DAVID ROLLINS, M.D.

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

IN THE COURT OF COMMON PLEAS

CIVIL BRANCH

BALDWIN DUNCAN,)
)
Plaintiff,)
) 357484
vs.)Case No. CV-[redacted]
)C/A: N/A
ST. LUKE'S MEDICAL CENTER,)
)
Defendant.)

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EXCERPT OF TRANSCRIPT OF PROCEEDINGS

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Whereupon the following proceedings were had before the Honorable Judge Thomas Patrick Curran, in Courtroom 17-D, The Justice Center, Cleveland, Ohio, commencing Monday, February 14, 2000 upon the pleadings filed heretofore.

APPEARANCES:

Daniel J. Ryan, Esq.,
on behalf of the Plaintiff;

George M. Moscarino, Esq.,
Susan Massey, Esq.,
on behalf of the Defendant,

Kellie M. Reeves-Roper, RPR, CAT
Official Court Reporter
Cuyahoga County, Ohio

I N D E X

E X H I B I T S

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TUESDAY AFTERNOON SESSION, FEBRUARY 15, 2000

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The PLAINTIFF, to maintain the issues on his part to be maintained, called as a witness, DAVID L. ROLLINS, M.D., who being first duly sworn was examined and testified as follows:

DIRECT EXAMINATION OF DAVID L. ROLLINS, M.D.

BY MR. RYAN:

Q Sir, the microphone does work. We'll ask you to speak up so everyone has a chance to hear you. Okay. Are you comfortable?

A Okay, that's fine. I see the chair doesn't move.

Q Okay. Your name, sir?

A David Rollins.

Q Do you have a profession?

A I am a physician.

Q And would you share with the jury at this time your background, your educational background in obtaining that position of becoming a physician starting with college?

A I went to college in Wisconsin at the University of Wisconsin. Then I went to Chicago Medical School. And then I went back to --

actually I went out to Kentucky for four years and did a general surgery residency. And then 1 went back to Milwaukee and did a vascular surgery fellowship. And then I went into practice as a full-time academic surgeon at the Chicago Medical School. Then I ended up out here.

Q Where are you licensed to practice medicine, doctor?

A Currently in Illinois, Wisconsin and Ohio.

Q At what year did you complete your studies in vascular surgery?

A 1981.

Q And are you Board Certified in vascular surgery?

A I am.

Q Could you explain to the jury at this time what Board Certification means in vascular surgery?

A The American Board of Surgery is a board for motion of the surgical areas. And you have to be a general surgeon first so you have to be certified as a general surgeon and then you can take additional training in some different areas like plastic surgery or vascular surgery. And

there is a certificate of competence, if you will, for vascular surgery. Its not a separate Board.

Q You are licensed to practice medicine here in Ohio?

A Yes, sir.

Q When did you receive that license? Do you recall?

A In 1989 when I moved out here.

Q Are you also licensed in the state of Kentucky?

A I was. I don't believe that's an active license.

Q And the state of Wisconsin?

A It is current.

Q And the state of Illinois?

A I think its current.

Q Do you feel qualified to offer medical opinions concerning the area of medicine covering vascular surgery?

A I do.

Q Okay. Showing you what has been marked as Plaintiff's Exhibit 44, could you identify that for me, please.

A That is a copy of a current curriculum

vitae.

Q Who is it for?

A For me.

Q Doctor, were you called upon to review the records of the treatment and care of Baldwin Duncan from January 18th, 1996, up to and including March 10th of 1996?

A I was.

Q And what was that request made of you? What were you to do?

A Well, the original request was made by another attorney, not here, to evaluate the record with respect to the conduct of the parties. Particularly with respect to Dr. Savrin.

Q All right. Did it make any difference to you whether it was requested by one attorney or another, or did it change anyway you did this work?

A It did not.

Q All right. Have you been called upon to do this in the past?

A I had been an expert before in other cases, yes.

Q All right. And you've been called upon to

offer opinions in the vascular surgery area?

A I have.

Q And have they been accepted?

A As far as I know.

Q Okay. Have you had the opportunity to give depositions? First of all to write reports in this area?

A I have.

Q Have you also been called upon to give depositions based upon those reports?

A That's correct.

Q And have you also appeared in court before and offered testimony?

A I have on occasion.

Q And has -- you were permitted to offer your opinions at that time?

A I was.

Q All right. Did you bring anything with you today?

A No.

Q I'm going to show you a document. A three-page document which has been marked as Plaintiff's Exhibit 27. Can you identify that for me, please.

A This is a copy of a letter. A report that

I sent concerning this case on June 25th, 1999.

Q All right. So you carried out the review of those records. Correct?

A Yes.

Q And as a result of those records you generated a report?

A I did.

Q And that's what's Plaintiff's Exhibit 27?

A That's correct.

Q Okay. Doctor, now, I'm going to ask you a series of questions concerning that examination that you have performed and everything, and also the opinions that you hold as a result of that examination. If you offer an opinion, doctor, do you understand I need the opinion based on reasonable medical probability? Do you understand that?

A I do.

Q Secondly, doctor, are you familiar with the term minimum standard of care in the medical profession?

A I am.

Q Would you explain to the jury what that is, please.

A It is honestly a very difficult thing to

define in one sense because it is a broad number of actions that are acceptable for each type of problem that occurs.

Q All right. In offering opinions in this case, doctor, I would like you -- if I call upon you to offer an opinion based on the medical care and treatment that Baldwin Duncan has received I wish you -- if you are offering those opinions in using the term, "minimum standard of care" I would like you to use that as the minimum amount of medical care that Mr. Baldwin should receive from a physician who was placed in the position of taking care of him, or a physician or an institution that's placed in the same position of the same type.

A I will do that, sure.

MR. MOSCARINO: Objection.

Q Now, I would like to direct your attention --

THE COURT: Just a minute.

MR. RYAN: I'm sorry.

(Thereupon, a discussion was had between court and counsel, outside the hearing of the jury and off the record.)

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THE COURT: All right. I'll allow Mr. Ryan to rephrase his question.

Q Doctor, I want to be sure that you understand. When you are offering opinions as to the medical care which is received which has been provided to Mr. Duncan, that when you're offering opinions about it I want you to both base it on reasonable medical probability. You understand that?

A I do.

Q Secondly, I wish you to base it upon that minimum standard of care. And so you understand what I'm talking about, doctor, it is that minimum amount of care one is to receive from a physician who is involved with the treatment and care of a person like Baldwin Duncan. Do you understand?

A I do.

MR. MOSCARINO: Objection.

THE COURT: Sustained.

Q Do you understand that this also includes that this person who has provided treatment and care of the patient that would be done in such a way that you would expect this to be done in the

same or similar circumstances?

MR. MOSCARINO: Objection.

THE COURT: Sustained.

MR. RYAN: Your Honor, I'm looking for a document that I need about a minute to find,

THE COURT: Yes.

Q Let me do it again, doctor. Okay. Are you ready?

A Okay.

Q When you offer opinions based on reasonable medical probability, which I've asked you to do is to decide or offer opinions that the care provided to the plaintiff, Baldwin Duncan by the defendant, Saint Luke's Hospital through both Dr. Camp or Dr. Jackson or others that it was of the type and quality required of a physician who find themselves in like or similar circumstances which the plaintiff presented to the defendant from January 31st, 1996 up to and including March 10th, 1996 when the plaintiff's left leg was amputated. Do you understand that?

A I do.

MR. MOSCARINO: Objection. Your

Your Honor, may we approach, please.

THE COURT: Yes.

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(Thereupon, a discussion is had out of the hearing of the jury and off the record.)

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THE COURT: Sure. Let me make some observations to the jury

MR. RYAN: Thank you, your Honor

THE COURT: And then I'll ask the witness to keep in mind certain principles And I m going to explain this First of all, this is a lawsuit known as medical malpractice It's against a hospital, and hospital acts through human beings. So at the proper time the Court will discuss with you the duty of a hospital and the extent to which a hospital can be held accountable for the medical decisions and medical judgments of a medical practitioner and other medical personnel.

Now, one of the issues in this case

deals with specific standards of care.

"And the existence of a physician/patient relationship or surgeon/patient relationship imposes and places upon that physician or surgeon the duty to act as would a physician or surgeon of ordinary skill, care and diligence under like or similar conditions or circumstances. The standard of care is to do those things which such a physician or surgeon would do, and to refrain from doing those things which such a physician or surgeon would not do.

"If at the end of this case after you hear all the instructions of the Court and judging all the credibility of the witnesses -- under standards that I will give you -- at the proper time you find by the greater weight of the evidence, that is to say by the preponderance of the evidence that the Defendant, hospital failed to use that standard of care which I have described for you, at this time then you may find that the hospital committed malpractice.

"Now, if you do find that the hospital committed malpractice you'll then be called upon to determine whether or not there is a connection between the claimed injury of this plaintiff and the allegations of negligence. You'll be called upon to determine whether or not this plaintiff lost his lower extremity because of negligence." So essentially you'll be called upon to decide three overall points.

First, did the Defendant, hospital commit medical malpractice or negligence;

Secondly, if the answer to that question is yes, is there a relationship between that negligence on the one hand and the claim of injury or loss of limb on the other hand;

And third, if you find that there was negligence, if you find that there was a proximate cause connection, what is the measure of damages that you will contribute to this event.

Now, for doctors in training such as interns, residents or fellows the standard

of care is that of a doctor of ordinary skill, care and diligence at the same stage of his or her training under like or similar circumstances. All right. You may proceed.

MR. RYAN: Thank you, your Honor.

BY MR. RYAN:

Q The Court has now correctly stated -- which I was trying to state -- the standard of care. You understand it now, doctor?

A I do.

Q And will you offer opinions based on that standard then?

A I will.

Q All right. You have in front of you, doctor, two exhibits which I have marked Plaintiff's Exhibit 45 and Plaintiff's Exhibit 46. I would represent to you that they have been provided to me as the original records documenting the treatment and care which Mr. Duncan has received at the Saint Luke's Medical Center. All right?

A That's fine.

Q Would you take a look at them and see if

those are -- if you had the opportunity to review those documents in preparing the report?

A I did have an opportunity to review copies of these. Not the actual records.

Q Those copies, are they the same documents which you have in front of you?

A They are purported to be and I have no reason to believe they weren't.

Q Okay. Besides the medical records then what else did you review in preparing that report?

A I reviewed the deposition transcript of Dr. Savrin and Dr. Camp and Dr. Jackson. And I believe there was a copy of the original complaint and also two or three expert reports, plaintiff's expert reports that I looked at.

Q In carrying out that review, doctor, were you able to make a determination at that time what was the treatment and care that Mr. Duncan received there at the Saint Luke's Medical Center?

A I'm not sure I can answer it that way. Can you be more specific?

Q All right. Starting on March 18th, 1996, were you able to make a determination that

Mr. Duncan came under the treatment and care of the people there at the Saint Luke's Medical Center?

MR. MOSCARINO: Objection to the date.

Q I'm sorry, January 18th. Did I say March? I'm sorry, January 18th, 1996.

A Yes, I did.

Q All right. If you wish you can use those records as we go along, doctor, if you wish.

A All right.

Q And what brought him there? Do you recall?

A He had a significant problem with his kidneys and -- also probably caused by lupus which also just caused a whole bunch of other problems with his legs and caused him to clot off, the arteries in his legs.

Q Did there come a point in time when he required the care of a vascular surgeon?

A There did.

Q When did that happen and what brought that about?

A I believe Dr. Savrin was consulted earlier because when you have someone whose blood

vessels all of a sudden close off that is an urgent situation. And I think Dr. Savrin saw him on the 18th or the 19th.

Q Did there come a point in time when Mr. Duncan required surgery to that leg?

A Yes, it did.

Q Could you also make reference of that date if you would, doctor, please,

A I would be happy to. Excuse me for not being comfortable with the organization of the chart, It will just take me a second here.

It appears that Dr. Savrin -- and I can't find his consult right here -- yeah, saw the patient on the 18th of January, 1996.

Q Was there -- after seeing the patient did he commence any type of treatment at that time?

A Well, he didn't. He himself did not commence the treatment. What occurred was the patient -- when Mr. Duncan had clotted off all the vessels, it was decided the best thing to do was to try to dissolve the clot out instead of operate on him. So that was started by the radiologist,

Q Was that successful?

A Actually it was very successful for a day

and-a-half. And fortunately it cleared most of the blood clot out of the top part of the leg all the way down to the knee. But there was incomplete clearing in the calf, possibly because the blood clot had been there for a long time.

And so as I was involved in this case on the 20th, the problem was that when you use the dissolving clot buster it causes clots everywhere to dissolve. So what happens is if he had started re-bleeding, and he started actually re-bleeding through his arm so you then have to stop it because you don't want him to bleed anymore. Then you have to go to plan B. And plan B is to actually see him to surgery and try to take the clots out by hand. And that's what was done on the 20th.

Q Did Dr. Savrin have anything to do with the treatment and care involved with that specific surgery?

A Not with that specific surgery. I was on-call that night for our partnership and I was the one who was involved in the actual operation.

Q What operation was performed?

A When we looked at the pictures to see what was blocked it was clear that almost all the blockage was in the three arteries down in the calf. And these are very tiny. The inside is no bigger than a pencil lead so they are pretty small. And what we did was to make an incision and open up the space between the big calf muscle and the bone below the knee, find the arteries that are right there and as we say, dissect them out, which means basically you get them so you can see them and then open them up.

And we have a little catheter, a little tube. And its a tiny little tube. Then you put a balloon on it, then you pass the catheter down and blow the balloon up and push it back. Its easy to go down but when you pull back you pull back all the clot. And we were able to get a moderate amount of clot of all three of the blood vessels. Two of them were already totally blocked and the third one was mostly blocked.

And then during the course of this what you do is you also shoot some dye in, some radiopaque dye so you can actually see a road map of what the vessels look like. And the road map confirmed that there was basically one blood

vessel which was open all the way but it had some blockages. And this was most likely some of the blood clot that just hadn't been dissolved, Now, the good news is that if you open the blood vessels so there is blood going through it, it may well dissolve by itself later on.

Q Correct me if I'm wrong. That was to re-establish a pulse for -- down in the lower part of the foot?

A The goal was to save his leg. Because if nothing had been done he would have lost his leg at that point in time.

Q Okay. What was the result of the operation then?

A Well, it was not just the operation. The blood thinner plus the clot buster plus the operation resulted in what we call limb salvage, which means we saved his leg. And also he had a pulse in his foot which is always a good sign because it means there is a direct connection all the way down, So that was positive.

Q From January 21st up until January 29th, was doctor -- did Dr. Savrin then assist in the care of that patient?

A Dr. Savrin and I basically had an agreement that since he was down at Saint Luke's a great deal of the time because of his duties there that he would take care of the Saint Luke's patients if I asked him. I asked if he would please do that, yes.

Q Was there any involvement at all of the residents there that were there, too?

A Well, you have to understand that there is a residency training hospital and so therefore all of the care goes to the residents. It's very uncommon for the attendings -- for us to get involved directly because we try to teach them what to do. And if they don't have the hands-on then its hard to train them. It doesn't mean that they just do what they want, it just means that they are under our direction and do alot of the actual hands-on stuff.

Q Okay. At that point can you make a -- do you know the term -- have you heard the term staff and private in regards to patients?

A Yes, sure.

Q Do you know that term in the context of patients there at Saint Luke's Medical Center?

A I believe I do. I was there for a couple

of years and worked carefully with everybody.

Q Could you explain to the jury -- when you use the term staff and private -- can you describe them please with regard to patients?

A The answer is yes, I can distinguish them. But it always changes. And I'll see if I can explain that. The patient who have a physician who sends the patient into the hospital has his own physician. That's a private patient. And that private patients comes into the hospital under the care of the doctor. Now, all of the residents are involved in the care. It is still that doctor's patient, but the residents then will call up another doctor or call another resident and say, "We need a vascular consult." And at that point the vascular surgeon say would go in and see the patient.

Now, for the vascular surgeon this patient may end up being a private patient or a staff patient. It depends on a whole bunch of circumstances. Let me give you the example. If you have a patient who the internist has seen for a long time and he sends the patient to the hospital, to the eye clinic, the eye clinic obviously is a staff clinic. And so even though

he's a private patient he gets seen as a staff patient.

On the other hand, if he is a staff patient and I operate on him and need to see him afterward then I could bring him into my office as a private patient. So it is more the location of where the patient gets the service than it is to designate them directly as, "Well, he's mine," or, "He's yours." And this is quite common and usual in a training program.

So basically we try -- when we train the residents we try not to distinguish between one type of patient or the other because we treat them all the same anyway. But in terms of the outside responsibility, for certain conditions they may be divided. That is they may have two or three private doctors taking care of the heart and lungs but the eyes and the feet are being taken care of by someone else. So it could be pieces and parts. Its not just one designation.

Q Was Baldwin Duncan a private patient of Dr. Savrin?

A Not to my knowledge.

Q Okay. Was there anything in your review

of the record that would give you any indication that he was a private patient in your review of the record?

A That he was?

Q Yes.

A No.

Q In your review of the records were you able to make a determination when Dr. Savrin completed his involvement with the treatment and care of Baldwin Duncan?

A I believe it was on the 29th of January that he signed off the case. The surgical staples in the incision were removed. The wound was healing and at that point Dr. Savrin had completed the acute care or the first care, the vascular care.

Q Doctor, in reviewing the medical records there and the other documents that you have identified were you able to form an opinion if Dr. Savrin had met the standard of care and treatment of that patient?

A Absolutely for this condition.

Q And your opinion?

A That he did indeed meet the standard of care for this condition.

Q All right. When he removed himself off the case or when he indicated the vascular service will be no longer involved, did that -- in your opinion did that meet the standard of care?

A It did meet the standard of care. And what happens quite frequently is that after we take care of an acute problem there is no necessity to follow-up. On the other hand, if you do a bypass or do something that places a patient at risk for not working, well, then I say you're sort of married to the patient. You're stuck with each other forever.

But in a case where you come in and say, "Take a blood clot out," that usually is a one-time deal and they don't get worse from just taking the blood clots out. If they are out for 10 days they should do all right.

Q Doctor, in reviewing those records did you come across a study, a microbiology study that was done on or about February 9th, 1996? And I will direct your attention specifically to Plaintiff's Exhibit 43.

A Okay.

Q Was that part of the record, doctor?

A That was part of what I reviewed, yes.
Q Is that also contained there in the original records that I have given to you?
A I don't know that. I would have to look.
Q Would you please.
A The answer to the question is, if it is here I'm not sure exactly -- okay, I found it.
Q Okay. In comparing that document to the one that you have in front of you, does that have any written notes on the one that's the original one?
A The original one has written notes in it, sure. Unless I'm looking at a copy. Yes, there is actually two reports in here.
Q Okay.
A One is a preliminary report dated on February 9th, 1996. And the second one is a final report which is issued later. And I think I'm not saying that right.
Q The exhibit that I --
A The exhibit that you had showed me is a report that was reported on 2-11. And the report, the second report that I saw was a final report that looks like it was issued on 2-13, two days later.

Q The exhibit that I handed you was that the preliminary report, doctor?

A That is a preliminary report.

Q Doctor, do you recognize there appears to be some hand writing on the side of that report? Do you recognize that?

A Yes.

Q And whose is that?

A That's Dr. Savrin's writing.

Q In reviewing Dr. Savrin's deposition were you able to make a determination at that time if Dr. Savrin had ever received that report?

A Well, he had if he wrote on it.

Q Okay, But I mean in his deposition did he indicate that he had received the report on a specific date or anything?

A I believe he did.

Q All right. And the date that's noted on there I think its February 12th.

A That's correct.

Q All right. In reviewing his deposition did you become aware at that time what he -- how he had received the report and then what he did with it?

MR. MOSCARINO: Object to the form.

THE COURT: Overruled.

A My understanding from his deposition -- and I believe it was a discussion with him at one point -- is that the report was received and forwarded to Linda Camp's mailbox as a courtesy consult.

Q All right. Doctor, who ordered that test?

A It says Dr. Camp ordered it.

Q And where was that? The results of the test, where was it sent to? Is there an indication as to where you go to?

MR. MOSCARINO: Objection. Asked and answered.

THE COURT: Come up here.

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(Thereupon, a discussion was had between court and counsel, outside the hearing of the jury and off the record.)

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Q Doctor, in carrying out your review, including those reports which you have in front of you that were generated on December -- on February 9th, both the preliminary and the final one, and also the subsequent appearance of Baldwin Duncan there at the Saint Luke's Medical

Center, were you able to form an opinion as to the treatment and care that he had received first of all as of Dr. Savrin at that period of time?

A I'm sorry, which period of time, please.

Q From January 31st up to and including March 5th, 1996.

A At that point Dr. Savrin had signed off the patient. He had taken care of the acute problem and there was no further problem with the vascular surgery as far as he knew.

Q Do you have an opinion as to the person that ordered that report and the report that was generated? Do you have an opinion?

A My understanding is that --

MR. MOSCARINO: Objection. May we approach?

THE COURT: What did you mean? Do you have an opinion as to the quality of the medical care.

Q Do you have an opinion, as to Dr. Linda Camp, that appears on that report as to whether or not she met the minimum standard of care required of her?

MR. MOSCARINO: Objection.

THE COURT: Overruled.

MR. MOSCARINO: May I approach?

THE COURT: No.

MR. MOSCARINO: May I be heard on the record, please.

THE COURT: Later.

MR. MOSCARINO: Your Honor, I'd like to proffer something.

THE COURT: Later. Move on.

A Dr. Camp, to my knowledge, cultured the patient. And once having cultured -- once having performed the culture of the patient the standard of care then would have been to follow-up with the culture to make sure that those results were followed up.

MR. MOSCARINO: Objection. Move to strike.

THE COURT: Overruled.

Q And how would you follow-up? What would be required of her to follow-up what would be expected of her?

MR. MOSCARINO: Objection.

THE COURT: Overruled.

A Well, the patient records are part of the permanent medical records and they would go --

since Mr. Duncan was a clinic patient at that point in surgery -- so they would have gone back to the clinic itself for Dr. Camp to follow-up with. And that's how -- usually what happens. So there is an area where you can take a look at the patient's records, the test results come in and they are reviewed by the residents.

Q In looking at that particular report what would be the follow-up that would be required to meet the minimum standard of care? What type of procedures?

MR. MOSCARINO: Objection.

THE COURT: Overruled?

A The patient has a report that shows that there are bacteria growing. And again, I don't know where they were cultured from. Nobody would know that except for Dr. Camp who did the culture. And so the standard of care would require that she follow-up with the patient, bring the patient back and evaluate whether the patient really had an infection or didn't have an infection.

Q On March 5th, 1996, did the patient appear at the hospital with an infection in the surgical wound site?

A On March 5th, yes, he did.

Q And was that documented?

A Very well.

Q And did it also document what type of bacteria was bringing about or causing that infection?

A Eventually the patient grew out Klebsiella, which is one of the bacteria -- the main bacteria I should say that was in it.

Q The test that was performed on February 9th. Did that make a determination as to what bacteria had been typed at that time?

A Well, there were three or four at that point. And I would have to go back and compare them exactly but Klebsiella was one of the same ones in both reports. And I think there was E. Coli and Strep in one -- in the ninth report. And then back in March there was a different bacteria.

Q All right.

A So they changed around a little bit.

Q Doctor, do you have a medical opinion in regards to if proper treatment had been instituted would Mr. Duncan have suffered or had to require to have done to him an amputation of

his left leg on March 10th, 1996? Do you have an opinion?

A I do have an opinion.

Q And what is that opinion?

A My opinion is that had the infection been treated earlier the patient would not have lost his leg. And the second part of that is that had the patient been treated differently when he came in the hospital he wouldn't have lost his leg.

Q Okay. Are you -- from March -- I'm sorry. From January 31st up to March 5th, 1996 are you identifying Dr. Linda Camp as that person, as shown from the records, who performed the clinical examination to obtain the swab, have the test ordered and have the results sent back to her?

MR. MOSCARINO: Objection.

THE COURT: Overruled.

A The normal way we do things in a hospital is very simple. The doctor has to write the order or have someone have the nurse write the order for him or her. And that order basically means that this person is the one who is responsible for the test. And so Dr. Camp the

order was in her name.

And the normal way you would do stuff is she should have been the one to have been responsible for the test. Now, she could have had a junior resident do the actual swab but it is her responsibility to follow-up, to fill out the order and to follow-up the results.

Q Dr. Camp holding that position of a third year resident would she have the ability to identify that problem and move forward on it? Do you understand -- do you have an opinion on that?

A I do. And to clarify a little, as we go through residency training the residents get increasing -- we call it graded responsibility, which means we give them more and more and more things to do that are more complex. And by the third year -- by the end of the first year she would have been able to -- any resident would have been able to go ahead and deal with this problem appropriately because there is a very basic way we take care of patients.

Q Is this -- when Mr. Duncan presented himself on February 9th, 1996, does he present a vascular surgery problem?

A Mr. Duncan has alot of bad medical problems at that point. His leg was swollen and weeping. The kidney lost alot of protein which helps to keep the water in the cells. And when you lose all that you lose all the water out, so that's why he was just swelling all up. And in addition, he was taking high doses of Prednisone which gets rid of inflammation and helps treat the condition. His underlying condition of lupus or vasculitis or whatever we're going to call it. People with transplants take alot of Prednisone. So he had a significant medical condition that would -- could give him trouble.

Now, when he got there we don't have any records in terms of what was done. There was no writing other than the record itself and so whatever paperwork which would have been generated was lost somewhere. But the -- it was obvious that he had something that was draining, a wound or an open incision that was cultured and so -- and it grew bacteria so therefore it looked like he did have a problem. Some type of infection.

Q Was that an infectious problem?

A Yes.

Q And that was an infection we could say at a surgery site or surgery incision?

A Well, assuming that the culture was taken from that site. It could be from anything. In point of fact unless you were there you wouldn't know because you can swab under your arm and it will grow alot of bacteria but you don't necessarily have an infection there. So you have to take a look at the patient along with the findings. Its very important to do that.

Q On March 5th, 1996, when he presented himself at the hospital Mr. Duncan presented himself at the hospital with left leg pain. Was that being brought about by a vascular problem?

A No. That was -- he had pretty severe sepsis. Pretty severe infection in the leg which was giving him high fever and chills. And he was a pretty sick puppy when he came in.

Q Would you expect that -- would that then be a medical problem or a surgical problem?

A Well, an infection is an infection. It could be medical or surgical. How you take care of the infection preliminarily is to go and put the patient on antibiotics and culture, and then if you determine you have a collection of pus or

basically all this dead stuff in the bacteria, that prevents the body from healing so you have to drain it. You have to go ahead and open it up. Then it becomes a surgical problem.

Q In your review of the records of Mr. Duncan were you able to make a determination at that time if he had an abscess present there in his lower leg?

A Well, he did.

Q Explain to the jury what that is and what was going on in there, please.

A Well, when you do the incision, any incision, especially the one below the knee everything is separate. It's a very loose space. The knee has to move. And what happened is that some of the infection probably came through the incision which didn't heal as well because of the Prednisone and just would have stayed there for a long, long time.

And after awhile it just collected more fluid and more fluid. And since the incision itself then closed over it, it couldn't get out, And when something closes over and can't get out then you form the abscess, you form alot of pus, And that's what happened to Mr. Duncan. He just

basically kept growing the bugs inside and there was no place to drain it out until such time as the pressure forces the bacteria into the blood.

And when the bacteria gets in the blood that's what gives you the fever and the chills and stuff. So you get sick instead of draining out when you start to dump them inside your body.

Q You refer to the term, "bugs." To finish it up is that what the antibiotics do? They actually go in and kill the infection?

A They help the immune system quote, "kill the infection." Without an immune system you can't get rid of it at all. Basically its food for the bacteria. Unfortunately its poison. That's what we do, we poison the bacteria.

Q Okay. In review of the records from the March 5th admission up until March 10th of 1996, did Dr. Savrin have any further involvement in this case?

A To my knowledge he was not part of the records at all and was not involved in the care at this point,

Q All right. In review of the records, who was the person that first saw Mr. Duncan when he

arrived there at the emergency room on March 5th, 1996?

A Well, I believe he arrived at the clinic first and was seen by Dr. Camp.

Q All right. Dr. Camp is the one that documented his problem and admitted him?

A Well, she did not admit him.

Q I'm sorry.

A But she was the person who orchestrated the admission and got him into the hospital.

Q And based on her examination, her clinical examination did she make a determination at that time what was going on with Dr. Duncan's left leg?

A She believed that there was an infection in the left leg.

Q And did she characterize it in any way?

A As a cellulitis I believe.

Q Could you tell the jury what cellulitis -- what that is, please.

A Basically it just means inflammation of the cells or swelling. And it is a sort of a hot, hard, red tender area. And it is often associated with an infection. It doesn't have to be associated with an infection but when we

think of cellulitis we mostly think its an infection.

Q Was there any notes in there on the March 5th, notes that were sent down there by Linda Camp that there had been any contact made with Dr. Savrin?

A I don't recall. I have to look.

Q Would you please.

A The clinic note on that date states that, "The patient has cellulitis and needs admission. Rule out blood clots in the legs and the veins." And it was discussed with Dr. Lee.

Q And can you identify that Dr. Lee?

A I do not know Dr. Lee.

Q Okay.

MR. RYAN: Thank you, your Honor. We have no further questions.

THE COURT: All right. We'll take our mid-afternoon recess and we'll be back here in about 10 minutes. Remember the admonition of the Court. Everyone rise for the jury, please.

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(Thereupon, a break was had.)

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THE COURT: All right. You may proceed.

MR. MOSCARINO: Thank you, your Honor.

CROSS-EXAMINATION OF DAVID L. ROLLINS, M.D.

BY MR. MOSCARINO:

Q Dr. Rollins, I have some questions for you regarding your role here today and through the course of this case. Okay?

A All right.

Q You are the partner of Dr. Donald Savrin. Is that correct?

A That's correct.

Q You were his business partner in 1996. Is that right?

A That's correct.

Q And you're his business partner today?

A That's correct.

Q And you and he are the sole shareholders of the corporation known as Northeast Ohio Vascular Associates, Inc. Is that right?

A That's correct.

Q And there is -- for example there is a bill that bears your corporate name.

A It does.
Q You are the only two partners. Is that right?
A Yes, sir.
Q And you're the president of the corporation?
A Yes.
Q And you're here to testify for Mr. Ryan today who is the plaintiff's counsel. Is that right?
A Apparently so.
Q And -- well, that's who called you to the stand, the plaintiff's lawyer.
A Yes.
Q He however is not the attorney who originally requested that you review the materials in this case.
A That's correct.
Q You have in front of you a report dated June 25th, 1999 which has been marked as Exhibit 27. Correct?
A That's correct.
Q Who did you write that report to?
A Mr. Robert Warner.
Q Who is Robert Warner?

A He was the attorney for Dr. Savrin and for our corporation.

Q Dr. Savrin was a defendant in the case at the time that you wrote the letter for Mr. Warner. Isn't that right?

A That's correct.

Q And it was Mr. Warner who asked you to review this case on behalf of Dr. Savrin. True?

A I believe so.

Q And in essence really you were also reviewing it for your owner corporation. Isn't that true?

A I never thought of it that way.

Q You expressed opinions in that report regarding several health care professionals. Didn't you?

A I did.

Q In fact what you did is you expressed an opinion that Dr. Savrin complied with the standard of care. Right?

A I did.

Q You also state the opinion there as an expert that you, yourself, Dr. Rollins complied with the standard of care. Isn't that right?

A I don't know if I stated it that way but I

guess so, yes.

Q Well, on page three you state, "In summary it is my opinion that Drs. Savrin and Rollins appropriately evaluated and treated the patient's vascular condition in January of 1996." Correct?

A I stand corrected.

Q And at the time that you did that your corporation was also named as a defendant. Correct?

A Yes.

Q And the corporation's lawyer was also Mr. Warner. Correct?

A Yes.

Q And you assessed him in the defense of the corporation and Dr. Savrin. Did you not?

A I did.

Q You met with him and Dr. Savrin. Did you not?

A I did.

Q And you were copied on letters from Mr. Warner to Dr. Savrin's insurance company. Correct?

A That's correct. As President of the corporation.

Q And you were never contacted by Mr. Ryan until after Dr. Savrin was out of the case. Correct?

A That's correct.

Q Now, you also met with Dr. Savrin outside of the presence of your counsel, Mr. Warner, prior to issuing the report dated June 29th, 1999. Is that right?

A I believe it was after the report had been issued not before.

Q Well, strike that. Let me ask you a different way. Prior to me taking your deposition you met with Dr. Savrin regarding this case. Correct?

A Yes.

Q And you discussed with him his version of the events as to what h ppened in between specifically the time period of February 9th, and March 5th of 1995. Isn't that right?

A No.

Q Did your discussion with Dr. Savrin form a basis of some of your conclusions in this case with respect to what went on after this patient's discharge from the hospital?

A No, it did not. Dr. Savrin did not add

anything. The primary stuff that we talked about had to do with corporation and his dealing emotionally with the lawsuit.

Q Did Dr. Savrin discuss with you his action on February 9th, 1996 and thereafter?

A I do not believe that we discussed that specifically. It may have been mentioned in passing.

Q But you did discuss this case with him?

A I believe there were a couple of points we discussed with him. And those points -- most of it was with the lawyer present. But outside of the lawyer 1 don't believe there was any germane information that I didn't know before.

Q Dr. Savrin was accused by Mr. Ryan of medical negligence and his treatment of your patient. Isn't that right?

MR. RYAN: Objection, your Honor. It was Mr. Baldwin who brought the complaint, not Mr. Ryan. He characterized me as being --

THE COURT: Sustained.

Q Let me rephrase it. In this case, as a part of the process your partner, Dr. Savrin was the subject of the allegations of medical

malpractice with respect to Mr. Duncan. Correct?

A Correct.

Q And you knew at the time that you were reviewing the materials. True?

A Yes.

Q And as part of your review process you actually looked at some expert reports that Mr. Ryan had obtained from other doctors who were appearing as experts for the plaintiff. Isn't that right?

A Yes.

Q You looked at a report from a gentleman by the name of Dr. Lentnik from Georgia and another person by the name of Ferenchek. Isn't that right?

A Yes, sir.

Q And you know that the -- one of the thrusts of those doctor's opinions was that Dr. Savrin was negligent. Correct?

A Yes.

Q And that Dr. Savrin had abandoned this patient. Correct?

A Yes.

Q And you happened to disagree with those

opinions.

A Very strongly.

Q What those doctors stated in their reports based on your review is that Dr. Savrin failed to properly follow-up with this patient after he was discharged from the hospital on January 31st, 1996. Isn't that right?

MR. RYAN: Objection, your Honor.

THE COURT: Overruled.

MR. RYAN: May I be heard on that then, please.

THE COURT: Go ahead.

A I'm sorry, 1 missed it. Could I have it read back or something?

Q I'll just ask it again. Its probably easier. You knew from the review of those materials, Dr. Rollins, that Drs. Ferenchek and Dr. Lentnik, the experts that were originally secured by Mr. Ryan levied the allegation that Dr. Savrin, your partner, had failed to properly follow-up with his patient after this man was discharged from Saint Luke's Medical Center on January 31st, 1996.

THE COURT: That's the

question. Did you know that? Yes or no.

A I knew that one of them did. And I knew that I was also included in that allegation.

Q Do you believe that you were also the subject of those allegations?

A I think they used both our names.

Q Well, the fact of the matter is it was not your job in this case, as I understand it to follow-up with this patient once he left the hospital.

A By our agreement, the way we take care of patients it was not my responsibility.

Q You and Dr. Savrin had an agreement whereby you split up the care in this case. And my understanding from this morning's testimony from Dr. Savrin himself is that he took care of the patient upon admission until the time of surgery. Right?

A Correct.

Q You were on-call so you did the procedure, which is referred to in this blowup note. Right?

A Yes.

Q And then you exited the premises and Dr. Savrin then was responsible for the

follow-up?

A That's correct. He took care of that.

Q Now, the fact of the matter is Dr. Savrin is no longer on this case. Correct?

A No, he's not.

Q He settled out of this case. Did he not?

A He did.

Q Money was paid to the plaintiff on his behalf.

MR. RYAN: Objection, your Honor. This is --

THE COURT: Sustained. Its sustained.

Q The corporation settled out of this case also. Isn't that right?

A I assume. I'm not sure. I have not read or seen the --

Q The settlement in fact included you. Did it not?

A I don't think so.

Q If I make a representation to you that the settlement papers in this case encompass you, Dr. Rollins, your corporation and Dr. Savrin do you have any reason to doubt that?

A That would be news to me, and I would not

be happy about that. Thank you.

Q You would not be happy about that because why?

A Because to my knowledge I was never sued.

Q Now, with respect to that report that you've issued, there is no --

THE COURT: Well, here. You're not suggesting that he was sued, are you?

MR. MOSCARINO: No. I never said he was sued.

THE COURT: Oh, okay. All right.

MR. MOSCARINO: I mean --

THE COURT: Well, he may have misunderstood you.

Q You personally were not sued. We can agree with that?

A No, sir. I would agree with that.

Q The corporation was sued.

A It was.

Q Savrin was sued.

A He was.

Q And release papers were drawn up by your lawyer, Mr. Warner, that referenced the corporation, Dr. Savrin and you. Did you

receive those?

A I did not.

Q You will agree with me that the report dated June 25th, 1999, does not indicate that Dr. Camp was negligent or that she failed to comply with the standard of care.

A No. I hinted it. I didn't state it directly.

Q Is the word Dr. Camp failed to comply with -- the standard of care -- or that phrase in that report?

A No.

Q You mentioned other people having to provide the standard of care in that report. Do you not?

A Yes.

Q You blamed a Dr. Jackson in that report. Didn't you?

A Primarily.

Q He was the thrust of your report. Was he not?

A Absolutely.

Q And with respect to Dr. Jackson, you used the words, "failed to comply with the standard of care." Didn't you?

A Yes. His actions were the proximate cause of the patient losing the leg.

Q And all I'm trying to get you to agree with me, if you can, so I can move on is that Dr. Camp is not the thrust of this report and Dr. Camp's actions are not referred to in words such as negligent in the June 25th, 1999 report.

A I would agree that Dr. Camp's -- Camp is not the thrust of the report but Dr. Camp is part of the report. And some of her actions were noted in there to not be appropriate. But the word -- the words you're asking me if they are in the report, that is that she failed to administer the standard of care that was not in the report.

Q After the settlement case do you know if Mr. Warner and Mr. Ryan conferred regarding your potential testimony?

A I assumed they probably talked. I have no direct knowledge of any direct conversation they may have had.

Q You told Mr. Warner about the criticisms of Dr. Camp. Did you not?

A I believe I did,

Q Do you know if Mr. Warner then told

Mr. Ryan so that he could then call you as an expert witness in this case?

MR. RYAN: Objection, your Honor.

THE COURT: Sustained. Sustained.

Q Doctor, with respect to Dr. Camp, she was a resident physician in January of 1996. Right?

A She was.

Q You had worked with her on prior occasions.

A I had.

Q And you worked with her subsequent to the Duncan case until she completed her residency a few years later.

A That's correct.

Q A resident physician is a physician in training. Correct?

A Yes.

Q And that resident physician is supervised by the attending physician. Correct?

A Yes. By law.

Q You corrected Mr. Ryan, or you clarified something during your direct testimony in that Dr. Camp is a resident. She couldn't on her own

admit patients. Isn't that true?

A Except under emergency circumstances.

Q As a general rule an attending is not required to admit the patient. True?

A That's correct.

Q The residents are hospital based. Isn't that right?

A Absolutely.

Q They do their work within the hospital for the most part.

A In a surgical residency that's true. Although that's even changing now.

Q And in the usual case once a private patient is discharged they usually don't see the residents again.

A The answer to the question is in this case no that's not true. Because again, the way the system works at Saint Luke's is that the care that the patients are given by the residents may be part of the ongoing care and they may well be followed up in the clinic. There are some groups that are always there and some that are sometimes there so they would often see these patients again.

Q But in the usual case with the hospital

based residents with a private patient the residents does not usually see the patient once the patient is discharged.

A Again, I can't answer it that way. If the patient has no further surgical problems I would say yes. But if the patient had further surgical problems he may be followed at the hospital or he may be followed in another surgeon's office.

Q Dr. Camp was not involved in the January admission for Mr. Duncan. Isn't that right?

A I didn't see her name anywhere on the chart.

Q You have no everyday to bring to this court that she was part of the treatment team from the time of admission on January 18th to discharge on January 31st.

A That's correct.

Q As of January 31st, Dr. Camp had no physician/patient relationship with Mr. Duncan. Correct?

A I don't know how you define that.

Q When you operated on Mr. Duncan you had no idea if he was a private or staff patient.

A That's correct. At that time I don't

believe I even knew the designation on how it worked there.

Q The fact of the matter is this patient when he was admitted was a private patient. Isn't that right?

A I don't know. If you say so.

Q Let me draw your attention to the chart which has been marked as Exhibit 45. Dr. Savrin had marked certain pages in this chart, specifically drawing your attention to January 18th. This is a progress note. Correct?

A Yes.

Q And Mr. Ryan already established progress notes are the way that the doctors write what's going on with the patient so they can communicate to their care givers. Is that a fair description?

A That's one way of communicating, yes.

Q In the upper right-hand corner there is a credit card imprint of Mr. Duncan's name. Is that right?

A That's correct,

Q That has his hospital number. Is that right?

A Yes.

Q It has his name?

A Yes.

Q What does that line read?

A It says, "MED slash something:

Q What does that say?

A I can't read the letter.

Q Is it PVT?

A It could be.

Q Does PVT connote and tell the outside world that as of January 18th, 1996, Mr. Duncan was a private patient?

A I believe it does because he's got Dr. Sandhu's name on it.

Q So what that means is that of this date pursuant to hospital policy Mr. Duncan has a private patient admitted to the service of Dr. Satnam Sandhu. Correct?

A That's how I interpreted it.

Q I have blown up for the jury's benefit and the Court's benefit a note from January 20th of 1996. That's a note that you wrote post the procedure that was performed by Mr. Duncan. Is that correct?

A That's correct.

Q And that is a diagram of his lower leg vasculature showing some of the items that you talked to Mr. Ryan about. Correct?

A I didn't talk to Mr. Ryan about anything. It does show his vasculature.

Q Well, you did tell him about pulling the catheters out.

A I have never seen heard or met Mr. Ryan until 15 minutes before the deposition that he took.

Q Fine. As of January 20th, January 21st, what does the notation read as far as Mr. Duncan being a private or a staff patient?

A "Unless the patient changes services we remain the same all the way through." I think. I don't know that.

Q On January 29th that is the date that you tell us that Dr. Savrin signed off on the patient. Correct?

A I thought that's when the staples were removed, yes.

Q Was Mr. Duncan a private patient or a staff patient as of January 29th?

A From whose perspective?

Q From the hospital chart perspective?

A The hospital chart perspective doesn't have anything to do with Dr. Savrin. He was Dr. Sandhu's private patient and Dr. Sandhu was possible for him in the hospital. But that does not necessarily mean it was Dr. Savrin's patient.

Q Drawing your attention to the date January 29th, 1996, what does the upper right-hand corner credit card imprint read as far as Baldwin Duncan's status?

A It says that he is a -- again I don't know what those first three letters are.

Q Can I represent to you that means private?

A It says that he's a private patient of David Rollins.

Q Had you looked at that piece of paper before today?

A Never even knew about it.

Q Your corporation does not bill for staff patients. Isn't that right?

A I found that out. I think this was the first patient. I did not know how the system worked and I billed for this patient myself in error.

Q You billed for the surgery in error?

A I did.

Q Are you aware of the fact that Dr. Savrin claims that he billed for his consultation in error?

A I don't know that.

Q Dr. Savrin did the bills for the most part for your corporation. Did he not?

A We, we billed our own surgeries so I submitted the bill. But he was responsible for the overall billing of how it works. But he doesn't look at my bills and decide whether I'm billing it correctly or not. He would not have known what I did unless he read the report later on.

Q Now, drawing your attention to this book. If I may, Dr. Rollins, this is an illustration by you -- and tell me if I'm wrong -- of your operative findings of your patient Baldwin Duncan. Correct?

A That's correct.

Q Based on your surgery you found evidence both of old clot and fresh clot. Correct?

A That's correct.

Q And so the jury understands, you performed this thrombectomy. At the close of the case you

performed an arteriogram so you could further find out what the status of Mr. Duncan's lower leg vasculature was. Is that right?

A Right. What we did is put the balloon in and pulled out as much clot as we can. Closed it up, put the needle in the artery and shot some dye in it, took an x-ray so you could see the dye in the artery. And that's how that picture was rendered because that's sort of a representation of the x-ray.

Q Some of the clot was so adherent that you were unable to remove it. Is that true?

A Yes. It had been there for awhile. It was stuck to the wall of the artery.

Q And based upon your operative findings, what you saw with the naked eye, can you tell us what you saw in arteriogram? There were two blood vessels that were totally occluded in segments. Is that right?

A That's right.

Q And the third one had multiple stenosis. Is that correct?

A That's true. There are pieces of blood clot on the walls just sort of in a whole bunch of places.

Q In spite of the fact that you were able to remove the clots, and despite the fact that you were able to restore pulses to this man's lower left leg he still had a very serious condition with respect to the blood flow to that extremity. Isn't that Right?

A No. The blood flow to the extremity was normalized and he was restored to good functional state at that point.

Q Because of what you found and what you diagrammed Mr. Duncan was at much greater risk for future limb loss. Isn't that correct?

A That's correct. When you have two to three blood vessels out and this third one is narrowed, the chances are that as time goes on you would close off the third one from something else. Plus he had his other blood clotting disorder that could cause a problem at any time.

Q With respect to what you found alone, because of the fact that two were occluded and one was problematic that in and of itself put him at a higher risk for future limb loss. Correct?

A That's correct.

Q Unfortunately for Mr. Duncan he also had a

condition known as anti-phospholipid syndrome. Is that right?

A That was a biggie, yes. That is the main problem.

Q And that was the medical reason as to why he was clotting off in his lower left leg. Is that right?

A Yes. He was making abnormal blood clot.

Q The combination of the anti-phospholipid syndrome and what you found as diagrammed on this blowup made it more likely than not that Mr. Duncan was going to unfortunately suffer a future loss of his limb.

A And I just want to point out I am not sure in looking at that x-ray how much of that was old disease and old narrowing -- which means that he had preexisting hardening of the arteries there -- and how much of it was just what was left of the blood clot that had dissolved. So I can't tell which was which. But given blood vessels that look like that, he is at risk for losing his leg later on.

Q And the combination of those two made it more likely sooner rather than later that he was going to suffer -- according to your words -- a

loss of his limb.

A Well, my opinion would be probably in five years or so.

Q In fact you told me at deposition that within four to five years it was your opinion to a reasonable degree of medical probability that unfortunately Mr. Duncan was destined to suffer an amputation of this same limb.

A That's correct.

Q So using the time period that we have to and going backward it would be your opinion that any time in between January of 2000 and January of 2001, to a medical probability this man was going to suffer an amputation of his lower left limb.

A Well, that's true unless he's in the other 49 percent. You can't know that.

Q You would have handled this case differently than Mr. -- than Dr. Savrin did. Isn't that right?

A I don't understand what you're asking.

Q Once discharged from the hospital on January 31st, 1996, you would have seen this patient again. Would you have not?

A In my own practice, which is a private

practice solely, I would have followed up with the patient usually in one or two weeks and then seen him in three or four weeks after that. That's my normal practice.

Q Its your normal practice as a vascular surgeon in Cleveland, Ohio, with patients like Mr. Duncan to follow them, and to see them four to six weeks after the surgery. Correct?

A In my private practice, that's correct.

Q Well, your private practice is Northeast Ohio Vascular Associates. Correct?

A At this point it is, yes.

Q And it was in January of 1996.

A It was -- well, I don't know. I think the corporation had been formed so it probably was.

Q Whatever the case, the same practice which has you as a partner for Dr. Savrin you've established your normal routine to see patients like this gentleman within four to six weeks after surgery for follow-up. Correct?

A That is my pattern, yes, my choice.

Q And I assume that you practice standard of care medicine in Cleveland, Ohio. Do you not?

A I think that those actions are very acceptable, sure, that time frame.

Q And to set up an appointment with this patient and to follow hum in an office four to six weeks after discharge would comply with the standard of care?

A Yes, sure.

Q If Dr. Savrin would have set up an appointment to see this man within four to six weeks he, your partner, would have complied with the standard of care.

A He had that choice, sure.

Q You know that Dr. Savrin did not do that in this case. Correct?

A Yes, I know he did not.

Q So your routine practice differed from what Dr. Savrin did in this specific patient's care. Correct?

A Because the patient was a staff patient and not a private patient. Had the patient been a private patient then Dr. Savrin would have saw him up in his office and not through the clinic.

Q So its your opinion that if the man would have been a private patient, Dr. Savrin would have seen him?

A Absolutely.

Q When you sign off a patient and you're no

longer involved in his care do you tell the patient?

A Usually, yes, or the family member. I think I would let it be known somewhere.

Q Now, despite the fact that Dr. Savrin claims he signed off the patient, you know that Mr. Duncan himself called Dr. Savrin's office on February 9th of 1996. Correct?

A I understand he did, yes.

Q Nothing prevented Dr. Savrin from making an appointment with Mr. Duncan later that afternoon or the following morning?

A He could have made an appointment, yeah, sure.

Q And if he would have made an appointment with the patient, that would have complied with the standard of care?

A As long as he took care of the problem by making an appointment, referring him to an appropriate individual, either one would comply with the standard of care. Remember, we're working a residency system here not just private practice like we are in the other areas.

Q But my question to you is this. If Dr. Savrin had decided he wanted to see the

patient himself and had made an appointment either that afternoon or on February 10th, that action in and of itself would have been standard of care?

A It would have been appropriate to do that if he had chose, yes.

Q That would have been a good choice. Would it not?

A It would have been one choice.

Q Did you tell him at your deposition that that would have been a good choice?

A Yes, it would have been. Another good choice would have been to refer him through the existing system. I don't see a difference.

Q He could have sent the patient to see Dr. Sandhu. Could he not?

A He could have done that.

Q That would have been a good choice?

A That would have been another appropriate choice within the standard.

Q Your opinions in this case with respect to Dr. Savrin are premised on the fact that you believe this man was a staff patient.

A Well, I think in part because Dr. Savrin tells me he's a staff patient. And as I

understand the way the system works that's very consistent with what he does. He's one of the most consistent people I know. But that's only one part of it. The other part of it has to do with the actual medical treatment in terms of what care he rendered to Mr. Duncan and what was required afterward.

Q With respect to Dr. Camp and the opinions that you have given us today isn't it a fact, as you told me at your deposition, that your comments regarding her are premised upon your belief that this was a quote, unquote "service or staff patient?"

A No. The answer is, no, that is not why I believe that Dr. Camp did not follow the standard of care. Because since we do everything through the residents, it doesn't matter whether you're a service patient or a staff patient or a private patient. When the resident becomes involved, in order for them to learn to do the right thing we say, "Here is a problem. Take care of this problem. Report back or take care of it through whatever." And so that's their responsibility so it would not have mattered whether it was a staff patient or

private patient.

Dr. Savrin could have easily said, "Please take care of this for me and let me know what's going on." So he could have had a choice to do that. So there is -- again, its the resident that has to do the right thing. It doesn't matter what kind of patient he is.

Q Did Dr. Savrin called Dr. Camp and follow-up with her with respect to the February 9th culture?

A I don't know.

Q Should he have?

A My understanding from Dr. Savrin is that simply as a staff patient and having discussed with Dr. Camp or having Dr. Camp to take care of it, the patient would normally be followed up with a clinic. I have done the same thing myself in the practice of Saint Luke's.

Q Dr. Savrin could have prescribed antibiotics on February 12th or February 13th. Could he have not?

A Yes.

Q That would not have been a breach of the standard of care. Correct?

A No.

Q For him to do so would have been in compliance with the standard of care.

A Correct. It would have been appropriate for the patient to have received antibiotics one way or the other, yes.

Q When Dr. Savrin received the wound culture on February 12th or February 13th, he could have made an appointment for Mr. Duncan to come in and see him. Could he have not?

A It is a possibility. It would not be within the normal practice.

Q If he would have done so that would have been in compliance with the standard of care. Isn't that true?

A If he had done that, that would have been the reasonable choice within the standard of care.

Q Your principle reason for concluding that this was a staff patient is what Dr. Savrin has either told you or testified to.

A From Dr. Savrin's position as a vascular surgeon, for that part of his care he was a staff patient. That's correct.

MR. MOSCARINO: That's all I have.

THE COURT: Just a few

questions.

MR. RYAN: I understand.

REDIRECT EXAMINATION OF DAVID L. ROLLINS, M.D.

BY MR. RYAN:

Q Did Dr. Camp fail in her treatment of the patient?

A Dr. Camp's failure was primarily that she did not follow through with making sure the culture results were evaluated afterward. And this was a standard thing that is done everyday all the time. And even after Dr. Savrin sent her two copies of the report. What we don't like to do when we train people is have to call them up at that level and say, "Listen, where is the report"? So, you know, this was something that she would have normally done.

Q So her failure has nothing at all to do with the fact whether Mr. Duncan was a staff patient or a private patient or a man or a woman or anything. It had to do with that she saw the patient and she failed. Is that what we're talking about?

A That's correct. It doesn't matter what the status was.

Q You were asked questions concerning two

reports. One produced by Dr. Lentnik, and one produced by Dr. Ferenchek. Do you recall those questions?

A Yes.

Q And you were asked if Dr. Ferenchek published some remarks about Dr. Savrin. Do you recall his questions?

A I do.

Q Dr. Ferenchek is a -- by documentation -- is a vascular surgeon. Do you agree or disagree with that?

A I have not looked at that report and I don't have a copy of it and so I don't recall.

Q Did Dr. Ferenchek also comment on Dr. Camp's performance?

A Again, I have not seen that report. It was not provided to me,

Q The status of Baldwin Duncan's leg prior to March 9th, 1996 was it documented in the medical records to Saint Luke's Medical Center?

A March 9th or February 9th?

Q March 9th, 1996. Prior to that from March 5th to March 9th did the medical records at Saint Luke's Medical Center, did they reflect the status of Baldwin Duncan's left leg? And

I'll narrow it further as to vascularization. Do you understand my question?

A After he was admitted?

Q Right.

A After he was admitted both clinically -- meaning when you look at it and touch it and ask the patient how he feels as well as the laboratory tests that we did -- showed that the blood flow to the leg was adequate. It was fine.

Q So from the day right after your surgery up until March 9th before -- immediately before the amputation it had remained stable. Is that a fair word?

A That's correct.

Q You have no way of knowing -- of guaranteeing to this jury when that stability would ever change in the future. Do you?

A The answer to the question is no. My opinion was -- I gave my opinion.

Q Certainly once the leg is amputated it doesn't really matter what your opinion is as to what's going to happen in 2001.

A For the leg, yes.

Q Is it the infection that led to the

amputation?

A Yes, sir.

Q Okay.

THE COURT: All right. You may step down. Thank you for coming to court.

THE WITNESS: Thank you, your Honor.

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C E R T I F I C A T E

I, Kellie M. Reeves-Roper, an Official Court Reporter for the Court of Common Pleas, Cuyahoga County, Ohio, do hereby certify that I am employed as an Official Court Reporter, and I took down in stenotypy all of the proceedngs had in said Court of Common Pleas in the above-entitled cause; that I have transcribed my said stenotype notes into typewritten form; that said Transcript is a complete record of the proceedings had in the said cause, and constitutes a true and correct Transcript of Proceedings had therein.

Kellie M. Reeves-Roper, RPR, CAT
Official Court Reporter
Cuyahoga County, Ohio