly what cases  
16 you're going to be doing?

17 A. I find out -- I find some of them out the  
18 night before if they're big cases, high risk cases,  
19 others I find out the morning of surgery.

20 Q. Okay. So sometimes you don't find out  
21 about a case until the morning of surgery?

22 A. Right. Often the sickest patients you  
23 find out the morning of surgery because they get added  
24 late.

25 Q. So that happening in this particular case,

1 the fact that Dr. Adamek didn't find out until the  
2 morning of surgery that he was going to do this case,  
3 that would not be unusual?

4 A. Not at all.

5 Q. That would not be inappropriate?

6 A. Not at all.

7 MR. CASEY: see, there are  
8 things he did right, Susan.

9 BY MS. REINKER:

10 Q. If, in fact, he was tied up for the period  
11 of time during the induction and then he comes in the  
12 room in the middle of the induction to take over from  
13 his partner, that would not be unusual, would it?

14 A. No, it would not be unusual. The question  
15 is -- well, I'll let you ask the question first.

16 Q. Well, that would not be unusual?

17 A. No, that would not be unusual. I'm  
18 confused, though, on this one, because it appears that  
19 Dr. Senchyshak discussed the case earlier with  
20 Dr. Adamek.

21 Q. Right. Dr. Senchyshak said he believes --  
22 he discussed the case with Dr. Adamek, Dr. Adamek does  
23 not recall any such discussion. If, in fact, Dr.  
24 Senchyshak discussed the case with a different  
25 attending, you would not have any problem with that,

1 helps you manage your fluids.

2 ( Is that th kind f thing that a resident  
3 of any level would be qualified to ascertain?

4 A. -- at a

5 would be. I think in the beginning months of training  
6 no.

7 Q. When you say senior level, you mean a  
8 third-year resident?

9 A. I think for every resident it's different  
10 and each resident progresses at a different level. I  
11 think a typical resident at a senior level has more  
12 independence and has more of a thought process of what  
13 anesthesia can do to the body.

14 Q. If you looked at a chart on one of your  
15 patients, assuming you dealt with residents, and you  
16 saw the pre-op clearance on a patient had been done by  
17 a senior level resident, would you have more confidence  
18 in that clearance than perhaps a first-year resident?

19 A. You know, I would still look at the chart  
20 and look at what was written. The term clearance, I'm  
21 not sure how you're using the word clearance.

22 When I look at a chart, I look at -- I  
23 look for a couple code words. I look for if -- I look  
24 for what kind of cardiac history the patient's got, I  
25 look for things like chest pain, I look for things like

1 would you?

2 A. No, I wouldn't, as long as it's discussed  
3 with an attending and the anesthetic plan is worked  
4 out, and then once the case begins the next  
5 anesthesiologist who takes over is in agreement with  
6 the plan.

7 Q. You are not critical of Dr. Ho clearing  
8 this patient for surgery, are you?

9 A. No.

10 Q. And you are not critical of Dr. Ho for not  
11 calling a cardiologist?

12 A. No.

13 Q. But you think Dr. Adamek at some point in  
14 time should have gone over Dr. Ho's head and he should  
15 have called in a cardiologist?

16 A. I don't think it's going over Dr. Ho's  
17 head. I think Dr. Adamek or any attending  
18 anesthesiologist needs certain information to do an  
19 operation, to do the anesthesia successfully, and when  
20 you've got a patient who's got a history of congestive  
21 heart failure with a recent admission for congestive  
22 heart failure and you've got an echocardiogram which  
23 shows left ventricular dysfunction, I think it's  
24 absolutely essential to know what the status of the  
25 heart is and what his ejection fraction is because that

1 shortness of breath, and then I look at what tests have  
2 been done to analyze that.

3 If a patient's been having recent chest  
4 pain or recent shortness of breath, I look to see if  
5 there's been an echocardiogram, if there's been a  
6 stress test, and I look to see what the resident has  
7 written. The term clearance is incorrect because a  
8 resident or an anesthesiologist doesn't give clearance,  
9 per se, they take care of the patient and they  
10 assimilate the data that's there.

11 Q. If there was a problem with the patient,  
12 if a resident felt there was a problem with the patient  
13 or a difficult patient, the resident who has seen the  
14 patient for the pre-op clearance the day before  
15 surgery, would you expect the resident to bring that  
16 patient to your attention if you happened to be the  
17 attending?

18 A. Yes.

19 Q. You are aware that Dr. Adamek was in and  
20 out of the room during the case. I think we talked  
21 about that a few moments ago.

22 A. Yes.

23 Q. You don't have any problem with that?

24 A. No, I would expect that. I mean, until at  
25 least 11:30 the operation was proceeding uneventfully,

1 so no reason gone  
 2 of the operating room.  
 3 Q. And I don't recall your answer to this  
 4 question before, but if at the moment in time the  
 5 resident decided he was going to reverse the patient,  
 6 it was one of those moments Dr. Adamek happened to be  
 7 out of the room, you would have expected the resident  
 8 to call Dr. Adamek before going ahead with the  
 9 reversal?

10 A. I would have expected Dr. Adamek to have  
 11 discussed the reversal with Dr. Senchyshak at an  
 12 earlier point.

13 One of the things you do when teaching  
 14 either a nurse anesthetist student or working with a  
 15 nurse anesthetist or working with a resident is you  
 16 need to have a plan for the anesthesia. The plan  
 17 consists of the induction and planning for the  
 18 induction and monitoring the patient during the  
 19 operation, maintenance of the patient during the  
 20 operation and the emergence of the patient from  
 21 anesthesia at the end. You need to have a plan for all  
 22 those areas.

23 You need to discuss what anesthetics  
 24 you're using, you need to discuss what drugs you'll  
 25 give if there are problems, and you need to discuss

1 mean.  
 2 Q. I' sorr We're ig for th moment,  
 3 just pretend there was no such suggestion.

4 A. Then I think that that's wrong. I think  
 5 there needed to have been discussion. I think that --

6 Q. We're past that, Doctor.

7 A. I know. I think that -- but I need to  
 8 reiterate. I think that that is such a critical point  
 9 in this operation that that needed to have been  
 10 discussed. I think that for -- I think that for Dr.  
 11 Adamek to assume that Dr. Senchyshak would know what to  
 12 do in that situation was an incorrect assumption, it  
 13 was wrong.

14 Q. Let's again assume -- I'd like a straight  
 15 answer to this -- let's just assume maybe Dr. Adamek,  
 16 they were in the middle of a discussion, Dr. Adamek had  
 17 to run out of the room and go attend to a cardiac  
 18 arrest in the next room and, for whatever reason, they  
 19 had not discussed reversal of this patient. If that's  
 20 the case, what should Dr. Senchyshak have done at the  
 21 time he decided to reverse the patient?

22 A. If Dr. Senchyshak goes ahead with the  
 23 induction or with the reversal, then his role would  
 24 have been to then call Dr. Adamek, told him what he did  
 25 and Dr. Adamek to make a decision as to whether to

1 what you're going to do at the emergence, at the end of  
 2 the operation for emergence, whether you're going to  
 3 extubate the patient or not. That's what needed to  
 4 have been discussed earlier with this.

5 Q. If, for whatever reason or however it came  
 6 about, Dr. Senchyshak made a unilateral decision to  
 7 reverse this patient and did that on his own, that  
 8 would e inappropriate, correct?

9 A. Going back to what I said, I still think  
 10 that Dr. Adamek had a responsibility to discuss the  
 11 extubation or not to extubate the patient at an earlier  
 12 point during the operation. If Dr. Adamek had said,  
 13 to

14 reverse the patient and then Dr. Senchyshak had done  
 15 that, that I would say is a problem, otherwise I think  
 16 that Dr. Adamek has the responsibility to discuss the  
 17 extubation or whether or not to extubate the patient  
 18 with Dr. Senchyshak before that time.

19 Q. Assume for the moment there was no such  
 20 discussion, just pretend for the moment there was no  
 21 such discussion. If that had happened, do you think it  
 22 was appropriate for Dr. Senchyshak to go ahead on his  
 23 own and reverse this patient without calling  
 24 Dr. Senchyshak?

25 MR. JONES: Dr. Adamek you

1 re-paralyze the patient or not and go back to being on  
 2 the ventilator and maintaining him intubated into the  
 3 recovery room.

4 The reversal is not an irreversible  
 5 action, it could be changed. He could have given  
 6 Norcuron or Pavulon at that point and re-paralyzed the  
 7 patient and prevented the bucking at that point.

8 Q. Do you have any opinion in this case -- or  
 9 if we've told us earlier, I just do t recall -- at  
 10 what point in time you thi tl bucking occu red? I  
 11 thi I ai ed it I thi l were g ght the  
 12 anesthesia record.

13 A. From the anesthesia record, at 12:35 the  
 14 patient is on assisted ventilation and the blood  
 15 pressure is going up. I'm then going on Dr. Adamek's  
 16 deposition that there was bucking going on. There's  
 17 nothing in the chart that indicates there's bucking.

18 MR. CASEY You mean  
 19 Dr. Senchyshak's deposition?  
 20 THE WITNESS: Dr.  
 21 Senchyshak's deposition, thank you.

22 BY MS. REINKER:  
 23 Q. Did you say that if a patient starts  
 24 bucking one of the things that the anesthesiologist  
 25 might do would be to remove the ET tube?

1 A. That's one of the things that can be  
 2 looked at if the patient meets the criteria for  
 3 extubation. If the patient is awake, if the patient is  
 4 responding to commands, if the patient is opening their  
 5 eyes and they're bucking, you can take the tube out.  
 6 You have to weigh that also with the disease process  
 7 the patient has.

8 If the patient is considered to have a  
 9 full stomach, you'd want the patient to be very wide  
 10 awake before extubating. If the patient has sleep  
 11 apnea or was a very difficult intubation, you'd want  
 12 the patient to be wide awake before they extubated the  
 13 patient.

14 It has to -- you have to look at each  
 15 individual patient and assess what's going on before  
 16 you pull an endotracheal tube.

17 Q. But somebody might think of pulling the  
 18 endotracheal tube as a remedy for bucking?

19 A. It's not -- if the stimulus is removed,  
 20 that will end the bucking. The patient may not do well  
 21 if that happens.

22 Q. Sort of a simple solution?

23 A. Right. It's also may not prevent the  
 24 patient from coughing either if the endotracheal tube  
 25 is removed. The patient still can cough, they still

1 can have an irritated airway.

2 Q. You said you were trained under some  
 3 physicians who you think were not Board certified?

4 A. Yes.

5 Q. They were still good physicians from what  
 6 you could tell?

7 A. Yes.

8 MS. WINKER: I think that's  
 9 all I have.

10 MR. CASEY: Any follow-up,  
 11 Charles?

12 MR. ALLEN: Yes, I have a  
 13 couple.

14 Can I go ahead, Susan?

15 MS. WINKER: yeah, why don't  
 16 you go ahead.

17 - - -

18 RE-CROSS-EXAMINATION

19 BY MR. ALLEN:

20 Q. Before today have you ever met me?

21 A. No.

22 Q. Have you ever met anybody from the Keenan

23

24 A. No.

25 Q. Don Keenan?

1 A. No.

2 Q. Have you ever met anybody from the  
 3 Landskroner Law Firm?

4 A. No.

5 Q. Have you ever seen Mr. Landskroner before?

6 A. No.

7 Q. Have you ever had a piece of paper

8

9 A. No.

10 Q. Now, Doctor, based upon the echo that was  
 11 in this case, was Dewey Jones in either one, the August  
 12 echo or the echo of this October admission, based upon  
 13 that echo was Dewey Jones an appropriate candidate for  
 14 anesthesia?

15 A. I think he was an appropriate candidate  
 16 for anesthesia. I think that -- yes, I think he was an  
 17 appropriate candidate for anesthesia.

18 Q. Based upon the echo?

19 A. Yes. I mean, there are risks involved in  
 20 taking care of patients who are very sick and clearly  
 21 there were risks involved with Mr. Jones.

22 Q. But based upon that echo he was a higher  
 23 risk patient?

24 A. Absolutely.

25 Q. Now, you told me earlier that your opinion

1 was that the patient was not extubated; is that right?

2 A. Actually, I didn't, but there's nothing in  
 3 the chart to indicate that he was extubated.

4 Q. There's a Dr. Heart record in which it  
 5 says intubated.

6 A. Exactly. As well there's a Dr. Heart  
 7 thing and there's also a note from one of the surgery  
 8 residents in the progress notes that says at the time  
 9 of extubation. There's nothing in the anesthesia  
 10 record that says he was extubated, there's nothing that  
 11 says he's reintubated.

12 Q. And so did you -- it is your opinion that  
 13 he was not extubated based upon the records?

14 A. Yes. From the information I've got.

15 Q. Okay. Did you read the depositions of the  
 16 doctors?

17 A. Yes. The other -- the other area of why I  
 18 say that is the Dr. Heart note says he was  
 19 reintubated -- it doesn't say reintubated, the Dr.  
 20 Heart note says he was intubated at 12:30, and it looks  
 21 from this, from the record, like the reversal was given  
 22 at 12:35.

23 Q. Where is the Dr. Heart record?

24 A. I've got it right here. It says, oral  
 25 intubation 8.0 tube at 12:30. The 8.0 tube was what

1 was in at the beginning of the case also.  
 2 Q. So it's your opinion that the Dr. Heart  
 3 record stating that the patient was --  
 4 A. It just says he was intubated.  
 5 Q. Intubated with an 8.0 tube at 12:30 meant  
 6 that he already had a tube in?  
 7 A. That's what I think. Intubation is such a  
 8 significant task, especially at the end of the case.  
 9 If you reverse someone, extubate them and then  
 10 reintubate them, you have to write that in the chart,  
 11 and there's nothing to indicate that was the case.  
 12 Q. What about the notes that say difficulty  
 13 at time of extubation or difficult extubation, how did  
 14 you --  
 15 A. My reading on that is just the patient was  
 16 bucking at the time and that's -- if there's bucking  
 17 going on often you would say that that's difficulty at  
 18 the time of extubation.  
 19 The other thing is written by -- the  
 20 note in the progress notes is written by a surgery  
 21 resident, and I'm not sure he would know specifically,  
 22 if he or she would know specifically what's going on at  
 23 that time.  
 24 MR. CASEY: Actually, I  
 25 think it was Dr. Badri who wrote that

1 know he's been chairman of the Department of Anesthesia  
 2 at Case since, I believe, '81 or 1980, and I know he  
 3 worked in the department for a number of years before  
 4 then, but I don't know the exact number of years.  
 5 Q. So it's maybe 20 years?  
 6 A. I really don't know.  
 7 Q. You're one of the residents he trained?  
 8 A. Yes.  
 9 Q. It's at least 17 years? You said since  
 10 1980 he's been there.  
 11 A. Right. I think he's been there before  
 12 that, I just don't know when he came.  
 13 Q. So I would assume you would defer to his  
 14 opinions on the relationship between residents and  
 15 attendings by virtue of his years of doing it?  
 16 A. I think he's got a very good handle on the  
 17 situation, yes.  
 18 Q. Were you ever chief resident?  
 19 A. No. We had -- in our program there really  
 20 wasn't a chief -- there really wasn't a chief resident,  
 21 per se. It was everyone in their senior year did the  
 22 functions, one person did the scheduling, and that was  
 23 the only -- that was what the chief resident did.  
 24 Q. When you were in your senior year of  
 25 residency, there would have been residents junior to

1 note, and he wasn't in the room either.  
 2 THE WITNESS: okay.  
 3 BY MR. ALLEN:  
 4 Q. So tell me now, I heard a lot about you  
 5 being responsible for nurse anesthetists, no matter  
 6 what they do, you're ultimately responsible?  
 7 A. Absolutely. That was the way I was  
 8 trained. If you supervise someone, you're the one  
 9 who's responsible for the actions. They're acting as  
 10 your agent and you're responsible for them. That's why  
 11 it's so critical to have discussions with someone and  
 12 to lay out what's expected of them during an operation  
 13 and what the plan is.  
 14 MS. REINKER: Move to strike.  
 15 MR. ALLEN: I'll pass the  
 16 witness.  
 17 MR. CASEY: Anything else,  
 18 folks?  
 19 MS. REINKER: Yes, I do.  
 20 ---  
 21 EXAMINATION  
 22 BY MS. REINKER:  
 23 Q. Do you know how many years experience  
 24 Dr. Cascorbi has had in training residents?  
 25 A. I don't know the exact number of years. I

1 you?  
 2 A. Yes.  
 3 Q. You played probably some role in working  
 4 with the more junior residents?  
 5 A. Yes.  
 6 Q. And in doing that you would get a feel for  
 7 the abilities of each of the residents?  
 8 A. Yes.  
 9 Q. So you would assume also that the  
 10 attendings at Huron Road Hospital got a feel for the  
 11 abilities of the residents they were working with?  
 12 A. Absolutely. I mean, that goes without  
 13 saying that you -- part of being a teacher is you learn  
 14 what your students are able to do.  
 15 Q. And in the first three months Dr.  
 16 Senchyshak was at Huron Road before this case the  
 17 attendings would have had some ability to analyze --  
 18 A. Absolutely.  
 19 Q. -- what Dr. Senchyshak was capable of  
 20 doing and what he was not capable of doing?  
 21 A. Absolutely.  
 22 Q. Was there any reason to reverse this  
 23 patient at 12:30?  
 24 A. The operation was done is all I can think  
 25 of was their plan.

1 Q, Was there any reason why Dr. Senchyshak  
2 was obligated to go ahead and reverse the patient at  
3 that time?

4 A. No.

5 MS. REINKER: That's all.

6 MR. ALLEN: I don't have  
7 anything else.

8 MR. CASEY: Doctor, you  
9 have the right to read this transcript  
10 before it goes into final form and make  
11 any corrections as to spelling and the  
12 like. We are three days before trial. I  
13 do not have a problem if you waive that  
14 right.

15 THE WITNESS: okay, I waive  
16 it.

17 - - -

18 (DEPOSITION CONCLUDED.)

19 (SIGNATURE WAIVED.)

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1 STATE OF OHIO, )  
2 COUNTY OF CUYAHOGA. ) SS:  
3 CERTIFICATE  
4 I, LAUREN I. ZIGMONT-MILLER, Registered  
5 Professional Reporter and Notary Public within and for  
6 the State of Ohio, duly commissioned and qualified, do  
7 hereby certify that the within-named witness, DAVID S.  
8 RAPKIN, M.D., was by me first duly sworn to tell the  
9 truth, the whole truth and nothing but the truth in the  
10 cause aforesaid; that the testimony then given by him  
11 was reduced to stenotypy in the presence of said  
12 witness, and afterward transcribed by me through the  
13 process of computer-aided transcription, and that the  
14 foregoing is a true and correct transcript of the  
15 testimony so given by him as aforesaid.  
16 I do further certify that this deposition was  
17 taken at the time and place in the foregoing caption  
18 specified.  
19 I do further certify that I am not a relative,  
20 employee or attorney of either party, or otherwise  
21 interested in the event of this action.  
22 IN WITNESS WHEREOF, I have hereunto set my hand  
23 and affixed my seal of office at Cleveland, Ohio, on  
24 this 8th day of August 1997.

4  
5 Lauren I. Zigmont-Miller, RPR and Notary  
Notary Public in and for the State of Ohio.

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1:126:5	1:126:16	1:126:18	1:96:22			1:92:16		
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1:130:5	1:130:6		1:26:17	1:52:25		1:92:14		
<b>urn</b> [3]			understood [1]			videotapes [1]		
1:52:18	1:52:19	1:114:11	1:10:17			1:89:23		
<b>urned</b> [6]			uneventfully [2]			violated [1]		
1:22:10	1:54:13	1:54:14	1:83:21	1:121:25		1:108:16		
1:54:16	1:81:15	1:86:14	unilateral [1]			violation [3]		
<b>urning</b> [2]			1:123:6			1:50:25	1:51:13	1:51:20
1:22:10	1:23:3		unit [3]			<b>virginia</b> [1]		
<b>uschman</b> [2]			1:13:20	1:68:2	1:68:2	1:7:9		
1:2:22	1:3:2		university [2]			virtue [1]		
<b>welve</b> [1]			1:7:9	1:67:25		1:132:15		
1:109:5			unless [2]			volume [12]		
<b>wo</b> [38]			1:53:12	1:88:2		1:17:12	1:24:2	1:24:4
1:8:6	1:11:2	1:18:1	unreasonable [3]			1:24:6	1:24:18	1:24:20
1:22:6	1:24:8	1:24:15	1:85:23	1:88:2	1:88:6	1:25:2	1:25:6	1:26:18
1:24:17	1:29:20	1:29:21	unusual [6]			1:85:8	1:86:2	1:86:11
1:32:19	1:34:4	1:38:20	1:94:19	1:118:3	1:118:13	volumes [1]		
1:40:20	1:44:5	1:44:6	1:118:14	1:118:16	1:118:17	1:5:20		
1:45:21	1:52:9	1:55:20	upset [2]			voluntarily [1]		
1:61:12	1:62:1	1:62:5	1:108:19	1:108:20		1:35:3		
1:63:14	1:66:15	1:66:25	<b>urine</b> [10]			waited [1]		
1:87:6	1:89:10	1:95:12	1:15:23	1:17:9	1:20:15	1:39:8		
1:95:20	1:101:21	1:101:23	1:24:7	1:24:10	1:24:16	waive [2]		
1:102:5	1:104:15	1:105:4	1:83:20	1:85:25	1:86:9	1:134:13	1:134:15	
1:105:11	1:105:12	1:106:6	1:86:10			waived [1]		
1:106:8	1:107:11		using [2]			1:134:19		
<b>wo-hour</b> [1]			1:120:21	1:122:24		wake [2]		
1:24:14			usually [5]			1:92:18	1:93:4	
<b>wo-minute</b> [1]			1:53:19	1:104:20	1:105:2	<b>waking</b> [3]		
1:92:2			1:105:11	1:105:12		1:39:22	1:54:6	1:54:8
<b>wo-year</b> [1]			vacation [2]			walk [3]		
1:108:25			1:109:6	1:109:7		1:27:2	1:45:21	1:66:5
<b>ype</b> [1]			value [1]			<b>walking</b> [1]		
1:35:12			1:30:19			1:80:14		
<b>ypes</b> [1]			values [4]			wall [1]		
1:7:21			1:29:2	1:29:3	1:48:17	1:40:15		
<b>ypical</b> [4]			1:60:12			walters [5]		
1:41:3	1:42:9	1:64:15	various [1]			1:2:17	1:4:22	1:85:17
1:120:11			1:78:12			1:91:22	1:100:5	
<b>ypically</b> [8]			vasodilators [2]			watched [1]		
1:37:25	1:73:1	1:73:6	1:21:17	1:82:2		1:44:19		
1:73:25	1:89:3	1:89:5	vegetative [1]			watching [1]		
1:92:22	1:105:4		1:32:7			1:105:15		
<b>ultimately</b> [1]			ventilated [2]			water [2]		
1:131:6			1:30:21	1:31:22		1:86:11	1:92:3	
<b>unchanged</b> [1]			ventilation [7]			<b>ways</b> [5]		
1:48:18			1:27:7	1:27:13	1:30:24	1:36:10	1:36:10	1:36:10
<b>incomplicated</b> [3]			1:31:3	1:31:22	1:38:9	1:37:14	1:108:12	
1:41:4	1:41:15	1:42:6	1:125:14			<b>Wednesday</b> [1]		
<b>nder</b> [8]			ventilator [2]			1:1:14		
1:1:17	1:5:7	1:14:10	1:27:12	1:125:2		weeks [2]		
1:53:12	1:53:17	1:92:9	ventricular [8]			1:8:6	1:109:7	
1:98:21	1:127:2		1:16:23	1:37:2	1:40:9	<b>weigh</b> [1]		
<b>nderlying</b> [6]			1:43:11	1:76:21	1:77:1	1:126:6		
1:17:14	1:24:2	1:82:11	1:84:22	1:119:23		weighed [1]		
1:83:3	1:85:1	1:86:8	verbal [1]			1:24:11		
<b>nderneath</b> [1]			1:60:15			<b>weight</b> [3]		
1:14:8			versus [1]			1:37:24	1:38:1	1:38:2
<b>nderstand</b> [22]			1:60:23			west [2]		
1:5:14	1:10:10	1:12:15	video [2]			1:102:4	1:102:6	
1:20:12	1:26:18	1:35:24	1:90:11	1:107:14		<b>western</b> [1]		
1:36:2	1:36:6	1:36:8	videographics [1]			1:51:23		
1:36:12	1:36:13	1:42:4	1:3:11			whatsoever [2]		
1:46:25	1:49:12	1:51:22						
1:52:17	1:58:24	1:60:5						

1:111:11	1:112:2		1:120:20	1:121:7	1:128:8
<b>whereof</b> [1]			1:128:8	1:130:19	1:130:20
1:135:21			<b>wrong</b> [3]		
<b>who've</b> [1]			1:72:2	1:124:4	1:124:13
1:112:22			<b>mote</b> [7]		
<b>whole</b> [3]			1:8:24	1:60:24	1:79:16
1:8:15	1:16:9	1:135:8	1:98:22	1:99:7	1:100:9
<b>wide</b> [2]			1:130:25		
1:126:9	1:126:12		<b>x-ray</b> [2]		
<b>winkler</b> [1]			1:48:18	1:86:25	
1:70:6			<b>x-rays</b> [1]		
<b>winston</b> [1]			1:40:16		
1:2:15			<b>year</b> [19]		
<b>withdrew</b> [1]			1:49:8	1:49:13	1:49:18
1:35:3			1:66:8	1:66:10	1:66:11
<b>within</b> [11]			1:66:12	1:67:3	1:88:16
1:25:5	1:25:12	1:43:21	1:98:16	1:98:19	1:98:20
1:43:22	1:66:11	1:79:25	1:100:22	1:109:4	1:110:16
1:85:5	1:86:4	1:87:7	1:110:18	1:111:2	1:132:21
1:87:9	1:135:4		1:132:24		
<b>within-named</b> [1]			<b>years</b> [17]		
1:135:6			1:56:3	1:61:11	1:61:17
<b>without</b> [12]			1:61:24	1:61:25	1:66:6
1:15:4	1:24:25	1:44:25	1:103:1	1:108:23	1:108:24
1:45:2	1:45:10	1:52:13	1:109:3	1:131:23	1:131:25
1:76:3	1:80:20	1:107:23	1:132:3	1:132:4	1:132:5
1:115:20	1:123:23	1:133:12	1:132:9	1:132:15	
<b>witness</b> [17]			<b>yesterday</b> [1]		
1:1:16	1:5:6	1:40:19	1:5:23		
1:65:25	1:89:25	1:94:11	<b>yet</b> [4]		
1:95:19	1:96:17	1:107:5	1:5:25	1:62:16	1:65:8
1:107:8	1:125:20	1:131:2	1:87:22		
1:131:16	1:134:15	1:135:6	<b>zero</b> [3]		
1:135:11	1:135:21		1:48:12	1:53:23	1:54:2
<b>woken</b> [1]			<b>zigmont-miller</b> [3]		
1:72:11			1:1:19	1:135:3	1:135:24
<b>word</b> [2]					
1:83:2	1:120:21				
<b>words</b> [1]					
1:120:23					
<b>worked</b> [5]					
1:55:1	1:68:2	1:103:11			
1:119:3	1:132:3				
<b>worse</b> [1]					
1:85:1					
<b>worsened</b> [1]					
1:84:21					
<b>worth</b> [1]					
1:34:25					
<b>wrap</b> [1]					
1:89:20					
<b>write</b> [15]					
1:6:18	1:49:15	1:49:21			
1:50:3	1:50:14	1:50:21			
1:78:6	1:78:11	1:89:15			
1:99:25	1:114:11	1:114:15			
1:116:4	1:117:12	1:130:10			
<b>writes</b> [1]					
1:50:11					
<b>writing</b> [2]					
1:6:19	1:9:5				
<b>mitten</b> [21]					
1:7:8	1:27:23	1:28:25			
1:29:3	1:29:8	1:31:5			
1:48:23	1:48:24	1:48:25			
1:51:10	1:53:21	1:61:1			
1:61:2	1:98:25	1:117:14			