

1 STATE OF OHIO)
 2) SS: IN THE COURT OF COMMON PLEAS
 3 MAHONING COUNTY)

4 CASE NO. 96 CV 2055

5
 6
 7 DOROTHY A. GONDA, Individually and)
 8 **as** Administratrix of the Estate of)
 9 DAVID PAUL GONDA, Deceased)

10 Plaintiff)

DEPOSITION

11 VS.)

OF

12 HM HEALTH SERVICES, **ET AL**)

DR. JUAN RUIZ

13 Defendants)

14
 15 DEPOSITION taken before me, Lisa C. Nagy-Baker, a
 16 Notary Public within and for the State of Ohio, on the 13th
 17 Day of February, A.D., 1998, pursuant to Notice and at the
 18 time and place therein specified, to be used pursuant to
 19 the Rules of Civil Procedure or by agreement of counsel in
 20 the above cause of action, pending in the Court of Common
 21 Pleas, within and for the County of Mahoning, State of
 22 Ohio.

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STIPULATIONS

It is stipulated and agreed by and between counsel for the parties hereto that the deposition may be taken at this time, 2:20 p.m., February 13, 1998, in the offices of Dr. Juan Ruiz, 725 Boardman-Canfield Road, Youngstown, Ohio.

It is further stipulated and agreed by and between counsel that the deposition may be taken in shorthand by Lisa C. Nagy-Baker, a Notary Public within and for the State of Ohio, and may be by her transcribed with the use of computer-assisted transcription; that the witness will read and sign the finished transcript of his deposition.

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Nagy-Baker Court Reporting
810 Mahoning Bank Building
Youngstown, Ohio 44503
(330) 746-7479

February 23, 1998

Atty. Thomas J. Travers, Jr.
Manchester, Bennett, Powers & Ullman
Atrium Level Two - The Commerce Building
Youngstown, OH 44503

RE: Gonda vs. HM Health Services, et al

Dear Atty. Travers:

Enclosed please find the finished transcript of the deposition which was taken in the above case. As requested, I am submitting this transcript to you for Dr. Ruiz to review.

If he wishes to make any corrections, please have him indicate so on Page 114-A only. On this page you will note that there are blanks provided for the page number, line number and correction.

When Dr. Ruiz is finished reviewing the deposition, he is required to sign both Pages 114 and 114-A, and his signature to Page 114 must be witnessed by a Notary Public. The Rules of Civil Procedure provide seven (7) days in which to read and sign the deposition; otherwise, signature is waived.

After the deposition has been signed, please mail Pages 114 and 114-A to me at the above address for distribution to other counsel.

Thank you very much for your time and consideration in the matter. If you have any questions at all, please don't hesitate to call me at the above number.

Sincerely,




Lisa C. Baker

Enclosure
cc: Atty. All counsel

REPORTER'S CERTIFICATE

I HEREBY CERTIFY that the above and foregoing is a true and correct transcript of all the testimony introduced and proceedings had in the taking of the testimony in the above-entitled matter, as shown by my stenotype notes taken by me at the time said testimony was taken.



Lisa C. Nagy-Baker
Registered-Merit Reporter

1 WHEREUPON,
2 DR. JUAN RUIZ,
3 of lawful age, being by me first duly
4 sworn to testify the truth, the whole
5 truth, and nothing but the truth, as
6 hereinafter certified, deposes and
7 says as follows:

8 CROSS EXAMINATION:

9 BY MR. RUF

10 MR. TRAVERS: I would be happy to
11 acknowledge for the record that Attorney Ruf is beginning
12 the examination of Dr. Ruiz in the expectation that Mr.
13 Malik will take over for him, and I have agreed to that
14 arrangement and, in fact, suggested it because we're now
15 more than 20 minutes after the time that the deposition was
16 supposed to start, and we have four defense lawyers and the
17 doctor here and two lawyers for the plaintiff; so I think
18 it's a correct statement to say that we have agreed to
19 begin with Mr. Ruf questioning the Doctor concerning his
20 qualifications, training, background.

21 Q (BY MR. RUF) Doctor, could you please
22 state your name and spell your name.

23 A Juan A. Ruiz; Juan spelled J-U-A-N;
24 middle initial A; last name is R-U-I-Z.

25 Q And what is your professional address?

1 A This present here is 725 Boardman-
2 Canfield Road, Building O, like the letter O; and it's in
3 Boardman, or Youngstown, Ohio, 44512.

4 Q What is your home address?

5 A 1600 Walker Mill, two different words,
6 Road in Poland, Ohio, 44514.

7 Q Doctor, my name is Mark Ruf. I along
8 with Dave Malik are representing the plaintiffs. If at any
9 time I ask you a question and you do not understand the
10 question, then you need to speak up and say that. If you
11 give an answer to a question, we'll assume that you've
12 understood the question. Okay?

13 A That's fine.

14 Q Also you need to give verbal answers
15 during the deposition.

16 A Yes, sir.

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

19 A Yes, sir.

20 Q When did you obtain your license?

21 A 1965.

22 Q Have you continuously had your license in
23 the State of Ohio since 1965?

24 A Yes, sir.

25 Q At any time has your medical license been

1 subject to disciplinary action?

2 A Never, sir.

3 Q Are you licensed to practice medicine in
4 any other state?

5 A Not at the present time. My original
6 license was from Virginia, but since I have no reason to
7 practice in Virginia, I did not submit the dues, so I guess
8 I dropped out.

9 MR. TRAVERS: So that answer would be
10 no.

11 A No; right.

12 Q You were originally licensed to practice
13 medicine in Virginia?

14 A That's where I took the original board in
15 Virginia; the Ohio license is by reciprocity through
16 Virginia.

17 MR. TRAVERS: So that answer would be
18 yes.

19 A Okay.

20 Q What years were you licensed to practice
21 medicine in Virginia?

22 A Oh, man, I don't remember that. That
23 was, I would say 1964, the latter part of '64. I don't
24 remember when I suspended it.

25 Q You were only licensed to practice in

1 Virginia for a year?

2 A I don't really remember for how long. I
3 kept it for some time, but I don't remember for how long.

4 Q Are you board certified in any areas of
5 medicine?

6 A No, sir.

7 Q Where did you go to medical school?

8 A In Santa Domingo, Dominican Republic.

9 Q How long does it take to get a medical
10 degree in the Dominican Republic?

11 A Six years.

12 Q Are you able to focus on any area of
13 medicine in the Dominican Republic?

14 A I don't understand what you mean.

15 Q In other words, you just take courses in
16 all areas of medicine, or can you focus your studies in a
17 certain area?

18 A No. You take general courses like you do
19 at the school. We went to school for eleven months of the
20 year.

21 Q Were you born in the Dominican Republic?

22 A That's correct.

23 Q At what age did you come to the United
24 States?

25 A I was 24.

1 Q Was that after you graduated from medical
2 school?

3 A Yes, sir, a year after.

4 Q Do you have dual citizenship, or are you
5 only a U.S. citizen?

6 A I am a U.S. citizen.

7 Q Are you still a citizen of the Dominican
8 Republic?

9 A I don't even have a passport from them.

10 Q Did you do an internship and residency?

11 A Yes, sir.

12 Q Where did you do your internship?

13 A Had one year in the Dominican Republic;
14 and then when I came to Youngstown, I had one year of
15 internship at the Youngstown Hospital Association.

16 Q What was your residency in?

17 A In internal medicine. I spent two years
18 at Youngstown Hospital Association and my final year at St.
19 Elizabeth Hospital.

20 Q Did you do any fellowships?

21 A Yes, sir. I had a year of fellowship in
22 cardiology from the Heart Association at St. Elizabeth
23 Hospital, and I also had a fellowship in cardiology at the
24 St. Vincent Charity Hospital in Cleveland and a fellowship
25 in peripheral vascular diseases at the Cleveland Clinic.

1 (Whereupon an off-the-record discussion was had.)

2 MR. TRAVERS: Doctor, we were
3 interrupted when someone came to the door. I think we've
4 taken care of that problem. But if you don't mind, Mark, I
5 didn't hear the last answer. Could we make sure that
6 that's on the record? I may have been talking over the
7 Doctor.

8 Q Could you please repeat the fellowships;
9 I'm sorry. I didn't catch all of them because we were
10 interrupted.

11 A Okay. I had one year of fellowship from
12 the American Heart Association in cardiology at St.
13 Elizabeth Hospital in Youngstown, Ohio, and another year
14 following that at St. Vincent Charity Hospital in Cleveland
15 under Henry Zimmerman; and following that, one year of
16 peripheral vascular diseases at the Cleveland Clinic under
17 Victor DeWolfe.

18 Q Did you work with a specific doctor when
19 you got your fellowship in cardiology?

20 A In Cleveland, Dr. Zimmerman; Henry
21 Zimmerman. He's deceased now.

22 Q Which hospital was that at?

23 A St. Vincent's Charity Hospital in
24 Cleveland.

25 Q Have you published any medical articles?

1 A Oh, way when I first started, yes, I had
4 an article published. I don't even remember now. I think
3 it was in electrocardiography.

4 Q Other than this one published article in
5 electrocardiography, can you remember any other medical
E articles?

7 A Yeah, there was another article that was
8 written in conjunction with the other physicians of the
9 Cleveland Clinic; and it had to do with lymphatic fluid, a
10 collection in the abdomen following aortic surgery.

11 Q Do you know the year the article was
12 published on electrocardiology?

13 A I have no idea.

14 Q Is it more than 20 years ago?

15 A Oh, it would have to be around, I would
16 say, probably '65, '64, something like that.

17 Q Do you know where it was published?

18 A I don't remember any of that.

19 Q Do you subscribe to any medical
20 periodicals?

21 A Yes, sir.

22 Q Which ones?

23 A I receive the New England Journal of
24 Medicine and the Journal of the AMA.

25 Q I'm sorry; what was the second one?

1 A Journal of the AMA.

2 Q Oh, Journal of AMA?

3 A Yeah, uh-huh. And also the Archives of
4 Internal Medicine, plus about 15 throwaway magazines.

5 Q Why do you receive those publications?

6 A They send it -- oh, which ones?

7 Q The three you mentioned: New England
8 Journal of Medicine, Journal of AMA, and Archives of
9 Internal Medicine.

10 A To keep abreast of some of the things
11 that are going on in the world of medicine.

12 Q Do you keep any medical texts in your
13 office?

14 A Yes, sir.

15 Q What medical texts do you keep?

16 A We have Harrison's Textbook of Medicine.
17 Also Cecil. Those two are the ones I most commonly
18 refresh --

19 Q You have Cecil's Textbook of Medicine?

20 A That's correct.

21 Q Do you consider those textbooks to be
22 authoritative?

23 A Not particularly.

24 Q Why do you have those textbooks in your
25 office?

1 A Because it's a quick reference when I
2 have questions in my mind.

3 Q Do you have any medical textbooks in your
4 office on the subjects of either pulmonology or cardiology?

5 A Not in pulmonology.

6 Q What about cardiology?

7 A I have Braunwald's.

8 Q You said Braunwald's?

9 A Braunwald's.

10 Q Could you spell that, please?

11 A B-R-A-U-N-W-A-L-D.

12 Q What is the name of that text?

13 A Cardiology.

14 Q Do you have any medical textbooks in your
15 office on the subject of internal medicine?

16 A The first two that I mentioned.

17 Q How does internal medicine differ from
18 cardiology?

19 A Internal medicine encompasses the entire
20 body structures, whereas cardiology only has to do with the
21 heart and the major blood vessels.

22 Q Do you limit your practice to any area of
23 medicine?

24 A No, sir, just general internal medicine.

25 Q I noticed on your door it states Internal

1 Medicine and Cardiovascular Diseases?

2 A That's correct.

3 Q Does that accurately describe your
4 practice?

5 A That's the training that I have had; and,
6 therefore, that's the reason why it's over there.

7 Q Do you advertise to the public as
8 handling patients in the areas of internal medicine and
9 cardiovascular diseases?

10 A No, sir.

11 Q Do you have any advertisements in the
12 phone book?

13 A Oh, not myself, no. I never paid for an
14 advertisement in the phone book. If it's there, it may
15 just simply be the office thing, you know. I don't believe
16 in that.

17 Q Are you on any kind of referral lists,
18 either at a hospital or somewhere else?

19 A I don't quite understand what --

20 Q Is there some kind of source that you get
21 patients from, such as a hospital referral list or --

22 A Not particularly. Whoever refers it's
23 because they want to send them over here.

24 Q Do you have business cards at your
25 office?

1 A I'm sure the girls have some over there.

2 Q Do you know what the business cards state
3 on them?

4 A The same thing that's on the door of the
5 office.

6 Q Internal medicine and cardiovascular
7 diseases?

8 A That's correct.

9 Q Do you hold yourself out to the public as
10 being qualified to treat patients with internal medicine
11 conditions or cardiovascular diseases?

12 A Internal medicine, yes. In
13 cardiovascular diseases I limit myself to the plain
14 clinical part of it. In other words, the invasive or
15 diagnostic procedures, I do not perform; and the people
16 know that.

17 Q If based upon your clinical evaluation of
18 a patient, the patient needs diagnostic tests, where are
19 those performed?

20 A Depends on the insurance policy of the
21 patient and also the preference of the patient. I
22 generally go along with those two sources first.

23 Q Do you have any diagnostic equipment in
24 your office?

25 A Only electr cardiograph machine and a

1 very simple screening, respiratory machine; that's all.

2 Q What's the name of that screening
3 respiratory machine?

4 A A spiograph.

5 Q What does a spiograph measure?

6 A The vital capacity.

7 Q I'm sorry; I did not understand.

8 A Forced vital capacity. The air you
9 breathe out of your lungs.

10 Q If you need to get a CBC, where do you
11 send that?

12 A We use independent laboratories, either
13 Quest or Clinlab or St. Elizabeth Hospital Laboratory.

14 Q What about other diagnostic tests; where
15 would you send the patient?

16 A Such as?

17 Q What about chest X-ray?

18 A To any of the radiology units. Usually
19 the ones that's closest to the patient; or if I like to
20 have a quick report, I use the facilities right close to us
21 here, the Hitchcock Radiology. It's right over here.

22 Q That's in this complex?

23 A Yes, sir.

24 Q If you need to perform cardiovascular
25 diagnostic tests, where do you send the patient?

1 A The patient is usually referred to a
2 cardiologist that does that particular kind of
3 investigative procedures.

4 Q Is there a certain cardiologist that you
5 regularly use?

6 A No one in particular. We refer to all 17
7 or 20 that we have in town.

8 Q During the time you treated David Gonda,
9 did you refer him to a cardiologist?

10 A Not personally, but I know he was
11 referred to Dr. Hunt.

12 Q And that was when he was admitted to St.
13 Elizabeth's Hospital?

14 A That's correct.

15 Q During the time you treated David Gonda,
16 did you refer him to a cardiologist for any type of
17 diagnostic tests?

18 A Yes, sir, he was seen by Dr. Hunt for
19 a -- but not referred by me again -- for a transesophageal
20 echogram.

21 Q No; my question was, did you refer him to
22 a cardiologist for any diagnostic tests?

23 A No, I did not. Oh, wait a minute. Let
24 me recall. I might have. I haven't seen the hospital
25 chart, so I have no idea if this recollection is correct or

1 not.

2 Q If you --

3 A I might have asked Dr. Hoffman to perform
4 an ultrasound, a two-D echocardiogram.

5 Q If you need to refer to your chart --

6 A That's the hospital chart. I don't have
7 that in my office charts.

8 Q Have you ever given a deposition prior to
9 today?

10 A On what? On this case?

11 Q On any case.

12 A Yes, sir.

13 Q How many times have you given a
14 deposition?

15 A Once.

16 Q Were you serving as an expert witness, or
17 were you a party?

18 A No, no, I was not an expert witness.

19 Q It was in connection with a lawsuit in
20 which you were a defendant?

21 A That's correct.

22 Q How long ago was the deposition?

23 A Maybe fifteen years ago or more.

24 MR. TRAVERS: I'd just like to state
25 for the record that you are welcome to inquire of Dr. Ruiz

1 concerning other litigation he's been involved in, because
2 despite the videographer, I perceive this to be a discovery
3 deposition; but I object should we somehow reach a point
4 where this was going to be presented in toto for
5 consideration of a jury and would ask that on any
6 continuation of that line of inquiry, that you not make me
7 object to each individual question; is that okay?

8 Q Do you know what the subject was of that
9 deposition?

10 MR. TRAVERS: Often, Mark, when I
11 address people, I like it if they acknowledge that they've
12 either heard me or something; but is that okay?

13 MR. RUF: I thought you were just
14 putting on the record an objection.

15 MR. TRAVERS: No, I asked if it was
16 okay if I don't have to object to every question about
17 other malpractice cases.

18 MR. RUF: That's fine. This is my
19 understanding this is a discovery deposition.

20 Q Do you remember what the allegations were
21 against you in that lawsuit?

22 A Yes, sir.

23 Q What were the allegations that were
24 against you?

25 A Failure to diagnose cancer of the stomach

1 early enough.

2 Q So it did not involve issues of
3 cardiology or cardiac conditions?

4 A No, sir.

5 Q Have you ever testified in trial?

6 A No, sir.

7 Q Have you ever served as an expert witness
8 in a legal case?

9 A No, sir.

10 Q Do you have a corporation that you
11 practice under?

12 A Yes, sir.

13 Q What is the name of that corporation?

14 A Juan A. Ruiz, M.D., Inc.

15 Q Is that a corporation in good standing in
16 the State of Ohio?

17 A Yes, sir.

18 Q When was that corporation formed?

19 A That's a tough question. It has to be
20 around 25 years, perhaps, something like that.

21 Q Are you the sole stockholder of that
22 corporation?

23 A Yes, sir.

24 Q Are you the president of that
25 corporation?

1 A Yes, sir.

2 Q Are there any corporate officers other
3 than you?

4 A My wife is the secretary-treasurer.

5 Q What hospitals are you on staff at?

6 A St. Elizabeth Hospital and Youngstown
7 Hospital Association. It has a different name now.

a MR. TRAVERS: Forum Health Care.

9 A I don't remember the new name. Forum
10 Health Care, you said?

11 Q How long have you had privileges at St.
12 Elizabeth's Hospital?

13 A Since 1965.

14 Q Have your privileges ever been suspended
15 or limited in some way?

16 A Never.

17 Q What was the name of the second hospital?

18 A Forum, I understand is the new name for
19 them. It's the Youngstown Hospital Association, but
20 they've changed their name recently.

21 Q Is that actually a hospital, or is that a
22 group?

23 A It's a corporation, but it's Youngstown
24 Hospital, you know, Northside Hospital and Southside
25 Hospital.

Q How long have you had privileges at
Forum, Youngstown Hospital Association?

A Well, Youngstown Hospital since 1965
also.

Q Have your privileges ever been suspended
or limited in any way?

A No, sir.

Q What is your relationship with Dr. Cropp?

A He is one of the pulmonologists in the
city that from time to time we refer patients to.

Q You refer patients to Dr. Cropp?

A That's correct.

Q Does he refer patients to you?

A Not particularly.

Q How long have you been referring patients
to Dr. Cropp?

A I don't know for how long. It would be a
total guess.

Q What type of patients do you refer to Dr.
Cropp?

A Patients with pulmonary problems.

Q Do you also refer patients to Dr.
DeMarco?

A That's correct.

Q Do you know how long you've been

1 referring patients to Dr. DeMarco?

2 A I cannot answer that. I don't know.

3 Q And, again, you refer patients with
4 pulmonary problems to Dr. DeMarco?

5 A You might say respiratory problems should
6 be the correct wording for that.

7 Q Do you know Dr. Franco?

8 A Yes, sir.

9 Q How do you know Dr. Franco?

10 A He has operated on some of my patients.

11 Q When would you bring Dr. Franco in as a
12 consult, what type of cases?

13 A Patients that required cardiac surgery or
14 vascular surgery.

15 Q How long have you been referring patients
16 to Dr. Franco?

17 A Again, it would be a guess. Probably
18 since he started in practice in the city.

19 Q What did you review prior to your
20 deposition today?

21 A I looked at the patient's chart in the
22 office briefly this morning, and I also had the opportunit
23 of looking at the report of the autopsy on Mr. Gonda.

24 Q Anything else you reviewed?

25 A There were some additional papers that

1 the attorney made available to me. I looked at them.

2 Q Any additional medical records you
3 reviewed other than your chart and the autopsy report?

4 A No, sir.

5 Q Do you have your chart here?

6 A Yes, sir.

7 Q Could I take a look at your chart,
8 please?

9 A Surely. Here you go.

10 MR. TRAVERS: Would you like to go
11 off the record for a moment while you do that?

12 MR. MALIK: Yeah, why don't we do
13 that. Thanks.

14 (Whereupon a brief recess was taken. Attorney Malik
15 arrived at the deposition.)

16 CROSS EXAMINATION (continued):

17 BY MR. MALIK

18 Q Doctor, I'm going to hand you some
19 medical records. I want to know **if** you could identify
20 those for me, please.

21 A Yes, sir, these seem to be copies of my
22 office records.

23 Q Okay. Are they complete copies of your
24 office records?

25 A That I cannot vouch unless I check with

3 the office records.

2 Q Could you do that?

3 A Sure. Can somebody tell me what's in
4 there so I can tell you what may be necessary? You
5 probably don't have this questionnaire from back in '88.
6 Okay. This health questionnaire is not in that pack.

7 Q Can we get a copy of that?

8 A Surely. And Mr. Ruf says that you had no
9 copy of this telephone conversation; is that correct? I'll
10 make sure you get that. I think that's about it.

11 Q Well, what I'm trying to do is I'm trying
12 to cross check to make sure that I have everything --

13 A Yes, sir.

14 Q -- and if there's something that I don't
15 have --

16 A Can I ask you a question?

17 Q No.

18 A No?

19 Q I'd like to get what I don't have now, if
20 that's possible.

21 A Sure. May I be excused now then?

22 Q That's fine.

23 A There's no office personnel to do it
24 except for me.

25 (Whereupon a brief recess was taken.)

BY MR. MALIK:

3 Q Doctor, you've handed me three pieces of
4 paper that came from your file; correct?

5 A Yes, sir.

6 Q And those are records for David Gonda;
7 correct?

8 A Yes.

9 Q And those are records which had
10 previously been excluded from the materials that you sent
11 to my office; is that correct?

12 A Yes, sir.

13 MR. TRAVERS: I'm going to object to
14 that question, but you may answer, Doctor.

15 A Yes, sir.

16 Q Can you tell me why they weren't sent
17 with the other records?

18 A I have no idea.

19 Q Who's in charge of your recordkeeping?

20 A Delores Davis.

21 Q And was she in charge when you got the
22 request for these records?

23 A She has been with me for 17 or 18 years.

24 Q Okay. You indicate in your records that
25 David Gonda had a previous visit of 5/15, 1989. But
yet I didn't see any records for 5/15, 1989 --

1 A 1 don't remember that.

2 Q Well, is this your office note, handing
3 you Exhibit 1?

4 A Yes, it is.

5 Q And does it not say that 5/15/89 was a
6 previous visit?

7 A That's correct.

8 Q Do you have those records?

9 A They should be here. Yeah, there it is;
10 right at the bottom of that page.

11 Q Okay. Before I leave, can I get a copy
12 of that; that's your entire note for 5/15/89?

13 A That is all that there is. No, there was
14 a form that was, I assume from the note in here, there was
15 an examination for work or something like that, and there
16 would be a form filled out and sent to the job.

17 Q And do you have a copy of that?

18 A I couldn't swear to it that there is one
19 in the chart, no, sir.

20 Q And was the form sent to Dow Chemical?

21 A That is the usual procedure.

22 Q Okay. Have any materials or notes been
23 removed from the file that relate to David Gonda?

24 A No, sir.

25 Q Do you anticipate supplementing the file

1 in any way?

2 A I beg your pardon?

3 Q Do you anticipate adding additional
4 documents to the file?

5 A Whereas I have received information from
6 my attorney, it's been added to the file.

7 Q Okay. Do you have additional documents
8 to put in the file?

9 A Not right now, no.

10 Q Are there any tapes, audio tapes?

11 A Excuse me. This is the form from Dow
12 Chemical.

13 Q Okay. Can I also have a copy of that?

14 A Sure.

15 Q Can I see your file for a minute?

16 A Yes, sir.

17 Q Are there any audio tapes regarding David
18 Gonda, any dictation tapes?

19 A No, sir.

20 Q Are you in possession of any X-rays?

21 A No, sir.

22 Q Have you consulted with any other
23 physicians, nurses, or other medical professionals on this
24 case?

25 A Yes, sir. Mr. Ruf asked me that same

1 question before.

2 Q Okay. Where in the office are David's
3 medical records kept?

4 A I beg your pardon?

5 Q Where in the office are the records kept?

6 A In the filing cabinet back there.

7 Q Is that with all the other patients?

8 A That's the patients that are current.

9 Once the patients have not been in the office for about
10 three or four years or so, then those are put away in the
11 basement.

12 Q Who has access to the files when they're
13 current?

14 A The nurse and the secretary.

15 Q Who is the nurse?

16 A Betty Pershka.

17 Q Was she the nurse in 1995?

18 A Oh, yes, sir; she's been with me for 27
19 years.

20 Q And the secretary's name?

21 A Delores Davis.

22 Q Did Delores fill the original request?

23 A I don't remember who filled that.

24 Q Whom have you provided a copy of the
25 rec rds to?

1 A To you, to the attorney. I think
2 you have a copy of that, too.

3 Q Did Mr. Travers receive the three pages
4 you just handed to me before today?

5 A I don't think so. I don't know.

6 Q Besides the records, have you provided
7 any other materials to anybody?

8 A No, sir.

9 Q Do you have any written rules in the
10 office as to how records are supposed to be kept?

11 A We have the same personnel here for so
12 many years. They all know the rules.

13 Q So there's nothing written?

14 A Not that I can remember right now. If
15 there is, where it's at, no.

16 Q In 1995, was your office computerized?

17 A Yes, but not for that. The
18 computerization is strictly for billing purposes.

19 Q So any information pertaining to David
20 Gonda would be strictly for billing?

21 MR. TRAVERS: In the computer?

22 Q In the computer, yes, sir.

23 A In the computer, yes, sir.

24 Q There wouldn't be any other information
25 in the computer that you have regarding David Gonda?

1 A No, sir.

2 Q In terms of medical books, journals or
3 articles, do you have any medical books, journals or
4 articles?

5 A Mr. Ruf's already asked me that. Can we
6 go off the record for a minute?

7 (Whereupon an off-the-record discussion was had.)

8 Q Do you believe that the contents of your
9 patients' medical records are privileged information?

10 A Yes, sir.

11 Q Did David Gonda sign any informed consent
12 for you to treat him?

13 A That I don't remember. If there was
14 anything of that nature, it would be in the chart.

15 Q Typically in your practice do you use the
16 form?

17 A Patients have, yes, sir.

18 Q So you would have expected him to sign an
19 informed consent?

20 A Yes.

21 Q In 1995, who managed your appointment
22 book?

23 A The same person.

24 Q Who's that?

25 A Delores Davis.

1 Q Do you have diplomas or certificates on
2 the walls in your office?

3 A No. I think they're redundant.

4 Q When you say you think they're redundant,
5 what do you mean?

6 A Well, the patients know that I am a
7 licensed professional. I don't have to display my honors
8 all over my shoulders.

9 Q What are you a licensed professional in?

10 A Mr. Ruf has already asked me that
11 question.

12 Q I know, but I'm asking you.

13 A Would you repeat the question, please?

14 Q Let me be more specific. Are you a
15 licensed professional in cardiovascular disease?

16 A No, sir.

17 Q Okay. But you hold yourself out as an
18 expert in cardiovascular disease?

19 A No, sir. I hold myself out as having
20 been trained in cardiology and cardiovascular disease.

21 Q You have a Yellow Pages ad, don't you?

22 A I don't know if there is an ad in the
23 Yellow Pages or not. Mr. Ruf asked me the same questions.

24 MR. MALIK: Did you ask him
25 specifically about it?

1 MR. RUF: I asked him if he had an ad
2 in the Yellow Pages and he said no.

3 Q Handing you Exhibit 2, I'm going to put a
4 check by it. Can you identify that for me?

5 A It seems to be a copy of the Yellow
6 Pages, I guess.

7 Q Is that an ad you placed in the Yellow
8 Pages?

9 A That's a description of what I'm trained
10 to do.

11 Q I know, but is it something you placed in
12 the Yellow Pages?

13 A It describes exactly the same thing that
14 is on the door of my office.

15 Q I understand, but is that something that
16 you held yourself out to the public as being trained in?

17 A The public knows about that, yes, sir.

18 Q You placed that ad in the Yellow Pages;
19 correct?

20 A It's not an ad.

21 MR. TRAVERS: That's the problem, I
22 think, in semantics, is the Doctor has denied that it's an
23 advertisement. It's a listing of his address.

24 A It's not an advertisement. It's a listing
25 of what I'm qualified to do or trained to do.

1 Q But that's in the Yellow Pages with your
2 permission; correct?

3 A It wouldn't be here unless I had agreed
4 to it.

5 Q Did you ever culture David Gonda's blood
6 more than once during the time you saw him?

7 A Are you referring in the office or in the
8 hospital?

9 Q First of all, did you ever culture David
10 Gonda's blood?

11 A Not myself.

12 Q Okay. Did you ever order that it be
13 done?

14 A I don't remember offhand.

15 Q Okay. Could you please refer to your
16 notes and tell me if you did?

17 MR. BLOMSTROM: I've got his notes.

18 A No. No.

19 Q Your testimony is that you never had
20 David Gonda's blood cultured?

21 A I do not remember ordering a culture.

22 Q Okay. Sir, after having referred to your
23 notes, is there anything in there that indicates to you
24 that you had ordered his blood cultured?

25 A No, sir.

1 Q If you had ordered it cultured, who would
2 have cultured it?

3 A Usually for that particular nature of
4 examination, we referred the blood to the laboratory at St.
5 Elizabeth Hospital or Youngstown Hospital, whichever
E happened to be the case.

7 Q Did you ever use Roche Biomedical Labs
8 culture?

9 A We have.

10 Q What tests, if any, were performed for
11 bacterial endocarditis in 1995?

12 A None.

13 Q Do you know as a physician what the
14 standard of care for culturing for bacterial endocarditis
15 is?

16 A I do.

17 Q And what is it?

18 A Usually you have three cultures in
19 separate sites, and we might repeat it again in a few days
20 if we're not satisfied.

21 Q Do you know why three cultures?

22 A Yeah, because oftentimes you don't have a
23 bacteria in the bloodstream.

24 Q Were you aware that David Gonda was on
25 antibiotics during the period of time that he saw you?

1 A Yes, sir.

2 Q Do you know what antibiotics he was on?

3 A I don't remember offhand, but I know he
4 was on antibiotics.

5 Q Is there a record of what antibiotics he
6 was on in your records?

7 A He was, according to the record, given
8 erythromycin by Dr. Adornato and subsequently received
9 Duricef and Zithromax.

10 Q Where did he receive the Duricef and
11 Zithromax?

12 A I assume as an outpatient by Dr.
13 Adornato.

14 Q Did you ever have any discussions with
15 Dr. Adornato about what antibiotics Mr. Gonda was on?

16 A I don't recall any conversation with him
17 regarding that, no.

18 Q Okay. Are there any notes in your file
19 or your chart to reflect that you had a conversation with
20 him?

21 A I have to look it up. No, sir.

22 Q Why was Mr. Gonda taking antibiotics?

23 A I suppose because Dr. Adornato felt fit
24 to give it to him.

25 Q Did you order any X-rays for David Gonda?

1 A Yes, sir.

2 Q I'm sorry?

3 A Yes, sir.

4 Q What X-rays did you order?

5 A Chest X-ray.

6 Q Did you order any ultrasounds of David

7 Gonda?

8 A Yes, sir.

9 Q Okay. When did you order that?

10 A Same day of the X-ray.

11 Q Okay. Do you have a written order for

12 that?

12 A In the chart here in my office? No, sir.

14 Q Who would have a written order of that?

15 A No one.

16 Q Okay. How do you go about ordering

17 ultrasounds?

18 A It all depends on what ultrasound you're

19 asking about.

20 Q Well, what kind of ultrasound did David

21 Gonda have?

22 A He had a pericardial ultrasound.

23 Q And where did he have it at?

24 A At Hitchcock Radiology.

25 Q And what was the purpose of the

3 pericardial ultrasound?

4 A Because I wanted to make sure that there
3 wasn't something going on with the pericardium.

4 Q What did you suspect might be in the
5 pericardium?

6 A I wasn't sure. I was fishing, you might
7 say.

8 Q Okay. Was there any tape made of that
9 ultrasound?

10 A I assume.

11 Q Would you expect a tape to have been made
12 of that ultrasound?

13 A Sure.

14 Q Did you receive a tape of that
15 ultrasound?

16 A No, sir.

17 Q Does it surprise you that, if I told you
18 that Hitchcock X-ray has no tape of that ultrasound?

19 A That would be very surprising.

20 Q You did not review any tape of an
21 ultrasound; correct?

22 A No, sir.

23 Q Had a tape of an ultrasound been made,
24 would you have expected to review it?

25 A Not necessarily.

1 Q Okay. You would have relied on the
2 person doing the ultrasound?

3 A Yes, sir, particularly if it's negative.

4 Q Were any urine samples taken of David
5 Gonda during the time he saw you?

6 A I don't remember.

7 Q Okay. Could you refer to your notes and
8 tell me.

9 A No, sir, not in '95.

10 Q What about sputum samples in 1995?

11 A No, sir.

12 Q Okay. These questions I'm asking you,
13 unless I specify otherwise, I'm talking about 1995; okay?

14 A All right.

15 Q Did David Gonda have an infection?

16 A We assumed that he did. That's the
17 reason why he received the antibiotics.

18 Q Okay. And what was the basis of that
19 assumption?

20 A Because a physician prescribed
21 antibiotics f r him and he had fever.

22 Q So as I sit here today, am I correct in
23 understanding that while David Gonda saw you, you never
24 tested for the presence of micro organisms or bacteria?

25 A Oh, I had him go for a throat culture.

3 Q When was that?

2 A Some time visit here. One of the visits.
3 I think it was the last visit that he was here. On July 5,
4 1995.

5 Q Where was the throat culture done?

6 A It should have been Roche. Let me check
5 and see for sure. Medpath Laboratories.

E Q Did you take the sample here on July 5?

c A No, sir.

10 Q They took the sample?

11 A Yes, sir.

12 Q Do you know when the sample was tested?

13 A I have no idea. All I can give you is
14 the information that is in the report. The patient was
15 tested on July 5, 1995.

16 Q Uh-huh. When was the test performed?

17 A I suppose at either the same day or the
18 day after, because there's a date here of date received
19 7/6/95. Now, may I clarify this? The local laboratories
20 oftentimes refer their cultures to another laboratory so
21 that I assume this is what happened because it was
22 performed in Cleveland.

23 Q And the results were reported on July 12;
24 is that correct?

25 A That's correct.

1 Q Now, what happened on July 13?

2 A I don't know what happened July 13. I
3 don't recall anything about July 13 unless you refresh my
4 memory.

5 Q Were the results told to David on July
6 13?

7 A Yes, sir, there is a notation by me. I'm
8 sorry about that.

9 Q That's okay. When you told him the
10 results on July 13, what did you tell him?

11 A Probably the test didn't show anything.

12 Q Did you know at that time -- first of
13 all, was he on antibiotics at that time?

14 A I think so.

15 Q Did you expect the test to show anything
16 with him being on antibiotics?

17 A It all depends. If the organisms that
18 were present in the throat were not sensitive to the
19 antibiotic given, yes. If they were sensitive to it, no.

20 Q How come you never repeated the throat
21 culture?

22 A I didn't have the occasion to do it.

23 Q Even though he was on antibiotics, you
24 didn't think that you should repeat it?

25 A No; I figured with the first negative one

1 and everything, I guess he was referred to other
2 physicians; and so, no, I did not have the occasion to do
3 another.

4 Q Now, you referred David to Drs. Cropp and
5 DeMarco; is that correct?

6 A That's correct.

7 Q When you referred David to Dr. Cropp,
8 what were your expectations?

9 A Well, I was looking for the possibility
10 of some sort of respiratory problem because of the cough
11 that he had.

12 Q Okay. What were your expectations of Dr.
13 Cropp, though?

14 A I'm sorry?

15 Q What were your expectations of Dr. Cropp?

16 A I expected that he was probably not going
17 to find much. He was going to request to do an endoscopy
18 on him.

19 Q Besides an endoscopy, what else did you
20 expect from him?

21 A Well, that's up to him to decide what he
22 would do to try to find out the problem with the patient.
23 You cannot tell a specialist what to do.

24 Q Did you expect him to take any more
25 cultures?

1 A Not necessarily so.

2 Q You didn't expect him to analyze sputum?

3 A It's up to him to decide, sir.

4 Q It's up to him also to decide whether or
5 not he takes more blood tests?

6 A If he finds it necessary to do it, he
7 would do it. Otherwise, he wouldn't.

8 Q And it would be up to him to examine
9 David's urine, if he so chose?

10 A I suppose.

11 Q When you saw David Gonda, did you see him
12 in your capacity as a physician practicing internal
13 medicine?

14 A That's correct.

15 Q Did you see him as a cardiologist?

16 A No, sir.

17 Q Do you hold yourself out to be a
18 cardiologist?

19 A I have had training in cardiovascular
20 diseases, yes, sir.

21 Q When you say cardiovascular disease, what
22 is cardiovascular disease?

23 A Cardiology is a separate branch, and
24 peripheral vascular disease is another branch. I have had
25 training in both.

1 Q Okay. But when you say cardiology, what
2 do you mean?

3 A Well, they limit usually themselves to
4 just diseases of the heart.

5 Q When you say diseases, what diseases are
6 you talking about?

7 A Any disease of the heart.

8 Q Is bacterial endocarditis one of those?

9 A That's a disease of the heart, is it not?

10 Q Okay. Peripheral vascular medicine,
11 isn't that what you just said?

12 A Peripheral vascular diseases.

13 Q What is that?

14 A That's diseases of the arteries and the
15 veins.

16 Q Okay. So is it a fair statement to say
17 that you saw David as a physician who's trained in
18 cardiology and a physician who's trained in peripheral
19 vascular diseases; correct?

20 A I saw him primarily as a physician in
21 internal medicine rendering primary internal medicine care.

22 Q Okay. But, and I don't want to put words
23 in your mouth, you used the tools and the information and
24 the knowledge you've gained in cardiology and in peripheral
25 vascular disease; correct?

1 A Yes, sir.

2 Q Do you consider yourself a medical expert
3 in cardiology?

4 A No, sir.

5 Q Why, then, did you not refer David to a
6 cardiologist?

7 A Because I didn't think he had cardiac
8 problems. He had respiratory problems.

9 Q Okay. He had a fever; right?

10 A I beg your pardon?

11 Q He had a fever?

12 A Yeah.

13 Q He had a fever of unknown origin;
14 correct?

15 A He had a fever.

16 Q Fever of unknown origin when he saw you;
17 right?

18 A Well, he had been treated for respiratory
19 illness. I assumed the fever was due to the respiratory
20 illness.

21 Q Okay. But you didn't know scientifically
22 where his fever was from; right?

23 A No, sir.

24 Q You hadn't cultured any bacteria; right?

25 A No.

1 Q Okay. He had tachycardia when you saw
2 him; right?

3 A If I remember correctly, yes.

4 Q Okay. What is tachycardia?

5 A Fast heartbeat.

6 Q He had a fast heartbeat in the 120s and
7 130s when you saw him; correct?

8 A He had fever also if I remember
9 correctly.

10 Q He even had that heartbeat resting;
11 correct?

12 A If he had fever, the heartbeat would be
13 faster than the normal.

14 Q Okay. He had a systolic click; correct?

15 A Yes, sir.

16 Q Now, you found that auscultation sign
17 back in 1988; correct?

18 A Yes, sir.

19 Q What does a systolic click represent?

20 A Usually nothing.

21 Q Mr. Gonda also had a cough; correct?

22 A Yes, sir.

23 Q Okay. He also had shortness of breath;
24 correct?

25 A I can't remember that specifically.

Q Could you take a look at your records and tell me.

A No, it doesn't say anything that he was short of breath here.

Q **So** during the time you saw him, you had no indication that he was short of breath?

A No.

(Whereupon an off-the-record discussion was had.)

BY MR. MALIK:

Q Was Mr. Gonda anemic when you saw him?

12 A I don't remember that, but I don't think
13 so. If he was, it was very borderline.

14 Q Would you please check your records.

15 A His hemoglobin was a little bit below the
16 normal, 12.2 grams.

17 Q And that's your classification of
18 borderline?

19 A It's just 1 gram below the normal.
20 That's just borderline anemia.

21 Q When you consider, just independent of
22 anything else, the fever, what differential diagnosis do
23 you come up with?

24 A Well, we're dealing with a young man
25 that's --

MR. TRAVERS: Excuse me, Doctor.

3 Believe it or not, his question is what is your
4 differential diagnosis for a patient who presents with
5 fever not considering any other symptomatology.

6 A Oh, nothing else? Thank you. There are
7 about probably 5- or 600 illnesses that have that.

8 Q Right. It's a huge differential, isn't
9 it?

10 A Tremendous.

11 Q I know that you and your counsel think
12 that that's a funny question. What about just
13 independently tachycardia, what would be a differential
14 diagnosis for that?

15 A That's also very variable. There are
16 many illnesses that can present just solely as tachycardia.

17 Q Also a huge differential; right?

18 A Uh-huh.

19 Q Same thing with cough; right?

20 A That's correct.

21 Q Same thing with a systolic click; right?

22 A Systolic click is not an illness, sir.

23 Q Right. Systolic click is nothing; right?

24 A No.

25 Q Okay. And anemia, borderline anemia,
could be something, could be nothing; right?

A That's correct.

1 Q What about when you take them all
2 together, fever, tachycardia, cough, systolic click and
3 borderline anemia, can you narrow your differential
4 diagnosis then?

5 A Without any other physical findings, it
6 would be very difficult.

7 Q Okay. Why would it be difficult?

8 A Because there are many illnesses that
9 have that precise combination. Again, the differential is
10 huge. You need some more detailed physical or ancillary
11 findings to narrow down your differential diagnosis.

12 Q Okay. So is it a fair statement to say
13 that when you, during the period of time you saw David, you
14 did not come up with a differential diagnosis?

15 A Not specifically, no, sir.

16 Q Okay.

17 A That's the reason why I referred him.

18 Q And, therefore, you also didn't come up
19 with a working diagnosis; right?

20 A That's correct.

21 Q Then he went to see Dr. Adornato; right?

22 A No, sir; he had seen Adornato before
23 coming to see me.

24 Q Okay. Excuse me. And Dr. Adornato had
25 come up with a diagnosis of pharyngitis; correct?

1 A That's what I understand, yes, sir.

2 Q Were you comfortable with that diagnosis?

3 A Well, from what the information that I
4 received that he had found his throat inflamed and all that
5 stuff, yes.

6 Q Okay. David had previously been a pretty
7 healthy person; right?

8 A Well, David hadn't been in this office
9 for too many times.

10 Q Well, when you saw him in '88 and '89, he
11 was lifting weights and playing basketball; right?

12 A That's correct.

13 Q Okay. During the period of time you saw
14 him, could you classify his risk factor for serious illness
15 in a low, moderate or high category?

16 MR. TRAVERS: When he first saw him
17 in the '80s, are you talking about?

18 MR. MALIK: No.

19 Q '95 during the period of time you saw
20 him.

21 A That's a tough question to answer. Can
22 you be more specific?

23 Q Well, did you come to any conclusions
24 regarding his condition in '95?

25 A No; I had no idea exactly what we were

1 dealing with.

2 Q Did you categorize him at risk for
3 anything in '95?

4 A Being a young man, one of the questions
5 that surfaced was the possibility of AIDS. That would have
6 been the only other thing because a healthy young man
7 usually doesn't get into any major problems unless there's
8 an infection which any one ~~of~~ us can catch.

9 Q Okay. What percentage of your practice
10 in 1995 was devoted to cardiology patients?

11 A We have a good number of patients have
12 cardiac disease, but my practice is not limited to
13 cardiology.

14 Q Can you assign a percentage? I'm talking
15 in '95.

16 A It would be about the same now. No, I
17 cannot give you a -- I don't know. I honestly don't know.

18 Q Can you give me some parameters, 25
19 percent, 50 percent?

20 A I don't know. My practice is mainly old
21 people presently, so nearly every old person has some
22 cardiac problem.

23 Q Fair enough. Was it in '95?

24 A About the same. Maybe more older people
25 now.

1 Q Was David an exceptional kind of patient
2 in that he was only 27 years old?

3 A No. Not an everyday patient, but not
4 exceptional.

5 Q What percentage of your patients in 1995
6 were under the age of 40?

7 A Not very many, I can tell you that.

8 Q Five percent, 10 percent?

9 A About 5, 10 percent.

10 Q Just so I'm clear that we're talking
11 about the same thing, can you define the term differential
12 diagnosis?

13 A Yes, that's a list of possibilities that
14 you develop as you get the history and findings and
15 examination or laboratory X-rays, whatever you may have.
16 And what could be the source of the problem for that
17 patient.

18 Q Is it a fair statement to say that it's
19 a -- it's the potential diseases that stem from a
20 physician's clinical findings?

21 A I'm sorry?

22 Q Is it a fair statement to say that
23 differential diagnoses are those potential diseases which
24 stem from the clinical examination and clinical findings of
25 a patient?

1 A That's correct.

2 Q Is it a fair statement to say that the
3 more information you have about a patient, the better off
4 you're going to be in terms of finding a differential
5 diagnosis?

A Provided that they are going in certain
7 directions. You cannot shoot a shotgun and hope to hit
8 something. We don't work that way. We try to narrow the
9 scope of our investigation to what we expect,

10 Q When Dr. Franco's deposition was taken,
11 he testified that he looks at the whole patient in order to
12 determine how to treat a patient. Would you agree that
13 that's a fair statement?

14 A That's what he said about himself.

15 Q Is that how you think?

16 A We generally see the patient as a whole
17 as well, yes, sir.

18 Q Okay. And in order to see a patient as a
19 whole, you need the most information possible; correct?

20 A It all depends on what I'm looking for.

21 Q Okay. When you ordered the ultrasound,
22 were you specifically looking for pericardial effusion?

23 A I was looking for pericarditis, I would
24 think, because the -- I found no evidence of pericardial
25 effusion in anything that I did, the examination that I

performed.

Q Okay. And what is pericarditis?

A Inflammation of the lining of the pericardium.

Q And it's due to an infection; correct?

A Most of the times it is a viral infection, and every so often some other illnesses in the system that can produce that.

Q So if you're looking for pericarditis, you're considering that because Mr. Gonda had a fever and tachycardia and a cough?

A No, because when I took the electrocardiogram, there was a little change in the cardiogram that led me to think in that direction at that time.

Q Okay. That's a good segway into the cardiograms because I do want to talk to you about them.

A All right.

Q I have -- I'm handing you what I'm marking as Exhibits 3 and 4. The third one is the earlier cardiogram.

A Yes, sir; I have two.

Q You have two of the same?

A No, you said the third one.

Q Right; it's the earliest one, done in

1 198%.

2 MR. TRAVERS: The third Exhibit, the
3 first EKG.

4 A Oh, all right. Yes, sir, that's 1988, I
5 think it says over here.

6 Q Now, that, can we call that your baseline
7 for him? That's what you knew him as in 1988?

8 A That's a routine electrocardiogram on
9 someone that is examined for, let's say, employment or
10 something.

11 Q What kind of electrocardiogram is it, how
12 many leads?

13 A It's a twelve-lead electrocardiogram.

14 Q Okay. And where was it taken?

15 A In the office.

16 Q And who took it?

17 A The nurse.

18 Q And who would that be?

19 A Betty.

20 Q And who interpreted it?

21 A I did.

22 Q Okay. And where were you when you
23 interpreted it?

24 A In the office.

25 Q Okay. Did you interpret it while he was

1 here?

2 A I don't recall that, no.

3 Q Okay. Can you hold it up and show it to
4 the cameraman, and tell us what that EKG shows?

5 A (Complying).

6 Q Can you describe what it shows by
7 pointing to it?

8 A I cannot. I have to turn around.

9 Q That's okay.

10 A I don't know how well you can see that,
11 but it has a rhythm abnormality and something which is
12 quite common; it's called early repolarization. That does
13 not mean any illness whatsoever. And also what I interpret
14 as being a wide QRS-T angle, which suggests a possibility
15 of some ischemic change in the heart. That was in 1988.

16 Q What is the QRS-T angle on that?

17 A I don't think I can see enough here to
18 tell you. He had an axis of plus 85, a T wave axis of
19 minus 30.

20 Q What does that mean? I'm a layman.

21 A It means that there is a slight
22 separation of those two vectors, and it suggests that there
23 might be some ischemic phenomenon going on in the heart.

24 Q That's in 1988; right?

25 A Uh-huh.

1 Q What would you expect the normal pattern
2 to be? How would it be different than what's there?

3 A Well, the **T** wave axis is usually not that
4 negative in most people. The angle between the two is
5 usually less than 30 degrees, between the T and the QRS;
6 and this is simply a, how could I say, one of those things
7 that we have available that may tip you off that there
8 might be something. Frequently this is -- it doesn't pan
9 out to be anything, in other words.

10 Q What are the might be's? What are the
11 possibilities?

12 A Well, one possibility at his age is that
13 he might have simply lifted too much weights or something
14 like that. We see that every so often. In fact, I have a
15 young man presently with that situation.

16 Q What does that do to the heart?

17 A It makes part of the heart, usually the
18 right side of the heart, get a little larger and changes
19 the cardiogram accordingly. Do you want me to hold this
20 anymore?

21 Q No, that's okay. Would you hold up the
22 one from 1995?

23 A Sure.

24 Q First of all, why did you take one in
25 1995?

1 A Because I hadn't seen him for so many
2 years; I needed to see what was going on with him.

3 Q Okay. What were you thinking in 1995
4 when you took that?

5 MR. TRAVERS: What were you thinking?

6 MR. MALIK: The reason for taking it.

7 Q You said you wanted to --

8 A Because I had not seen him for so many
9 years. It's part of gathering information.

10 Q Okay. Was there any change in 1995?

11 A Compared to the one in '88, there's some
12 little changes in the cardiogram, particularly what's
13 called the STT areas, which that's what led me to, in my
14 mind, to search for something in the pericardium. But also
15 if you look at here again, it's a similar pattern of
16 increased septal forces; and the question of a juvenile or
17 athletic heart is mentioned.

18 Q I want to ask you some more questions
19 here. The changes in the STT pattern --

20 A Uh-huh.

21 Q -- what did that trigger in your mind?
22 You said pericarditis?

23 A That's correct.

24 Q Why did you say that?

25 A Because the ST was elevated in some of

1 the leads that should not have been.

2 Q But what does that tell you, the
3 elevation?

4 A That there might be some irritation of
5 the pericardium or inflammation of the pericardium.

6 Q On the right side; correct?

7 A No, sir; the pericardium involves the
8 entire heart.

9 Q Right. Are you limiting it to any side
10 of the heart, though?

11 A No, sir.

12 Q So you're saying a generic possibility of
13 some irritation in the pericardium, unknown location;
14 right?

15 A That's correct.

16 Q Okay. I just want to go through this EKG
17 back from '88. Clinical diagnosis, you have
18 asymptomatic-preemployment; what does that mean?

19 A He came here for a pre-employment
20 physical and he was asymptomatic.

21 Q I believe it says low atrial rhythm,
22 early repolarization, wide QRS-T angle. What does that
23 mean?

24 A I just explained that a while ago.

25 Q Okay. You did. Atrial rate 56 to 58;

1 what does that mean?

2 A That's consistent with a low atrial
3 rhythm.

4 Q Okay. Ventricular rate, 56 to 58?

5 A Goes along with that.

6 Q Intervals, PR: 0 to 13?

7 A That indicates -- that's how you arrive
8 at a diagnosis of low atrial rhythm.

9 Q QRS: 0 to 8?

10 A 0.8. That's normal.

11 Q 0.8, excuse me. Is that axis plus 85
12 degrees?

13 A That's correct.

14 Q And what does that mean?

15 A That's normal.

16 Q Can you read the rest, because I'm --
17 it's clear, but I don't know what it means.

18 A The rest **of** what?

19 Q This portion of what you had down here.

20 A I already referred to that when I said
21 the T axis was minus 30.

22 Q Okay. Would you read what's on '95,
23 please?

24 A In what respect?

25 Q What the writing means. Can you put it

1 into the record?

2 A Oh, sinus tachycardia, increased septal
3 forces in parentheses, weight lifter.

4 Q Let me stop you there. What does
5 increased tachycardia mean?

6 A Tachycardia means fast heartbeat.

7 Q Increased septal forces, what does that
8 mean?

9 A That means that there was a little
10 prominence of the septum, the electrical forces that arise
11 in the septum; and, again, as I mentioned before, it's a
12 common pattern in weight lifters, young weight lifters,
13 that do not have perhaps a trainer, I should say; and
14 oftentimes they lift things that are beyond their usual
15 strength.

16 Q Is it a common pattern for any other type
17 of condition?

18 A To have that?

19 Q Uh-huh.

20 A Yeah. That's not exclusive of this, no.
21 But in a young person you have no evidence of anything
22 else, and it tells you that they're weight lifters, and you
23 can see by their physique that they're weight lifters.
24 That's what you conclude.

25 Q Okay. But what else could it apply to?

1 A It all depends on the setting.

2 Q Okay. But you're telling me in this
3 setting that you believed it was from him being a weight
4 lifter?

5 A That's what I thought it might have been
6 because of it.

7 Q You didn't think the fever, the cough,
8 the tachycardia, anything, would have anything else to do
9 with it?

10 A No, that doesn't affect that.

11 Q Okay. The next thing, please, would you
12 just continue.

13 A Is a remnant of juvenile T pattern versus
14 ischemic, parentheses, doubt.

15 Q You doubt he'd had some kind of ischemia?

16 A That's correct.

17 Q When you say ischemia, you mean damage to
18 the heart muscle?

19 A No. The term ischemia does not imply
20 damage to the heart muscle. That's **an** electrical
21 phenomenon of the heart

22 Q What does it mean?

23 A It means that the -- I'm trying to
24 explain it in lay terms.

25 MR. TRAVERS: You don't have to do

1 that, Doctor. Just explain it in the terms that you know.

2 A Well, there is a disparity between the
3 electrical forces of the QRS and the T wave.

4 Q Okay. That's fine. What else is on
5 there?

6 A I don't know what you're referring to.

7 Q What other writing is on there that you
8 can explain to me?

9 A My signature.

10 Q Okay. Is there anything on the right
11 side?

12 A Yes, the measurement of the various parts
13 of the electrocardiogram. His heart rate is 120. The PR
14 interval is short. It's .12, but it's normal, low normal
15 level. QRS is 0.8 -- .08; I'm sorry; and QT interval is
16 0.28 and the axis is plus 75.

17 Q Anything in there that concerns you?

18 A Not particularly.

19 Q Anything that was enough of a change from
20 '88 to make you think something was wrong?

21 A The T wave changes across the chest
22 leads.

23 Q Did you, when you sent David to Dr.
24 Cropp, did you also expect him to do an EKG?

25 A I don't think so.

Q Did you expect him to do ultrasound studies?

A I wouldn't think so.

Q Any CT scans?

A It depends of what. CT scan of what?

Q That's a good question. Not having an answer to that, let me go to the next one. Were you satisfied with the workup that Dr. Cropp gave your patient?

A Yes, sir.

Q Okay. Can we go to the letters that he sent you, because he kept in contact with you, didn't he?

A Yes, he did.

Q Can we go to the July 13, '95 letter; actually that's to Dr. Adornato. Did you get a copy of that?

A Yes, sir.

Q And did you read that when you got it?

A Yes, sir.

Q And that's two pages; right?

A That's correct.

Q On the second paragraph, second line from the bottom, it says cardiovascular examination is normal?

MR. TRAVERS: Second paragraph, Doctor, first page.

A Oh, first page; I'm sorry. Yes, sir.

1 Q What does that mean to you?

2 A It means that he listened to his heart,
3 and he didn't find anything that struck him funny.

4 Q Okay. The term cardiovascular
5 examination, is that limited to listening to the heart; is
6 that a satisfactory examination?

7 A That's a general term that is applied to
8 that.

9 Q **So** when you read that, that's what you
10 thought?

11 A Yes, sir.

12 Q Did he note a systolic click anywhere?

13 A Not that I remember.

14 Q Are systolic clicks a type of auscultatory
15 feature that come and **go**, or can you hear them and they're
16 there?

17 A Yes, sir, they come and go frequently.

18 Q Okay. So a person could have a systolic
19 click, and you could pick it up one day and not the next?

20 A That's correct.

21 Q Let's go to July 26 of '95, please.

22 A Okay.

23 Q And that's to you; correct?

24 A Yes, sir.

25 Q Last paragraph, second to the last

1 paragraph: "Mr. Gonda seems to be only marginally better
2 at this time"?

A Uh-huh.

4 Q What did that mean to you?

5 A It meant that he felt a little better,
6 but he was not out of the woods.

7 Q Did you have any discussions with Dr.
8 Cropp about --

9 A I'm sure I did, but I don't remember.

10 Q Nothing that was recorded?

11 A No, sir.

12 Q Okay. Let's go to August 9 of 1995.
13 Now, during this time, were you still David's primary care
14 physician?

15 A Yes, sir.

16 Q Did you feel that you'd handed the baton
17 to Dr. Cropp and that he was his patient now and you had
18 nothing to do with it --

19 A No.

20 Q -- or did you feel you were still on
21 board?

22 A No, I felt that he had not finished what
23 he was supposed to do.

24 Q Okay. So did you feel you were still on
25 board as his physician?

1 A That's correct.

2 Q Did you consider that the physician-
3 patient relationship with David lasted until he passed
4 away?

5 A You mean including me?

6 Q Yeah, I mean, right, you.

7 A Yes, sir.

8 Q And did you consider yourself his doctor?

9 A Yes, sir.

10 Q And you would get reports from the
11 hospital?

12 A I beg your pardon?

13 Q You would also get written reports from
14 the hospital on his condition; right?

15 A Yes, sir.

16 Q And Dr. Cropp; right?

17 A That's correct.

18 Q And any physician that he saw; right?

19 A That's correct.

20 MR. TRAVERS: At least in Youngstown.

21 A Yes, in Youngstown.

22 Q At least in Youngstown; that's right. In
23 the second paragraph there, on today's examination, his
24 temperature was 101.5 degrees fahrenheit. Heart rate was
25 132. Respiratory rate was 26. Do you see that?

1 A This is on August 9?

2 Q Yes, sir, second paragraph.

3 A Okay. Yes, sir; what about it?

4 Q You first saw him in May of '95; right?

5 A My memory is not very good.

6 MR. TRAVERS: For the first time in
7 1995.

8 MR. MALIK: In 1995.

9 Q Or was it later?

10 A June 27, I believe.

11 Q June 27, okay. So let's say we have --
12 it's now six weeks, seven weeks, after he saw you. He
13 still has a high fever. His heart rate is up to 132. I
14 know you're telling me you attributed some of that to the
15 fever; right?

16 A Yes.

17 Q His respiratory rate was 26. What did
18 you think when you saw that?

19 A Well, I was still waiting for Doctor to
20 finalize his evaluation of this patient and come to a
21 conclusion.

22 Q Did you think that having a fever for
23 this period of time was unusual?

24 A That's not a common feature, no, sir.

25 Q Did it occur to you that he had more than

1 a common cold at that point?

2 A At that point I was in the -- how can I
3 phrase this? I was following what Dr. Cropp had originally
4 mentioned to me, that he felt that there was some sort of a
5 lymphoma or some other weird stuff to cause his fever and
6 that we had not performed any diagnostic studies to
7 eliminate that.

8 Q Okay. The next sentence says examination
9 was normal as usual. Do you think -- was that to you an
10 inconsistency?

11 A No.

12 Q Or did that make perfect sense?

13 A No, that made perfect sense. That's the
14 reason why I sent him over to him.

15 Q Tell me why.

16 A Because I could not find anything to
17 account for the symptoms that he had. He kept coughing and
18 coughing. That's the main complaint he had.

19 Q Is your interpretation of that that his
20 examination was normal except for the fever and the 132
21 beats per minute heart rate and the respiration of 26?

22 A Whatever was causing the fever accounts
23 for all that.

24 Q Right. But in your mind, is everything
25 normal but for those things he just mentioned when you see

1 this letter?

2 A No. This means that he did not perceive
3 with his physical senses anything to explain what was going
4 on with that.

5 Q Okay. In other words -- is this the
6 he's-sick-but-I-don't-know-why comment?

7 MR. TRAVERS: Excuse me.

8 A No, he's saying I don't find any gross
9 findings of why.

10 Q Okay. Let's go to the next paragraph:
11 "We had a long discussion about differential diagnostic
12 possibilities including Hodgkin's disease." Other than
13 Hodgkin's disease, do you know what differential diagnostic
14 possibilities he's talking about?

15 A I would have no idea what he discussed
16 with the patient, unless he mentioned that.

17 Q So when you read that, that was something
18 that you left unanswered in your mind, what the other
19 possibilities were; correct?

20 A That's correct.

21 Q Here he asks to pursue a CAT scan of the
22 chest; do you know why that would be?

23 A Well, because you pick up additional
24 information that you cannot gather from a regular X-ray or
25 from your examination.

1 Q Is it difficult to do a CAT scan on the
2 chest?

3 A No.

4 Q Is it tough in this community to schedule
5 a CAT scan of the chest?

6 A It all depends The most difficult time
7 that we have is not necessarily with a facility that is
8 going to perform the test, but is getting the patient to go
9 along with us at the time that they are scheduled.
10 Sometimes they have difficulties in accepting a particular
11 time.

12 Q Are you aware of any difficulties in
13 David accepting a particular time?

14 A I was under the impression that he was
15 moving, and that was the reason why he did not go at the
16 specific time.

17 Q Okay. Had Dr. Cropp wanted to do that
18 CAT scan earlier?

19 A I would assume that.

20 Q Did you ever talk to David's mother about
21 this case?

22 A I spoke in the hospital room while he was
23 in the hospital, and she had, most of my conversation was
24 actually limited, not with her, but she was present, was
25 with the father and the patient himself. I explained every

1 time that I went to see the patient --

2 MR. TRAVERS: Excuse me, Doctor.
3 You've answered his question.

4 THE WITNESS: All right.

5 Q Did you prescribe her any antianxiety
6 medication?

7 A I might have if she was a patient of
8 mine.

9 Q When you did see her in the hospital
10 room, what did you explain to her?

11 A I explained to everybody the situation
12 with David, the fact that he was vomiting and spitting up
13 blood, and the X-ray report that he had some kind of masses
14 in the lungs, which to me was totally wild because the
15 X-ray before had been negative; and I could not comprehend
16 exactly what was going on. All I knew is that he was very
17 sick and that we needed to get his blood count up.

18 And I had directly asked David several times, David, I
19 don't understand what's going on in here. Could you have
20 AIDS? And he repeatedly denied that he had any kind of
21 risk behavior. And I requested an HIV test, and he would
22 not have it.

23 It was just a matter of my own trying to gather
24 information that would be pertinent so that we could treat
25 the person more correctly.

1 Q Are all these symptoms consistent with
2 AIDS?

3 A No, but in a young person, a young man
4 that presents an illness that you cannot very easily
5 categorize right away, that is one of the things that pops
6 into your mind readily. Could this be one of those weird
7 manifestations of AIDS?

8 Q The note in here indicates that Dr. Cropp
9 writes: "We will keep close tabs on his fever and will
10 discuss the situation further." Did he ever discuss David
11 Gonda with you further prior to the time he went in the
12 hospital on August 15?

13 A I'm sure we discussed it, but I don't
14 remember.

15 Q Are there any telephone records of those
16 discussions?

17 A No, sir.

18 Q Do you have a working relationship with
19 Dr. Cropp?

20 A What do you mean by that?

21 Q Is your relationship strictly
22 professional?

23 A Yes, sir.

24 Q Is it personal also?

25 A No, sir, I don't ref-r to doctors because

1 of personal bias.

2 Q I'm a little bit confused about the
3 ultrasounds that were done because you told me earlier that
4 you ordered an ultrasound from Hitchcock X-ray?

5 A Uh-huh.

6 Q I want you to know that Hitchcock X-ray
7 claims there was no order?

8 A Oh, it's in the report.

9 Q Where?

10 A Do you have the note?

11 Q I have the report right here. It says no
12 pericardial effusion is noted by ultrasound.

13 A That's right. How would they know that
14 unless they did one?

15 Q Well, I sent them a subpoena, and they
16 informed me that they just did it without an order. Does
17 that sound right to you?

18 A Not usually, no; that is not usually the
19 case. Most radiologists would not perform, or any other
20 consultant for that matter, in that nature would not
21 perform a test unless you have asked for it or unless the
22 evidence is so overwhelming to them then they feel inclined
23 to do it.

24 MR. BLOMSTROM: Now, wait a second.
25 I'm going to interject something here. You've just

1 indicated you've sent them a subpoena. Unfortunately under
2 the Rules you're required to notify everyone else. When
3 did you do that?

4 MR. MALIK: This week, and I believe
5 you were notified.

6 MR. BLOMSTROM: I'm sure I wasn't.

7 MR. MALIK: You should have been
8 notified.

9 MR. BLOMSTROM: Your darn right I
10 should have been, and I wasn't.

11 MR. MALIK: We can ask the court
12 reporting firm about that.

13 MR. BLOMSTROM: Yes, we will.

14 MR. TRAVERS: For the record, I
15 received no similar notification.

16 MR. MALIK: Well, it's Hoffmaster
17 court reporters, and we'll be happy to ask them.

18 MR. BLOMSTROM: Fine. But I want to
19 make it quite clear to you that you have the responsibility
20 under the Rules to provide notice, not the court reporter;
21 you do, and I don't expect this to happen again.

22 MR. MALIK: My apologies if, in fact,
23 you didn't get it; and I will check on that when I get back
24 to town.

25 MR. TRAVERS: For the record, you're

1 going to check when you get back to town whether he got it?

2 MR. MALIK: On whether they were sent
3 out, whether the copies of the subpoenas were sent to all
4 counsel like they should have been.

5 MR. BLOMSTROM: My point is you have
6 to file the notice. The Rules say that you have the
7 responsibility and not the court reporter. And so I don't
8 want this happening again, or I will seek sanctions, Mr.
9 Malik.

10 MR. MALIK: That's fine. It wasn't
11 done intentionally.

12 BY MR. MALIK:

13 Q Let me continue about the ultrasounds.
14 The next ultrasound I understand that was done was done at
15 St. --

16 A Elizabeth.

17 Q -- Elizabeth Hospital; correct?

18 A That's right.

19 Q And from the report I read, it wasn't of
20 good quality because of David's tachycardia; correct?

21 A I don't know if it was because of the
22 tachycardia necessarily, but there are all kinds of reasons
23 why a particular test is not performed as it's supposed to.

24 Q Then subsequent to that, a TEE was
25 performed; correct?

- 1 **A** That's correct.
- 2 **Q** Do you know how close the TEE was
- 3 performed to the echo of poor quality?
- 4 **A** I believe it was within about 24 hours or
- 5 something like that.
- 6 **Q** Okay. Do you know what kind of
- 7 echocardiogram was done at St. Elizabeth?
- 8 **A** He had a 2D echocardiogram.
- 9 **Q** Are you trained to interpret echo-
- 10 cardiograms?
- 11 **A** No, sir.
- 12 **Q** I'd like to go to the records, please, if
- 13 you could look at your file; and I'd like you just to tell
- 14 me the first date that you saw David Gonda in 1988.
- 15 **A** May 26.
- 16 **Q** Okay. And at that time or shortly
- 17 thereafter, you dictated three pages of a record; correct?
- 18 **A** No, I did not dictate that.
- 19 **Q** Okay. What is that? It's entitled
- 20 SOAP on top.
- 21 **A** Yeah, that is a rendering from my own
- 22 notes. It is not a dictation to a dictation machine and
- 23 for the girls, them to do that.
- 24 **Q** All right. So do you write your notes
- 25 out on paper?

- 1 A Yes, sir.
- 2 Q And then the girls type them in?
- 3 A No, sir; I do that also.
- 4 Q You type them in yourself?
- 5 A That's correct.
- 6 Q And is this computer-generated?
- 7 A The whole thing is; it is a computer
- 8 program, yes, sir.
- 9 Q Okay. And you had that all the way back
- 10 in 1988; right?
- 11 A That's correct.
- 12 Q What computer program is that?
- 13 A It's called SOAP.
- 14 Q Do you know what it stands for?
- 15 A Sure. Subjective, Objective, Assessment
- 16 and Plans. It's an old system.
- 17 Q Is it still in use in your office?
- 18 A For the office, the girls, no, they don't
- 19 use that themselves.
- 20 Q Okay. Because you also generated a
- 21 report for David in 1995; right?
- 22 A Yes, sir.
- 23 Q And is it with the same system?
- 24 A Yes, sir.
- 25 Q Okay. So the girls still do use it?

1 A No, that system, they don't use it here.
2 We don't have that system in use for this in the office.

3 Q Okay. Where is it in use?

4 A I have used this at home.

5 Q Okay. Where are the handwritten notes
6 for this, these reports?

7 A Generally when I transcribe something, I
8 throw them out. They're practically illegible to anybody
9 else. That's the reason why I do it.

10 Q So you throw them out?

11 A I said they are useless to anybody else.
12 I can hardly read my own handwriting myself.

13 MR. TRAVERS: That would be a yes,
14 Doctor?

15 THE WITNESS: Yes, I throw them out.

16 Q So we have a SOAP dated 5/26/88?

17 A Right.

18 Q And we have a SOAP form dated 5/15 -- no,
19 6/27/95; right?

20 A That's correct.

21 Q Was there any other SOAP dictation
22 between '88 and '95?

23 A There's only two visits here of '95.

24 Q I know, but in between '88 and '95, is
25 there anything else?

1 A No.

2 Q Do you know why David came back to see
3 you in June of '95?

4 A I have no idea.

5 Q He didn't tell you when he came in to see
6 you?

7 A No.

8 Q When he came in to see you, did he tell
9 you he'd been to some of the other facilities?

10 A He told me he had seen Dr. Adornato, and
11 the father brought him in here because of the business of
12 the cough.

13 Q Did he tell you that he'd been to the
14 University doctors?

15 A I believe he did, yes, sir.

16 Q Did you ever request any records from the
17 University doctors?

18 A I don't recall that I did.

19 Q Did you ever ask him to sign a release?

20 A I don't remember that either.

21 Q Okay. If you did, would it be in the
22 file?

23 A It usually would be, yes, sir.

24 Q Turning the second page of the SOAP
25 document, there's an assessment there, No. 1, right, it

1 says --

2 MR. TRAVERS: '95?

3 MR. MALIK: '95, yes.

4 Q It says viral pharyngitis; right?

5 A Yes, sir.

6 Q So at that point had you adopted Dr.
7 Adornato's diagnosis?

8 A No, I did not see any evidence of any
9 bacterial infection of the throat, so the next bug is a
10 virus.

11 Q Okay. Is that a diagnosis, No. 1, viral
12 pharyngitis?

13 A It's a condition, yes; you can diagnose
14 that. You can see that in any common flu.

15 MR. TRAVERS: So that would be a
16 yes, Doctor?

17 A Yes.

18 Q Is that your working diagnosis as of that
19 date, 6/27/95?

20 A Correct.

21 Q Then we go to 7/5/95. And on the bottom
22 of that where it says assessment, you have laryngitis;
23 correct?

24 A Yeah, but that's probably a typographical
25 error.

1 Q What should it be?

2 A Let me read my own note here to find out.
3 No, I don't think so. I think that's correct. The reason
4 for that is because of the persistent cough that he had, I
5 thought there was some irritation in here; and the -- that
6 would be the conclusion, that he had some sort of
7 laryngitis, whatever the cause.

8 Q At that point had you discarded the
9 working diagnosis of pharyngitis?

10 A I don't know what you mean by discarded.

11 Q Had you replaced pharyngitis with
12 laryngitis?

13 A Well, basically they're so close
14 together, if you have one, you frequently have the other.

15 Q Okay.

16 A What that means simply is that the
17 presenting symptom at the time of that visit was consistent
18 with a laryngitis possibility.

19 Q Okay. But you're still including
20 pharyngitis in your differential; correct?

21 A I don't see any evidence of any
22 pharyngitis involvement in here, no.

23 Q So then on July 5, you're not including
24 pharyngitis in your diagnosis?

25 A Not as a cause of the symptoms that he

1 had at the time.

2 Q Okay. Is this laryngitis for the
3 specific symptom of cough?

4 A That's what I thought it was related to,
5 perhaps.

6 Q Okay. What about for -- did he have the
7 same or similar symptoms on July 5 of '95, that he had on
8 June 27 of '95?

9 A He had similar symptoms, yes, sir.

10 Q Okay. So is it a fair statement to say
11 he would also have the pharyngitis diagnosis then, too,
12 even though you didn't write it down?

13 A No; if I didn't write it down, it's
14 because I was not impressed with the connection between the
15 two.

16 Q Okay. So back to my original question;
17 had you discarded the pharyngitis diagnosis by July 5, '95?

18 A No; I just added laryngitis to it.

19 Q You just added it?

20 A (Nodding head in the affirmative).

21 Q And pharyngitis stayed; right?

22 A I would guess.

23 Q Who's Dr. D. A. Hoffman?

24 A David Hoffman.

25 Q And who is that?

1 A Cardiologist.

2 Q I have a note in here from Dr. Hoffman
3 from 1989. Did you refer David to Dr. Hoffman before?

4 A From 19 -- yes, sir.

5 Q Okay. Why did you refer him in '89?

6 A Because the -- I don't remember exactly
7 why, but it was for the purpose of doing a stress test.

8 Q Okay. I have looked through the records
9 and seen that David is about six feet tall and weighed
10 about 180 pounds; right?

11 A Uh-huh.

12 MR. TRAVERS: I think he answered.
13 You didn't hear him.

14 A I don't remember his measurements. On
15 what particular time are you referring to?

16 Q That's what I wanted to ask you. Did you
17 record his weight and height every time you saw him?

18 A Generally they're recorded every time the
19 patient comes in.

20 Q Okay. Can you show me where on the SOAP
21 document that is?

22 A On which one?

23 Q On any of them. Starting with the --
24 which one do you have there?

25 A I have July 5.

1 Q Okay. Here we go. Six feet, 164?

2 A That's correct.

3 Q Okay. And what was it on the 15th of
4 '89, six feet, 164 and a half.

5 A Of '88, 176 pounds and six feet.

6 Q So you didn't notice any weight loss in
7 Mr. Gonda during the period of time you saw him?

8 A I did not record that I noticed the
9 difference between the two weights, no. That's a lot of
10 years.

11 Q When you saw him on, was it the 15th of
12 May in '89, was that strictly for a preemployment physical?

13 A Yes, that's correct.

14 Q And you said you have a copy of that?

15 A Yes, sir.

16 Q Can I take a quick look at that?

17 A Sure.

18 MR. MALIK: Can we go off the record
19 for a minute.

20 (Whereupon an off-the-record discussion was had.)

21 BY MR. MALIK:

22 Q Okay. Doctor, this is going to be like
23 the most basic of medicine; okay? But I want to wind this
24 up by five o'clock and so I want to get as much of a
25 synopsis as I can. On the first visit when you saw David,

1 what were your clinical findings?

2 MR. TRAVERS: '88, '95?

3 MR. MALIK: '95; I'm sorry.

4 A What do you mean by clinical findings?

5 Q What were your findings?

6 A When I first saw him?

7 Q Uh-huh.

8 A That he had fever.

9 Q Of what?

10 A In the office he had a temperature o
11 99.2, and he was tachycardic at a rate of 120; and he
12 coughed quite often while he was in the office. I
13 mentioned about a systolic click before and which
14 incidentally that's straight back, upper back that is
15 mentioned on that examination is a common accompaniment of
16 the physique of the individual that presents oftentimes
17 with also the systolic click. So it's not a disease, per
18 se. Are we talking about -- wait a minute; this is from
19 what, July?

20 Q The very first visit of '95?

21 A July 5. June 27.

22 Q We were on the wrong page; right?

23 A Right. And when I -- we already covered
24 that part that I thought he had a possible viral
25 pharyngitis or a pneumonitis of some sort; and he did have

1 fever blisters.

2 Q He had a temperature of 99.2, did you
3 say?

4 A Yeah.

5 Q How long had he had a fever at that
6 point?

7 A Oh, I don't know exactly how many days he
8 had it, but he had had it before when he went to see Dr.
9 Adornato. I don't know how long before that.

10 Q But he himself reported it to you that he
11 had a fever; right?

12 A He told me that that's the reason why he
13 went to see Dr. Adornato; that he had fever and sore throat
14 and cough.

15 Q Tell me about the cough. Do you recall
16 what kind of cough? Was there phlegm. Was it dry?

17 A No; it was like an irritating-type cough.
18 Like a dry cough. Nothing coming up. There was no phlegm.

19 Q Tell me about the sores; you said he had
20 some sores on his mouth?

21 A No, on the lip, like common vulgaris type
22 of a fever blisters, herpes simplex.

23 Q Okay. I noticed a notation in the file
24 of chlamydia?

25 A Jeepers, where in the file? On my

1 record?

2 Q I thought it was on your record. It
3 might have been on somebody else's record. This is what it
4 was. Herpes simplex. That's what it was. Excuse me.
5 What is that?

6 A Fever blisters.

7 Q That's not something that's sexually
8 transmitted in this context?

9 A I'm sorry?

10 Q Herpes simplex, the way you have it
11 written here on June 27 of '95, where could you get herpes
12 from; where did he get it from?

13 A From another person.

14 Q Okay. This is what I want to know. Is
15 it something from the fever; is it something from another
16 person?

17 A No, you get that from another person, but
18 it does not leave your body until you are dead. So any
19 time that your temperature rises in the system, not every
20 single time, but frequently when the temperature goes up,
21 it will break out again. That's why people call it
22 commonly fever blisters.

23 Q Okay. Had David reported any pneumonia
24 to you?

25 A I'm not exactly sure of that, but I

1 believe he told me that when he was seeing someone in
2 Cleveland, they thought he had pneumonia.

3 Q Did that have any impact either way on
4 your treatment of David?

5 A My treatment of David?

6 Q Uh-huh.

7 A No.

8 Q Did you listen to his chest?

9 A Of course.

10 Q On June 27 were his lungs clear

11 A Clear.

12 Q Okay. And he had been on antibiotics at
13 that time; right?

14 A He had been per Dr. Adornato, yes, sir.

15 Q The next time, I believe, is July 5;
16 right? The next visit?

17 A Yes, sir.

18 Q Okay. What were your clinical findings
19 at that point?

20 A Again, he had tachycardia.

21 Q At what rate?

22 A 120. And his weight was 164. What was
23 it before? Lost a half a pound from one visit to the
24 other, and he did not appear to be sick, in other words.

25 Q What about his fever?

- 3 A Had a temperature of '99.2.
- 2 Q Again?
- 3 A Uh-huh.
- 4 Q And he had the cough?
- 5 A Yes, sir, he had the cough. That's what
- 6 I said. He kept clearing his throat all the time.
- 7 Q Did he complain of any shortness of
- 8 breath?
- 9 A I don't recall that he did.
- 10 Q Okay. When was the next visit?
- 11 A In the hospital.
- 12 Q You only saw him twice?
- 13 A Twice.
- 14 Q The next visit that you heard about David
- 15 other than the letters you got from Dr. Cropp would be when
- 16 he was in the hospital?
- 17 A Yes, sir.
- 18 Q And were you phoned when he was in the
- 19 hospital?
- 20 A I was called from the emergency room, if
- 21 I remember correctly, to let me know that he was there; and
- 22 I almost blew my mind because I couldn't figure out why.
- 23 Q Did you ever consider sending David to an
- 24 infectious disease doctor?
- 25 A No.

1 Q Okay. In light of the fever and the
2 cough and the tachycardia, the borderline anemia, why
3 didn't you consider sending him to an infectious disease
4 doctor?

5 A Because my initial impression was since
6 Dr. Adornato was treating him for something upper
7 respiratory illness, that the problem was in the
8 respiratory system; and that's the reason why we asked Dr.
9 Cropp to see him.

10 Q So then your direction in terms of
11 requesting a consultation was more respiratory than
12 anything else?

13 A That's correct.

14 Q It was not cardiology; correct?

15 A No.

16 Q We've been bantering this term of
17 bacterial endocarditis around, at least I have brought it
18 up. Do you know what the signs and symptoms of bacterial
19 endocarditis are?

20 A Of course.

21 Q What are they?

22 A Some of what David had, as you mentioned;
23 fever and frequently the patients have, the body doesn't
24 feel right. They may have aches and pains in the system in
25 various places; and when you examine the patient, depending

1 on the course of the illness as you examine the person,
2 frequently by the time we get to see them they have a
3 murmur of the heart, and the liver -- the spleen may be
4 enlarged; and every so often you find all kinds of
5 peripheral findings because they throw small, tiny blood
6 clots throughout the system, and those are visible.

7 Q Peripheral findings like what, petechia?

8 A Like petechia. They have some little
9 pinkish lesions that develop, and sometimes they have
10 little tender nodules in the fingers and so on.

11 Q When you saw David, did you notice any of
12 those?

13 A No, sir.

14 Q Notice any rash?

15 A No, sir.

16 Q Did you draw any blood, not for culture,
17 but to do a CBC or --

18 A Yeah, we send him to the laboratory, the
19 blood to the laboratory; and that's the one that you have.

20 Q And how was his white blood cell count
21 when you got the results?

22 A It was a little elevated. I think it was
23 13-something because I remember looking at it when you
24 mentioned about that before. Yeah, 13.2, which is a, you
25 know, a minimal elevation as well.

1 Q Is that something you'd expect with the
2 fever that he had?

3 A Yes, sir. Any kind of infection for that
4 matter.

5 Q So is it a fair statement to say at that
6 point there really isn't anything alarming to you as a
7 physician?

8 A Not alarming, no.

9 Q Any red flags jump out at you during
10 those two visits?

11 A No, sir.

12 Q Did you ever talk to Dr. Cropp about
13 David going to an infectious disease doctor?

14 A Not that I remember.

15 Q Did you ever talk to David about it?

16 A No, sir, that I remember.

17 Q Did you ever talk to anybody about it?

18 A No, sir.

19 Q And you didn't talk to anybody about a
20 cardiologist either; correct?

21 A For this particular illness?

22 Q Right.

23 A No.

24 MR. TRAVERS: Prior to the
25 hospitalization.

A No, no.

Q Right. But yet you had sent him to Dr. Hoffman at another time for a stress test?

A That was because, if I recall, he was having some discomfort in the chest, and I just wanted to for his own satisfaction, not for mine.

Q Assuming you thought cardiology, who would you have sent him to to be examined by?

A Mr. Ruf already asked me that question.

Q Oh, I'm sorry.

A That's all right. Any of the guys in town I consulted with, and at St. Elizabeth Hospital we have a whole slew of them. At that particular time I selected Dr. Hoffman. Generally the way that I do refer people, I find out what is in their plan, what doctor they can go to; and also they prefer or they've heard of somebody that they would like to go. And if they haven't, then I try to get someone that not only is an expert in the field but personality-wise they will match the personality of the patient, because that's a very important part of seeking a good relationship.

Q You had indicated to me earlier that you were familiar with bacterial endocarditis. Are you aware of what kind of bacteria causes bacterial endocarditis?

A Just about any bacteria.

1 Q Would they be bacterias that you would
2 expect to grow in a culture?

3 A Depends. Generally, yes, but there are
4 some bacteria that are not so easy to grow, and sometimes
5 they won't grow.

6 Q What about in a patient that's on the
7 antibiotics that David was on. Would you expect bacteria
8 not to grow being on those antibiotics?

9 A It perhaps won't.

10 Q Is there anything known as nonbacterial
11 endocarditis?

12 A The term is not familiar to me, but there
13 are other entities that can cause problem with the
14 endocardium. They are not necessarily infective.

15 Q So bacterial endocarditis is just one
16 kind of a --

17 A That's correct.

18 Q And when we say endocarditis, the -itis
19 means inflammation?

20 A That's right.

21 Q So we're talking the inflammation of the
22 endocardium?

23 A The inside of the heart.

24 Q Did you review the autopsy report in this
25 case?

1 A I just did recently. I've never got any
2 communication from the Cleveland Clinic.

3 Q Are you aware that Dr. Wiedemann wrote
4 David's parents a letter?

5 A There is a recollection. I don't recall
6 if I got a copy of the letter or not. I really don't. But
7 I do remember it because I think it was his sister;
8 somebody in the family told me that, I believe.

9 Q Well, just to paraphrase, in that letter
10 he talked about endomyocardial fibrosis. Is that what
11 the autopsy said David ultimately had?

12 A Well, that's what the -- I don't have a
13 copy of that myself.

14 Q When did you review it?

15 A Oh, gosh. When did you get it to me? I
16 don't know. It was some time ago. I don't remember when.

17 Q Well, are you familiar with
18 endomyocardial fibrosis?

19 A Not a whole lot. That's a very rare
20 bird.

21 Q Okay. That's my point. It's really a
22 rare bird in western countries like ours, isn't it?

23 A That's correct.

24 Q It's more aptly found in, what is it,
25 Africa?

A Tropical settings, mostly Africa.

2 Q Do you accept what the autopsy says after
3 having read it?

4 A I have no reason to doubt. I am not a
5 pathologist. I have to take their word for it.

6 Q Okay. Have you ever had any patients
7 with bacterial endocarditis?

8 A Yes, sir.

9 Q How many cases would you say you've seen?

10 A That I have seen myself?

11 Q Yeah, I mean because you've seen it other
12 than having patients; right? I mean, during training, too;
13 right?

14 A Oh, sure. And I could not begin to
15 venture a guess, but I would say probably more than 20 or
16 25 patients. You don't see that very often, as common as
17 it used to be before.

18 Q Is it a treatable condition?

19 A Yes, sir.

20 Q Do you have any idea what the success
21 rate is?

22 A If treated, it all depends on the germ
23 and the location in the heart of the particular, and the
24 condition of the valves of the heart before the infection
25 occurs.

Q Have you ever had a patient with endomyocardial fibrosis?

A I never --

MR. TRAVERS: This might be a trick question. He has not testified that that's what David Gonda had.

MR. MALIK: I understand.

A If I've seen the one, it's David, because that's what they said he had.

Q But you're not necessarily accepting that autopsy report; right?

A Why not?

Q Well, did you see any slide interpretation on that autopsy report?

A Oh, they don't usually give us a slide interpretation of the pathology.

Q So would you think that that's a complete autopsy report, even though there's no slide interpretation?

A From my point of view, okay, what a pathologist requires in order to arrive at a diagnosis is his business. Now, what he chooses to make me aware of is also his business. I would imagine that -- and that's my own perception. I would imagine that a complete autopsy would include the microscopic evaluation, examination of

1 the tissues.

2 Q Well, you've read autopsy reports before;
3 right?

4 A Sure.

5 Q What's the policy at St. E's?

6 A I don't know what the policy is, but they
7 report the whole thing.

8 Q The microscopic findings; right?

9 A Sure.

10 Q Did you ever talk to Dr. Wiedemann at
11 all?

12 A I don't think so.

13 Q Did you ever talk to the pathologist in
14 this case?

15 A I don't think so either. I spoke with a
16 young -- that's all.

17 Q Go ahead. Who did you speak with?

18 A There was a young lady that called me
19 from the Cleveland Clinic to let me know when David died.

20 Q I see. Do you know what she told you?

21 A Yeah, that he died of a sarcoma of the
22 heart. Had a tumor of the heart.

23 Q Now, just so I'm clear in terms of tests
24 being ordered, you testified today that you specifically
25 ordered an ultrasound from Hitchcock X-ray; right?

1 A That's correct.

2 Q You ordered a chest X-ray; right?

3 A That's correct.

4 Q You ordered a sputum culture?

5 A Throat culture.

6 Q Throat culture.

7 A Which was done.

8 MR. TRAVERS: David, excuse me, if we
9 had started on time, maybe I would not object to you going
10 through and asking all the same questions over again, but
11 I'm having a little problem with this. I mean, he has
12 already answered all these questions.

13 MR. MALIK: And I respect that. I'm
14 almost done. I absolutely respect that.

15 Q You ordered an echocardiogram?

16 A Are you talking about in the hospital or
17 before the hospital?

18 Q Before the hospital.

19 A Yeah, I already said that.

20 Q I lost my train of thought. And you
21 ordered blood tests?

22 A That's correct.

23 Q Not cultures, but blood tests?

24 A Blood count, yes.

25 Q Are there any tests done in 1995 which

1 could have been done sooner, taking into consideration --

2 MR. TRAVERS: I'm going to object to
3 the question "could have been".

4 Q Taking into consideration his condition?
5 Let me rephrase that. Should have been done. Should have
6 been done sooner.

7 A I don't understand what you're aiming at.

8 Q Okay. Should have been done sooner.

9 A But I don't know which test.

10 Q Was the CT scan done in a timely way?

11 A Well, that was an interpretation by the
12 pulmonologist, at which time he decided when to order one
13 and when to do it. It's not my job to tell him when to do
14 those things.

15 Q The TEE, did you have a problem when that
16 was done, or do you think it should have been done earlier?

17 A No, I have no problem with that because
18 that's not a procedure that we do routinely all the time.

19 Q Let me cut to the chase. Do you have any
20 criticism of any of the other doctors in this case?

21 A No, sir.

22 Q Or of any of the tests that were done?

23 A Tests that were done?

24 Q Uh-huh.

25 A No, sir.

1 Q For your testimony today, did you rely on
2 any books or materials outside of your file?

3 A No, sir.

4 Q I'm sure Mark asked you this; what's your
5 native country?

6 A Dominican Republic.

7 Q Okay. So what language would you speak?

8 A Spanish.

9 Q Do you read bilingual?

10 A Yes, sir.

11 Q You speak bilingual?

12 A Yes, sir.

13 Q So you can read medical journals both in
14 Spanish and in English?

15 A That's correct.

16 Q And do you do so?

17 A No.

18 Q Just in English?

19 A Just in English.

20 Q When David saw you, was he fatigued?

21 A Oh, gee --

22 Q I'm not talking about, "Doc, I'm tired";
23 I'm talking about did he have a symptom of fatigue?

24 A I don't remember offhand. But if you
25 remember, one of the comments was that he did not appear to

be ill.

4 Q Right.

A So generally when you're very sick, you
4 look, you're sick.

5 Q And when you saw him in the office, how
6 long did you see him for each time?

7 A The first time I would assume probably
8 better than an hour, because that's the usual time that it
9 requires for a complete evaluation of someone like that.
10 The following time was probably much shorter than that. I
11 would say 20 minutes, a half an hour perhaps.

12 Q Okay. Did you ever consider that David's
13 symptoms could lead to his total disability?

14 A No.

15 Q Did it ever occur to you that he could
16 die from the symptoms he presented to you with?

17 A No.

18 Q Was David a candidate to be in the
19 Intensive Care Unit from the symptoms that he presented to
20 you?

21 A At the office?

22 MR. TRAVERS: At what point?

23 Q In 1995.

24 A At the office?

25 Q Right.

1 A No.

2 Q Did you feel that during the period of
3 time you saw David, that he was responding to any of the
4 treatment that had been given previously?

5 A No, I don't think he was because he was
6 still having the symptoms continue. The cough and
7 everything else did not disappear.

8 Q Were you able to formulate any opinion as
9 to David as a person?

10 A I did not have a whole lot of contact
11 with David over the years because he was out of town
12 mostly. He struck me as a very pleasant young fellow, and
13 I felt very bad that he was so sick. I always thought the
14 world of him. David did have a little mannerism about him.
15 It's kind of effeminated or soft way of speaking, you might
16 say. And that, his youth and the fact that he had sickness
17 that we couldn't figure out, led me, when he was at the
18 hospital, led me to ask him, you know, like everybody else
19 did, regarding his sexual behavior. And he denied flatly
20 that it was anything but heterosexual behavior.

21 Q Are you telling me as we sit here today
22 that you think David might have been a homosexual?

23 A I didn't think he was. I said his
24 mannerism and the condition that presented led me to ask
25 those questions.

Q Assume for the minute you have a child coming in to see you, a child that's, let's say, eleven years old.

A I don't see children that age.

Q That takes care of that hypothetical. What is doxycycline?

A It's a generic antibiotic in the family of the tetracyclines.

Q Did you rely on anything that was told you by Dr. -- other than the written material that was told you by Dr. Franco, Dr. Cropp or Dr. DeMarco for this deposition today?

A I'm sorry; I can't --

Q Did you rely on anything any of the other doctors have told you in order to prepare for this deposition today?

A No.

Q Is it a fair statement to say that a physician can reach a differential diagnosis of a patient, even if all the symptoms of a specific condition aren't present? In other words, if some of the symptoms are there, do you include it in your differential?

A It depends on the length of the list of differentials. The greater the amount of information that you have, the narrower the differential becomes, but there

1 are many illnesses that have common symptoms. Too many to
2 include all of them.

3 Q What about seeing a patient twice; do you
4 think you were limited in formulating a diagnosis because
5 you saw him two times instead of 20 times?

6 A Sometimes you can arrive at a diagnosis
7 on the first visit. I was just unfortunate that I did not
8 figure out what was going on with him in two visits.

9 MR. MALIK: Let me just check with
10 these guys and see if there's anything else.

11 MR. TRAVERS: While you're checking,
12 David, if you don't mind in light of the late hour, does
13 anybody else have any questions they would like to ask Dr.
14 Ruiz?

15 MR. BLOMSTROM: Since it's on
16 videotape, I do have one.

17 CROSS EXAMINATION:

18 BY MR. BLOMSTROM

19 Q Doctor, if there are a number of things
20 on a differential diagnosis, does that mean that the
21 likelihood of each one of those is the same?

22 A No, sir. The closer -- that's it.

23 Q Some may be more likely than others, and
24 some may be extremely unlikely; is that correct?

25 A That's correct.

MR. BLOMSTROM: I don't have anything else.

BY MR. MALIK:

Q Just a couple more questions then we're done. Do you have an obligation as a physician -- no, strike that.

Do physicians have an obligation to their patients to narrow the differential diagnosis?

A I don't know what you mean by an obligation.

Q Is it within the standard of care to narrow down the differential diagnosis?

MR. TRAVERS: I'm going to object to that question.

A I still don't know. I don't know exactly what he's driving at.

Q Okay. What I'm driving at is --

A What do I do with a differential diagnosis?

Q No. Isn't it one of a, one job as a physician, to exclude the possibilities so that you're left with the probabilities?

A That's part of the overall taking care of a person, whatever the setting might be.

Q Okay. What did you do at St. Elizabeth's

1 Hospital when David was in there in August?

2 A I didn't do much myself.

3 Q Did you examine him?

4 A Oh, yes, sir.

5 Q And did you write any notes?

6 A I don't remember exactly how many notes I
7 wrote or anything; not a whole lot, simply because I was
8 acting mainly as a liaison between the other physicians
9 that were seeing him and the family and the patient.

10 Q Okay. When you say you were acting as a
11 liaison, what do you mean?

12 A Explain to them the reports and the tests
13 that they did or they wanted to perform.

14 Q Okay. I'm handing you or I'm going to
15 show you a piece of paper from the hospital, and I can't
16 tell, is that your signature on it, on the bottom?

17 A No.

18 Q Okay. Thank you. Can I have the piece
19 of paper that fell?

20 A (Complying).

21 MR. MALIK: Anything else?

22 Q Isn't one of your jobs as a physician to
23 render a diagnosis?

24 A It depends on what position or part I'm
25 playing in the particular case.

1 Q Well, in David Gonda's case when he saw
2 you in 1995, wasn't it your job to render a diagnosis?

3 A I did.

4 Q And a diagnosis was pharyngitis one time
5 and laryngitis the other; right?

6 A And the possibility that he also may have
7 pneumonitis.

8 Q And the purpose of rendering a diagnosis
9 is so that he can get treatment; correct?

10 A If the condition is treatable, yes.

11 Q Okay. Did you participate in David going
12 to the Cleveland -- getting to the Cleveland Clinic.

13 A I was trying to remember that aspect, and
14 I really cannot come up with a definite thing. I must have
15 talked to somebody over there to make sure that there was a
16 physician that could see him when he got there.

17 Q Well, I have a note here on 8/17; copy
18 chart for Cleveland Clinic via Metro Life, TO; I'm assuming
19 that's telephone order --

20 A That's correct.

21 Q -- Dr. Ruiz?

22 A That's because the nurses may have called
23 me to tell me the people that were going to transfer David
24 were there, and they needed an order to copy the chart for
25 them to give it to the Cleveland Clinic.

1 Q Have you discussed this case with anybody
2 else in David's family?

A In David's family?

4 Q Uh-huh.

5 A Well, members of the family.

6 Q Who in the family?

7 A Well, his father, his sister, and I think
8 one of his uncles once asked me something about that.

9 Q Okay. Do you recall what you said to one
10 of his uncles?

11 A Oh, God, I don't know.

12 ✓ Q Do you recall whether or not you told one
13 of his uncles that the doctors in this case were going to
14 get together and that they were going to counter sue and
15 that the Gondas could lose everything for bringing this
16 suit?

17 A I don't remember that.

18 Q Does that sound like something you would
19 say?

20 MR. TRAVERS: If he did, it was upon
21 the advice of counsel when you sued 127 people or something
22 when you filed the Complaint.

23 A I don't remember the conversation.

24 MR. MALIK: Thank you.

25 MR. BLOMSTROM: During the course of

1 the deposition we've had three statements by Mr. Malik as
2 to what he was told or learned or what he has found
3 somewhere else. I move to strike all such statements as
4 they don't amount to testimony. Then I'm done.

5 MR. MALIK: We object. Can we just
6 go through and put on the record everything that's in your
7 notes. Do you want copies, Mark?

8 MR. RUF: I don't think we got
9 everything. I counted 61 documents in his records.
10 There's actually -- some records that are double-sided.
11 There's actually 70 pages with something on it. I don't
12 think we got a complete copy of his records.

13 MR. TRAVERS: I don't know where you
14 got the records. I don't know if you're relying on records
15 that I provided, but if you did and if they're not **all**
16 there, I would represent that my letter probably said we're
17 providing you with copies of all records from his chart
18 that are not already otherwise reproduced in the hospital
19 chart. He does have quite a volume of records that were
20 provided to him from the hospital chart that I think would
21 probably comprise the difference in those numbers.

22 MR. GRIFFIN: Why don't we end the
23 videotaping portion.

24 MR. RUF: Could you give us a
25 complete copy of the record?

1 MR. GRIFFIN: Time out. If we're
2 done with questioning, and what you're going to do is to
3 make sure you're going to have every record you want, I'm
4 going to leave; and I'll ask the court reporter for a copy
5 of the record if and when it's ordered.

6 MR. TRAVERS: And I'm going to advise
7 you, Doctor, that you should tell the court reporter you
8 would like to read the transcript of your deposition.

9 THE WITNESS: Definitely.

10 MR. TRAVERS: Do you want to watch
11 yourself on television, too. He'll waive the viewing.

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REPORTER'S CERTIFICATE

I HEREBY CERTIFY that the above and foregoing is a true and correct transcript of all the testimony introduced and proceedings had in the taking of the testimony in the above-entitled matter, as shown by my stenotype notes taken by me at the time said testimony was taken.



Lisa C. Nagy-Baker
Registered Merit Reporter

1 STATE OF OHIO)
2) SS: CERTIFICATE
3 MAHONING COUNTY)

4 I, DR. JUAN RUIZ, depose and say that 1
5 have read the foregoing deposition and find it true and
6 correct, unless otherwise specifically excepted to and
7 indicated on Page 114-A, and any following numbered pages
8 thereafter, if applicable, and I subscribe my signature to
9 the aforesaid deposition this _____ Day of _____,
10 1998.

11 _____
12 DR. JUAN RUIZ

13 Before me, a Notary Public within and
14 for the State of Ohio, personally appeared DR. JUAN RUIZ,
15 who, being first duly sworn, deposes and says that he has
16 read the foregoing deposition and finds it true and correct
17 to the best of his knowledge, information and belief,
18 unless otherwise specifically excepted to and indicated on
19 Page 114-A, and any following numbered pages thereafter, if
20 applicable.

21 SWORN AND SUBSCRIBED before me this
22 _____ Day of _____, 1998.

23
24 _____
25 Notary Public
My Commission Expires

S-O-A-P

Patient Profile

Date Today: 06/27/1995

1 Last Nm: GONDA
 2 Frst Nm: DAVID
 3 Midl Nm: PAUL
 4 Brth Dt: 09/02/1967
 5 Occup : STUDENT/CWRU
 6 Livs w/: PARENTS
 7 Chrt No: 20560

8 St No : 4585 EUCLID BLVD
 9 City : BOARDMAN
 10 State : OHIO
 11 Zip : 44512
 12 Phone : 788-1961
 13 Ins-Mc:
 14 Ref Dr:

Doctor J. RUIZ
 15 Updated: 06/27/1995
 16 Cur Vst: 06/27/1995
 17 Doc : J. RUIZ
 18 Prob: COUGH/FEVER
 19 Prv Vst: 05/15/1989
 20 Doc : J. RUIZ
 21 Prob: PRE-EMPLOYMENT

InAx	1st 10 Meds/Habits	Dosage	Drug Allergies	Problem List/Dates
22	COFFEE W/CAFFE	2 cups/day	32 NONE	41
23	^		33	42
24	^		34	43
25	^		35	44
26	^		Characteristics	45
27	^		36 Smoker : NO	46
28	^		37 Coffee : YES	47
29	^		38 Alcohol : NO	Immunization/Date
30	^		39 AGE years: 27	48 PNE ; FLU
31	^		40 Male/F : M	49 TD

Hospitals/Dates/Dx	Surg/Procedures/Dates	Family History
50	54 T & A/SEH/1973	58 Fthr L-WELL;
51	55	59 Mthr L-WELL;
52	56	60 Sibs 2
53	57	61 Chlds 0
62 Comment: LAW STUDENT AT CWRU;		

SUBJECTIVE: Paul has been treated by Dr. Adornato for several days for cough, sore throat and fever. He was told he had pneumonia on 5-19-95 and was given Erythromycin for 1 week. He has had a persistent cough and need to clear his throat all the time, ever since. Despite the antibiotics, he continued to have fever and sore throat. Dr. Adornato put him on Duricef but the symptoms did not improve, then he was put on Zithromax, but continued to have fever even while taking the antibiotic. He has two days left on the Zithromax and does not feel any better. He had fever of 101.5°F on 6-3-95 and of 102°F yesterday. The fevers are daily, sometimes 2-3 times a day and will go down even without taking anything.

OBJECTIVE: Wt: 164½ Ht: 6' BP: 110/62 Pulse: 120, reg. Temp: 99.2°F

General: Slender w/m, coughing frequently, but does not seem distressed.
 Head & Neck: No nodes or thyromegaly.
 Eyes: No icterus.
 ENT & Muc Mem: Herpes labialis lesions. Oropharyngea mucosa is slightly injected.
 Chest & Lungs: Clear.
 Heart: Sinus tachycardia, systolic click.
 Breasts: Negative.
 Abdomen & Hern: Unremarkable.
 Genitalia: Negative.
 Rectum: N/E.
 Back: No CVA tenderness. Straight upper back.
 Extremities: No edema. Pulses 3+. No joint changes.
 Skin & Lymph: No lymphadenopathy.
 Neurological: Negative.



DAVID PAUL GONDA

ECG: Sinus tachycardia. Remnant of juvenile T pattern vs ischemia (doubt).

ASSESSMENT:

1. Viral pharyngitis.
2. R/O pneumonitis.
3. Herpes simplex labialis.
- 4.
- 5.
- 6.

PLANS:

1. Chest X-ray, today and wet reading, today.
2. CBC and Differential today.
3. Humibid DM 600 mg, 2/bid
4. Consider Doxycycline.
- 5.
- 6.

Next Office Visit:

1 month

Signature

J. Ruisman

Genitalia: Normal external male genitalia.

Rectum: No hemorrhoids. No rectal mass. Prostate is of normal size and consistency. Negative stool Guaiac.

Back: Straight upper back.

Extremities: Unremarkable. Pulses 4+.

Skin & Lymph: No rash, striae skin tumor or lymphadenopathy.

Neurological: Intact cranial nerves. DTR's 3/3. No abnormal reflexes. Negative Romberg's test. Vibratory sense is normal.

ELECTROCARDIOGRAM: None.

LABORATORY: Normal? SMA-C22/cbcd/urine, except for: ALK. PHOSPH: 107 IU/L; SGOT: 138 IU/L; SGPT: 53 IU/L.

ASSESSMENT:

1. Good general health.
2. Systolic click.
3. Straight upper back.
4. Unexplained elevation of liver enzymes.
5. Patient told about all of the above.

PLAN:

1. No medications.
2. Advised to have repeat physical in 1-2 years.
3. Palpitations and elevation of liver enzymes may be secondary to Caffeine pills.

Signature Juan A. Ruiz
Juan A. Ruiz, M.D.



NAME
GONDA DAVID

SPECIMEN I.D. NUMBER
0145857

ACCESSION NO.
145857

N

RECEIVED
05/19/88
REPORTED
05/20/88

TEST	RESULT		REFERENCE RANGE		UNITS
	NORMAL	ABNORMAL			
SMAC22/CBCD/URIN.					
PROTEIN (SERUM)	7.0		6.0	8.3	MG/DL
ALBUMIN (SERUM)	5.3		3.5	5.4	GM/DL
BILIRUBIN TOTAL	.8		0.1	1.3	MG/DL
ALK. PHOS. (SERUM)		107H	20	101	IU/L
AST (SGOT)		138H	10	40	IU/L
ALT (SGPT)		53H	5	40	IU/L
LDH (SERUM)	232		90	255	IU/L
CHOLESTEROL TOTAL	170		150	300	MG/DL
CHOLESTEROL LEVEL FOR OPTIMAL ADULT HEALTH IS <200 MG/DL ..					
TRIGLYCERIDES	123		10	195	MG/DL
GLUCOSE (SERUM)	87		55	120	MG/DL
BLOOD UREA NITROGEN	15		8	25	MG/DL
CREATININE (SERUM)	1.0		0.5	1.4	MG/DL
URIC ACID (SERUM)	7.0		3.3	9.0	MG/DL
CALCIUM (SERUM)	9.2		8.5	10.3	MG/DL
PHOSPHORUS (SERUM)	4.3		2.3	4.5	MG/DL
SODIUM (SERUM)	141		137	148	MEQ/L
POTASSIUM (SERUM)	4.9		3.4	5.1	MEQ/L
CHLORIDE (SERUM)	102		95	110	MEQ/L
GGT (SERUM)	9		0	60	IU/L
IRON (SERUM)	154.0		45	210	MG/DL
GLOBULIN	1.7				GM/DL
ALBUMIN/GLOBULIN RT.	3.1				
BUN/CREATINE RATIO	15.0				
WBC TOTAL	5.0		3.2	10.1	1000/CU MM
ERYTHROCYTE COUNT	5.12		4.60	6.20	MILLION/CUM
HEMOGLOBIN	15.5		13.5	18.0	GM/DL
HEMATOCRIT	45.1		40.0	54.0	%
MCV	83		80	100	CU MICRONS
MCH	30.3		27.0	33.0	PICOGRAMS
MCHC	34.4		32.0	36.0	%
PLATELETS	216		140	440	1000/CU MM
EOSINOPHILS	01		0	6	%
NEUTROPHILS	43		40	75	%
LYMPHOCYTES	42		18	47	%
MONOCYTES	09		0	10	%

--- DIRECTORS ---

--- PATHOLOGIST ---

Patrick K. Jaynes Ph.D. Arlington G. Kuklinca M.D.
John C. York II, M.D.

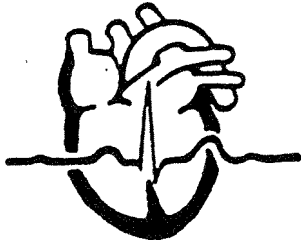
JUAN A. RUIZ, M.D.
SOUTH BRIDGE EXECUTIVE PARK
725 BOARDMAN-CANFIELD ROAD
YOUNGSTOWN OH 44512

DEYOR
Laboratories

DeYor Laboratories Inc.
P.O. Box 3949
7655 Market Street, Suite 500
Youngstown, Ohio 44512

(216) 758-5788

PLAINTIFF'S
EXHIBIT



Heart Associates

Dr.D.A.Hoffman, Inc.

Regular
☒ Thallium

TREADMILL EXERCISE STRESS EKG STUDY

NAME David Paul Gonda AGE 21 DATE 8/21/89 NUMBER

ADDRESS 4585 Euclid, Boardman, Ohio 44512 PHONE (216) 788-1961

REFERRED BY Dr. David A. Hoffman/Dr. Ruiz:

TECHNICIAN: Julianne Pontuti, R.T.N., CNMT.

DRUGS:

YES NO

HISTORY: No complaints. Mother has history of mitral valve prolapse. Patient smokes occasionally.

Digitalis	<u> </u>	<u>X</u>
Quinidine	<u> </u>	<u>X</u>
Betablockers	<u> </u>	<u>X</u>
Nitrates	<u> </u>	<u>X</u>
Others	<u> </u>	<u>X</u>
Lasix	<u> </u>	<u>X</u>
Lanoxin	<u> </u>	<u>X</u>
Slow K	<u> </u>	<u>X</u>
Verapamil	<u> </u>	<u>X</u>
Cardizem	<u> </u>	<u>X</u>
Nifedipine	<u> </u>	<u>X</u>

PHYSICAL EXAM: Height 6'0"
Weight 180 lbs.
Blood pressure 120/84

RESTING EKG INTERPRETATION

Rate 74 PR interval .14 sec.
Rhythm Low Atrial QRS interval .08 sec.
Findings Early repolarization.

MET WORK - STAGE INTERPRETATION

4.0 Stage I=1.7 MPH at 10% elevation
6.3 Stage II=2.5 MPH at 12% elevation
8.5 Stage III=3.4 MPH at 14% elevation
11.0 Stage IV=4.2 MPH at 16% elevation
14.0 Stage V=5.0 MPH at 18% elevation

Pre-Exercise Heart Rate: Supine 65 /min. 90% Maximal Predicted Heart Rate: 177 /min.
Standing 74 /min. Baseline ST segment:

EXERCISE	MIN	HEART RATE	BLOOD PRESSURE	SYMPTOMS	ST SEGMENT DEPRESSION	EKG CHANGES
Stage I	1	107				
1.7 MPH	2	100	126/64			
Met work 4.0	3	102				
Stage II	4	121				
2.5 MPH	5	127	152/60			
Met work 6.3	6	128				

Practice Limited to Cardiovascular and Intensive Care Medicine



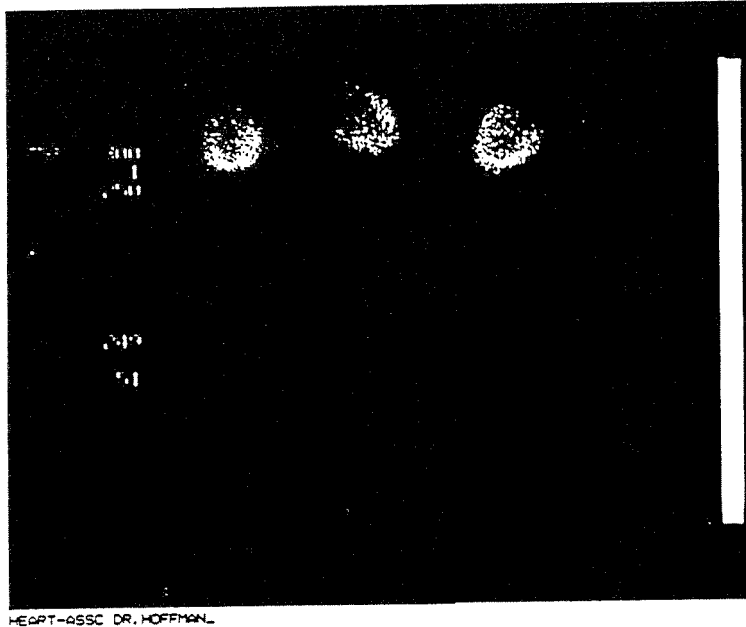
TREADMILL EXERCISE STRESS EKG STUDY

PAGE 3

NAME David Paul Gonda

August 71 1989

THALLIUM STRESS EXERCISE IMAGE INTERPRETATION AND RECOMMENDATIONS:



DESCRIPTION: In the 45° LAO, 70° LAO, and anterior projections, there was normal perfusion to the anterolateral, septal, apical, inferior, and posterolateral segments. There was no significant change on delayed reperfusion scan. Note is made that cardiac uptake was greater than lung uptake.

CONCLUSIONS: Essentially normal stress Thallium perfusion scan.

Dr. D.A. Hoffman

DR. D.A. HOFFMAN

DAH/cpt



INTERPRETATION

S. Tachycardic

Increased apical force (weight 1.5x)

Normal of sinusoidal T pattern vs -

J. Ludwig 6/27/91

PATIENT Jones, David

DATE 6-27-91

DOCTOR J. Ludwig

BP

AGE 27 SEX M HGT.

DRUGS

RATE 120 PR 0.12

QRS 0.08 QT 0.28

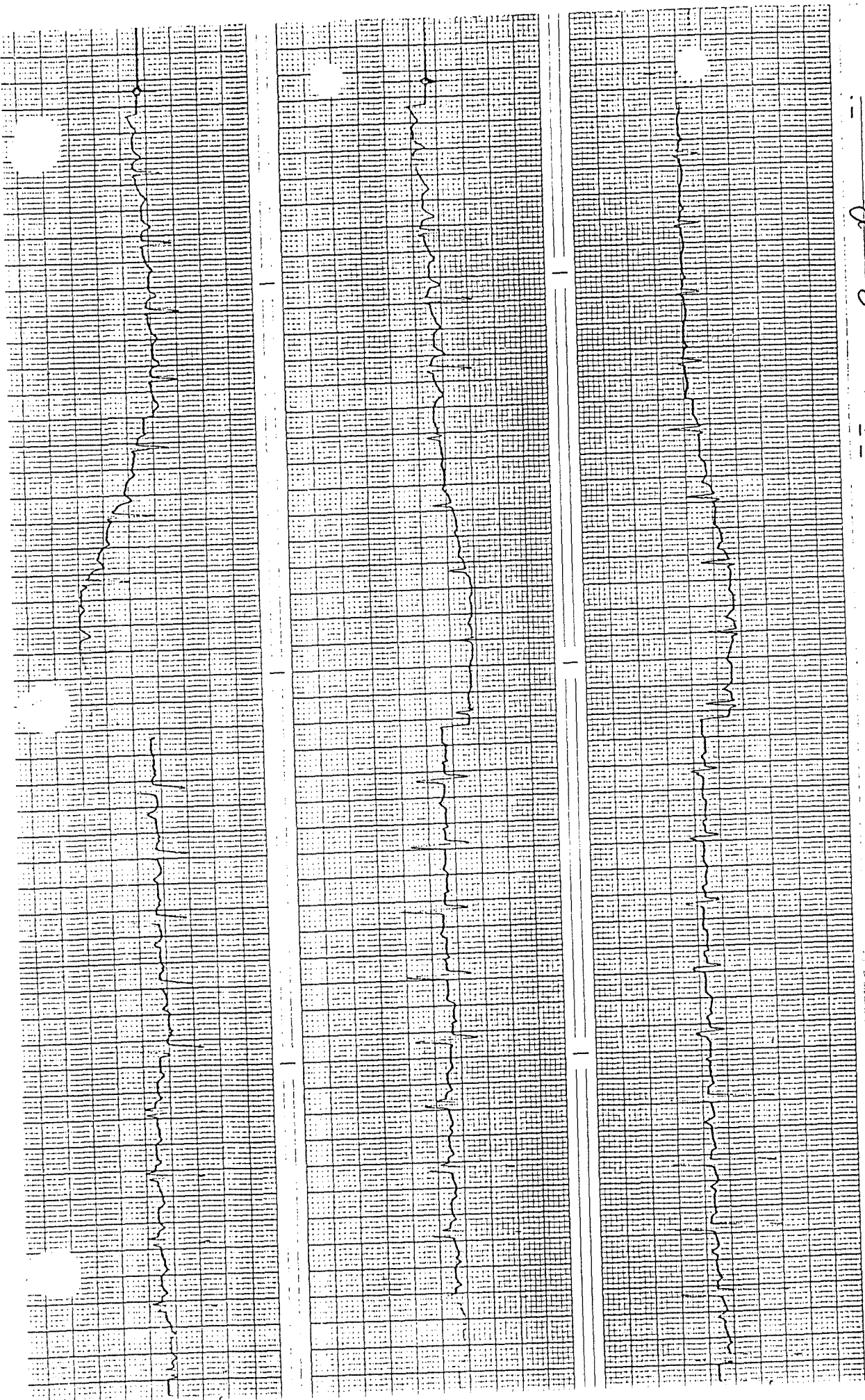
AXIS +75°

I II III RLF GAIN

VI THRU V6 GAIN

CODE LEAD GROUP

PLAINTIFF'S EXHIBIT



S-O-A-P

Patient Profile

Date Today: 05/26/1988

1 Last Nm: GONDA
 2 Frst Nm: DAVID
 3 Midl Nm: PAUL
 4 Brth Dt: 09/02/1967
 5 Occup : STUDENT/CWRU
 6 Livs w/: PARENTS
 7 Chrt No: 20560

8 St No : 4585 EUCLID BLVD
 9 City : BOARDMAN
 10 State : OHIO
 11 Zip : 44512
 12 Phone : 788-1961
 13 Ins-Mc:
 14 Ref Dr:

Doctor : J. RUIZ
 15 Updated: 05/26/1988
 16 Cur Vst: 05/26/1988
 17 Doc : J. RUIZ
 18 Prob: NEW PATIENT CPX
 19 Prv Vst:
 20 Doc :
 21 Prob:

InAx	1st 10 Meds/Habits	Dosage	Drug Allergies	Problem List/Dates
22	COFFEE W/CAFFE	2 cups/day	32 NONE	41
23	^		33	42
24	^		34	43
25	^		35	44
26	^		Characteristics	45
27	^		36 Smoker : NO	46
28	^		37 Coffee : YES	47
29	^		38 Alcohol : NO	Immunization/Date
30	^		39 AGE years: 20	48 PNE ;FLU
31	^		40 Male/F : M	49 TD

Hospitals/Dates/Dx	Surg/Procedures/Dates	Family History
50	54 T & A/SEH/1973	58 Fthr L-WELL;
51	55	59 Mthr L-WELL;
52	56	60 Sibs 2
53	57	61 Chlds 0

62 Comment: TAKING "PLASTIC ENGINEERING" AT CWRU;

=====

NEW PATIENT HISTORY AND PHYSICAL

SUBJECTIVE: David is a 20 y/o College student at CWRU in Cleveland] taking "Plastic Engineering." He has no major symptoms but has noticed occasional headaches which respond to ASA, a sensation of "vibrations" in the left ear at times. He also has an occasional sensation of heart skipping, however, he is able to lift weights and play vigorous basketball games, without symptoms. He has noticed an occasional red streak of blood in the stools. He takes Caffeine pills to stay awake studying.

PAST MEDICAL HISTORY: Chicken Pox.

1973: Hospital Admission: SEH. T & A.

FAMILY HISTORY:

PARENTS: Both are living and well.

SIBLINGS: Two, a younger brother and sister, both well.

SOCIAL HISTORY: Single, student. No smoking or drinking. Denies any risky behavior.

EDUCATION: High School and 2 years of College.

OCCUPATIONAL HISTORY: None.

MEDICATIONS: None.



HEALTH MAINTENANCE: None.

IMMUNIZATIONS: Measles: 1968; Rubella: 1970; Mumps: 1972; Polio series: 1984; TBC: 1987/negative.

DIET : General.

ALLERGIES : None.

REVIEW OF SYSTEMS:

Head & neck: No symptoms.
Eyes : No symptoms.
Ears: Vibrations left ear.
Mouth: No symptoms.
N & T: No symptoms.
Respiratory: No symptoms.
Cardiovascular: Heart skipping, at rest.
Digestive: No symptoms.
Urinary: No symptoms.
Genital : No symptoms.
Musculoskeletal : Occasional back ache.
Skin: No symptoms.
Neurological : No symptoms.
Mood : No symptoms.
Endocrine : No symptoms.
General : No symptoms.

OBJECTIVE : Wt: 176" Ht: 6' BP: 118/70 Pulse: 90, reg. Temp: 98.7°F

General : W/D, W/N, W/M, in no acute distress.

Head & Neck: Normocephalic. Normal motions. No bruits, thyromegaly or nodes. Midline trachea. No JVD.

Eyes : PERLA. Clear Media. Normal fundi. No jaundice. Normal color conjunctiva.

ENT & ~~Muc Mem~~ Midline nasal septum. Intact TM's. Unremarkable teeth, gums and pharynx.

Chest & Lungs: Symmetrical with good respiratory expansion. Lungs clear to P & A, with vesicular breathing throughout.

Heart: RSR. Systolic click without murmur (his mother also has click). No cardiomegaly.

Breasts: Normal male breasts.

Abdomen & Hern.: Soft. No tenderness, organomegaly or mass. No hernia.



178-399-0437-0

SLID

PG 1 of 1

ROCHE BIOMEDICAL LABORATORIES, IN

(COMPLETE) (H)		Age 27/09	Sex M	Control #	Patient ID	Phys ID 341004260
GONDQ, DQUID 4585 EUCLID ELVD YDUNGSTDWN OH 44512-16888 (216) 788-1961 DOE 9/82/67		Fasting NO	Account Number 34116260 JURN A RUIZ M.D. SOUTH BRIDGE EXECUTIVE PARK 725 BOARDMAN CROWNFIELD RD YOUNGSTOWN, OH 44512-8888 (216) 758-7571			
		Tot Vol 0008				
Spec Date 6/27/95 4:06		Received 6/28/95		Reported 6/28/95 8:47		Seq# 115

TEST	RESULT	OUT OF RRNGE	UNITS	LIMITS	LAE
RDW	14.7		%	12.3- 15.3	CE
CBC WITH DIFFERENTIAL					
White Blood Count		13.2 H	X 10-3/uL	4.1- 10.3	CE
Red Blood Count	4.64		X 10-6/uL	4.38- 5.60	CE
Hemoglobin		12.2 L	g/dL	13.5- 17.0	CE
Hematocrit		37.1 L	%	40.0- 51.0	CE
MCV		80 L	fL	81- 95	CE
MCH		26.3 L	pg	27.0- 33.0	CE
MCHC	32.9		g/dL	52.5- 35.5	CE
Platelets	276		X 10-3/uL	150- 415	CE
Polys	75		%	45- 76	CE
Lymphs		15 L	%	17- 44	CE
Easos	0		%	0- 2	CE
Polys (Rbsolute Value)		9.9 H	X 10-3/uL	1.8- 7.8	CE
Lymphs (Absolute Value)	El. 0		X 10-3/uL	0.7- 4.5	CE

LAB: CB LABCORP HOLDINGS (ROCHE) DIRECTOR: GRRY E. BARNETT MD
6370 WILCOX RORD, DUBLIN, OH 43016-1296

LRST PRGE OF REPORT

PATIENT NOTIFIED
DATE 6/21/95 JAR



REPORT

S-O-A-P

Patient Profile

Date Today: 07/05/1995

1 Last Nm: GONDA
2 Frst Nm: DAVID
3 Midl Nm: PAUL
4 Brth Dt: 09/02/7967
5 Occup : STUDENT/CWRU
6 Livs w/: PARENTS
7 Chrt No: 20560

8 St No : 4585 EUCLID BLVD
9 City : BOARDMAN
10 State : OHIO
11 Zip : 44512
12 Phone : 788-1961
13 Ins-Mc:
14 Ref Dr:

Doctor : J. RUIZ
15 Updated: 07/05/1995
16 Cur Vst: 07/05/1995
17 Doc : J. RUIZ
18 Prob: COUGH/FEVER
19 Prv Vst: 06/27/1995
20 Doc : J. RUIZ
21 Prob: COUGH/FEVER

InAx	lst 10 Meds/Habits	Dosage	Drug Allergies	Problem List/Dates
22	DOXYCYCLINE	100 mg/bid	32 NONE	41
23	HUMIBID-DM	1200 mg/bid	33	42
24	^		34	43
25	^		35	44
26	^		Characteristics	45
27	^		36 Smoker : NO	46
28	^		37 Coffee : YES	47
29	^		38 Alcohol : NO	Immunization/Date
30	^		39 AGE years: 27	48 PNE ;FLU
31	^		40 Male/F : M	49 TD

Hospitals/Dates/Dx

Surg/Procedures/Dates

Family History

50	54 T & A/SEH/1973	58 Fthr L-WELL;
51	55	59 Mthr L-WELL;
52	56	60 Sibs 2
53	57	61 Chlds 0

62 Comment: LAW STUDENT AT CWRU;

SUBJECTIVE: David is not feeling well yet. He has continued coughing and having fever despite of Doxycycline. No expectoration. Does not feel bad otherwise. The CEC showed a slight leukocytosis. The CXR on 6-27-95 was read as negative by Dr. Hafiz.

OBJECTIVE: Wt: 164# Ht: 6' BP: 126/74 Pulse: 120, reg. Temp: 99.2°F

General: Coughing and clearing his throat all the time. Does not appear ill.
Head & Neck: No nodes.
Eyes: N.
ENT & Muc Mem: N.
Chest & Lungs: Clear to P & A.
Heart: Sinus tachycardia. No gallops or murmurs. There is a systolic click.
Breasts: N.
Abdomen & Hern: N.
Genitalia: N/E.
Rectum: N/E.
Back: N.
Extremities: N.
Skin & Lymph: N.
Neurological: N.
LAB, ECG, (etc.): None.

ASSESSMENT: 1. Laryngitis.
2.
3.
4.
5.
6.

Next Office Visit: None made.

PLANS: 1. Throat C & S today.
2. To see Dr. Adornato.
3. Call Dr. Adornato.
4. Refer to Dr. Cropp if nothing found by Dr. Adornato.
5.

Signature



RE: DAVID GONDA

Sam G. Adornato, M.D.
7227 Glenwood Avenue
Youngstown, Ohio 44512

COPY

July 13, 1995

Dear Dr. Adornato,

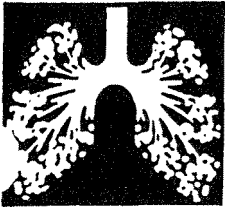
David Gonda was recently in the office on 7/13/95. As you know, he is a 27 year old gentleman who has had a cough for the last six to seven weeks. He clears his throat alot. The cough is usually dry. When he does bring up mucous, this appears to be more saliva. It does not have a foul taste or smell. There is no chest pain. There is no heartburn or gastric reflux type symptoms. The patient denies wheezing. He says it's actually better when he lies down at night but he still does cough. He has taken Triaminic and Humibid, neither did much good. There is no family history of lung disease. There is no personal history of lung problems. He has been on several antibiotics including Doxycycline, which he is now on his second course. He was somewhat better on the first course but he only took it for seven days. He denies other medical problems. There is no history of smoking or night sweats. There is no sinus headache or post nasal drainage. His father does smoke at home. No cats live in their home. A chest radiograph is reported to be clear. He claims that the situation started with an upper respiratory infection.

On physical examination, David is well developed and nourished gentleman in no acute distress. Respiratory rate is 32 beats per minute. Temperature is 102°F. Nose and throat examination are grossly unremarkable. Neck is supple without thyromegaly or lymphadenopathy. Chest has symmetrical expansion. Lungs are clear. There is no wheeze with forced exhalation. Cardiovascular examination is normal. Abdomen is non-tender. Extremities show no signs of clubbing, cyanosis, or edema.

July 14, 1995 (3:35pm)C:\WPDOCS\AJC\CR\GONDA P.1/2

2





Pulmonary Medicine Consultants

925 Trailwood Dr. ■ P.O. Box 3297 ■ Youngstown, Ohio 44513
(216) 758-7575 ■ (800) 282-5864 ■ Fax (216) 758-1833

Alan J. Cropp, M.D., F.C.C.P.
Robert DeMarco, M.D., F.C.C.P.

RE: DAVID GONDA

Juan Ruiz, M.D.
725 Boardman-Canfield Rd.
Youngstown, Ohio 44512

August 9, 1995

Dear Dr. Ruiz,

David Gonda was in the office on 8/8/95. At this time, he is doing somewhat better. The Deconsal is helping significantly in that his nasal congestion cleared and his cough has nearly vanished, David states that his fever is essentially gone.

However, on today's examination his temperature was 101.5 degrees F. Heart rate was 132. Respiratory rate was 26. Examination was normal as usual.

We had a long discussion about different diagnostic possibilities including Hodgkin's Disease. It was suggested that we should pursue a CAT scan of the chest and abdomen to see if any lymphadenopathy exist. If present, obviously this will need to be investigated further. If not, we will keep close tabs on his fever and will discuss the situation further,

Again it was a pleasure seeing David Gonda. If there are any questions, please contact me. -

Sincerely,

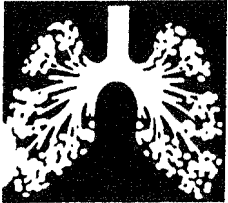

Alan J. Cropp, M.D., FCCP

AJC/cm



August 9, 1995 (11:36am)C:\WPDOCS\AJC\CR\GONDA3 P.1/1





Pulmonary Medicine Consultants

925 Trailwood Dr. ■ P.O. Box 3297 ■ Youngstown, Ohio 44513
(216) 758-7575 ■ (800) 282-5864 ■ Fax (216) 758-1833

Alan J. Cropp, M.D., F.C.C.P.
Robert DeMarco, M.D., F.C.C.P.

RE: DAVID GONDA

Juan Ruiz, M.D.
725 Boardman-Canfield Road
Youngstown, Ohio 44512

July 26, 1995

Dear Dr. Ruiz,

David Gonda was in the office on 7/25/95. At this time, he is feeling better but is still not normal. He does have some sinus drainage which persists. This is no better than previously. He clears his throat and coughs significantly. He denies wheezing. He does note that his fever will go up about three times daily, 4 p.m., 8 p.m. or midnight. It comes back down without treatment. The patient denies any tuberculosis exposure or any risk factors for aids. He notes that the cough and sinus condition are better when lying down.

On physical examination, his vital signs are stable, Lungs are clear. Extremities show no edema.

Mr. Gonda seems to be only marginally better at this time. Based on this, the patient was asked to discontinue his Tessalon Perles and Vanceril. He was asked to use Deconasal II which is a decongestant/antitussive medication as you know. Also, for completeness sake a PPD was placed. The patient was asked to return to the office in approximately two weeks. If we have still not made any progress on his cough, it is likely that we will proceed with fiberoptic bronchoscopy at that time.

Again it was a pleasure seeing David Gonda. If there are any questions, please contact me.

Sincerely,

Alan J. Cropp, M.D., FCCP
AJC/cm

July 28, 1995 (1:43pm)C:\WPDOCS\AJC\CR\GONDA2 P.1/1



DAVID B. MALIK CO., L.P.A.
ATTORNEY AT LAW
1140 LEADER BUILDING
CLEVELAND, OHIO 44114

Todd

(216) 698-2650

779-8260

AUTHORITY TO RELEASE MEDICAL AND/OR HOSPITAL RECORDS

In Re PATIENT: DAVID GONDA D.O.B. 9/2/67 278-76-099
ADDRESS: CLEVELAND 11447 Tampa 4585 Euclid Date of Admission
CLEVELAND Youngstown on or about:
1967 - 1995

You are hereby authorized and directed to permit my attorney, David Bradley Malik, to examine, photostat and copy any and all reports and records pertaining to my treatment rendered at your hospital on the above date(s).

Date 11-13-95

X David B. Gonda
Patient

TO: DR. Ruiz

Attention: Dr. Ruiz

Please furnish the undersigned with a copy of the records indicated below for which we will reimburse you at your usual charge:

- ☒ COMPLETE HOSPITAL CHART (INCLUDING NURSES NOTES)
☐ COMPLETE HOSPITAL CHART (EXCLUDING NURSES NOTES)
☐ EMERGENCY ROOM RECORD ONLY
☐ DISCHARGE SUMMARY ONLY
☒ ITEMIZED PATIENT BILL FOR SERVICES

OTHER: ALL X-RAYS, Lab TESTS, EKG's
EC G's, ALL DIAGNOSTIC
TESTS, VIDEOS, STRIPS, etc.

PLAINTIFF'S
EXHIBIT

NAME
GONDA DAVID

SPECIMEN I.D. # BER
0239636

COLLECTION DATE 05/12/89 COLLECTION TIME 09:00
CLIENT I.D. NUMBER LOCATION CLIENT LAB NO.
00000

ACCESSION NO.
239636

21.0 M
JUAN A. RUIZ, M.D.

RECEIVED
05/12/89
REPORTED
05/13/89

TEST	RESULT		REFERENCE RANGE		UNITS
	NORMAL	ABNORMAL			
SMAC22/CBCD/URIN.					
PROTEIN (SERUM)	7.0		6.0.	8.3	MG/DL
ALBUMIN (SERUM)	4.9		3.5	5.4	GM/DL
BILIRUBIN TOTAL	.6		0.1	1.3	MG/DL
ALK. PHOS. (SERUM)	80		20	102	IU/L
AST (SGOT)	21		10	40	IU/L
ALT (SGPT)	20		5	40	IU/L
LDH (SERUM)	133		90	255	IU/L
CHOLESTEROL TOTAL	164		150	300	MG/DL
	CHOLESTEROL LEVEL FOR OPTIMAL ADULT HEALTH IS				
	< 200 MG/DL				
TRIGLYCERIDES		254H	10	175	MG/DL
GLUCOSE (SERUM)	77		65	120	MG/DL
BLOOD UREA NITROGEN	17		8	25	MG/DL
CREATININE (SERUM)	.9		0.5	1.4	MG/DL
URIC ACID (SERUM)	7.2		3.3	9.0	MG/DL
CALCIUM (SERUM)	9.9		8.5	10.8	MG/DL
PHOSPHORUS (SERUM)	4.3		2.3	4.5	MG/DL
SODIUM	143		137	148	MEQ/L
POTASSIUM	4.2		3.4	5.1	MEQ/L
CHLORIDE	100		95	110	MEQ/L
GOT (SERUM)	7		0	60	IU/L
IRON (SERUM)	105.0		45	210	MCG/DL
GLOBULIN	a. 1		1.0	4.5	GM/DL
ALBUMIN/GLOBULIN RT.	2.3				
BUN/CREATINE RATIO	18.9				
WBC TOTAL	5.08		3.8	tu. 1	1000/CU MM
ERYTHROCYTE COUNT	5.32		4.60	6.20	MILLION/CUM
HEMOGLOBIN	15.8		13.5	18.0	GM/DL
HEMATOCRIT	46.0		40.0	34.0	%
MCV	86.5		80	100	CU MICRONS
MCH	29.7		27.0	33.0	PICUGRAMS
MCHC	34.4		32.0	36.0	%
PLATELETS	192		140	440	1000/CU MM
RED CELL DIST. WIDTH	11.8		11.5	14.5	%
HEMOGLOBIN D. WIDTH	a. 35		2.2	3.2	GM/DL
MEAN PLT. VOLUME	9.0		7.2	11.1	FL
MANUAL PLT. ESTIMATE	ADQ				
BASOPHILS	1.0		0	1.5	%
EOSINOPHILS	1.9		0	6	%

--- DIRECTORS ---
Patrick K. Jaynes Ph.D. Arlington G. Kuklinca MD.
John C. York II, M.D.

--- PATHOLOGIST ---

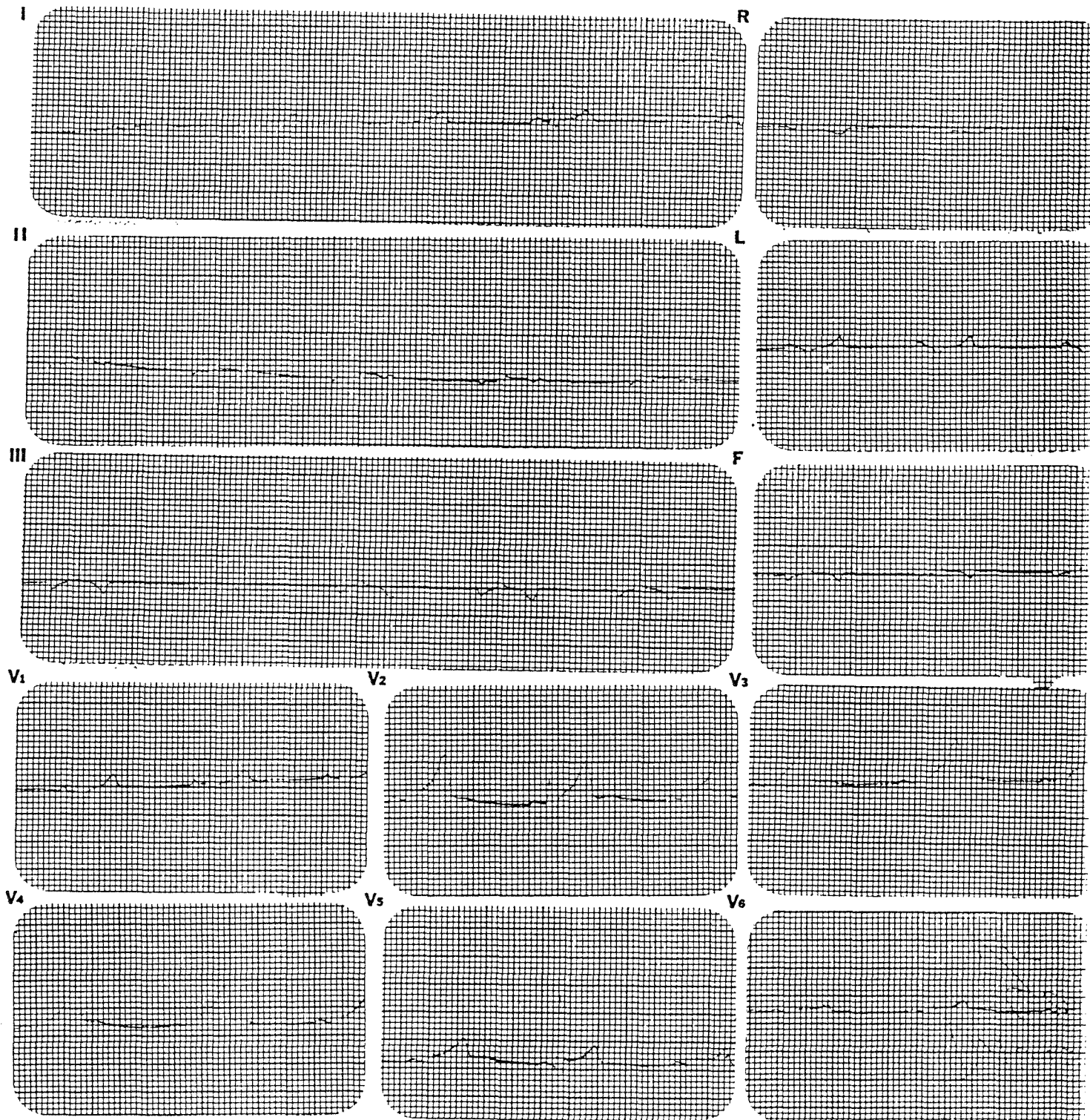
JUAN A. RUIZ, M.D.
SOUTH BRIDGE EXECUTIVE PARK
725 BOARDMAN-CANFIELD ROAD
YOUNGSTOWN OH 44512

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CLIN. DIAG.: *asymptomatic- Pre-employment*

DIG. () QUIN. () AGE *21* SEX *M* B.P.

ECG DESCRIPTION:

INTERPRETATION: *Low atrial rhythm -
Early repolarization -
wide QRS-T angle*

ECG REQUEST BY
ATR. RATE *56-58* VENTR. RATE *58-58*
INTERVALS: P-R *0.13"* QRS *0.08"* QTc
AXIS: *+85°* *QT = -30°*
RHYTHM: *Low atrial rhythm*

PATIENT: *David Gonda*

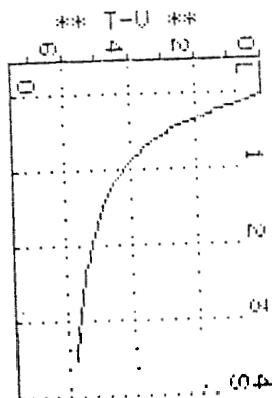


INTERPRETED BY *Juan A. Puyano*
DATE: *1*

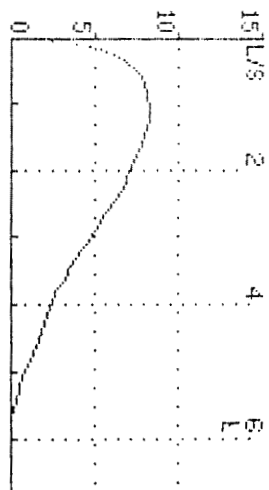
AUTOSPIRO-SDS.

DATE MAY. 15
IDNO. 1989
AGE 21
SEX MALE
HEIGHT 72 in.
ADJUST 100 %

** FVC **
FVC 5780 ML
PRED. 5890 ML
%PRED. 98.13 %
FEV1.0 4360 ML
PRED. 4690 ML
%PRED. 92.96 %
FEV1% 75.43 %
PRED. 79.63 %
%PRED. 94.72 %



** FEF **
PEFR 08.15 L/S
PRED. 10.09 L/S
%PRED. 80.77 %
FEF25% 07.84 L/S
PRED. 08.79 L/S
%PRED. 89.19 %
FEF50% 04.83 L/S
PRED. 06.45 L/S
%PRED. 74.88 %
FEF75% 01.78 L/S
PRED. 03.72 L/S
%PRED. 47.84 %
25-75 03.95 L/S
PRED. 04.95 L/S
%PRED. 79.79 %



INTERPRETATION
(MILD OBSTR)

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ow

ies

Name David P. Gonda Today's date 5/26/88 File no. 912167
 Address 4585 Euclid Blvd. ☒ Male ☐ Female ☐ Race White
Youngstown, Ohio 44512 ☐ Married ☐ Separated ☐ Divorced ☐ Widowed ☒ Single
 Telephone 788-1961 Education 8 years Elementary 4 years High School
 Home number Work number 2 years College, Business, etc.
 Social Security or Medicare No. 278-76-0991 Occupation College Student

FAMILY HISTORY: For each member of your family, follow the

	Good health	Poor health	Deceased	Write in age and cause of death. Include fatal accidents and suicides.	Allergies or asthma	Anemia	Blood clotting problems	Diabetes	Cancer or tumor	Epilepsy	Glaucoma	Genetic disease	Alcoholism	Kidney or bladder trouble	Stomach/duodenal ulcer	Nervous breakdown	Rheumatism or arthritis	High blood pressure	Gout
Father: <u>PAUL</u>	<input checked="" type="checkbox"/>																		
Mother: <u>Dorothy</u>	<input checked="" type="checkbox"/>																		
Brothers/Sisters:																			
<u>Cynthia</u>	<input checked="" type="checkbox"/>																		
<u>Ronald</u>	<input checked="" type="checkbox"/>																		
Spouse:																			
Child:																			
Child:																			
Child:																			
Child:																			
Paternal relatives (in each box, write how many affected with) →																			
Maternal relatives (in each box, write how many affected with) →																			
→ Begin YOUR HEALTH HISTORY here. Have you had: →																			

Additional Illnesses or Problems: Mark an X in the box next to any of the following that you have now or have ever had.

- | | | | | |
|--|---|---|--|---|
| <input type="checkbox"/> eye infections | <input type="checkbox"/> pneumonia | <input type="checkbox"/> neuralgia or neuritis | <input type="checkbox"/> scarlet fever | <input type="checkbox"/> mononucleosis |
| <input type="checkbox"/> thyroid disease | <input type="checkbox"/> pancreatitis | <input checked="" type="checkbox"/> tension/anxiety | <input type="checkbox"/> measles | <input type="checkbox"/> venereal disease |
| <input type="checkbox"/> eczema | <input type="checkbox"/> liver disease | <input type="checkbox"/> depression | <input type="checkbox"/> mumps | <input type="checkbox"/> yellow jaundice |
| <input type="checkbox"/> hives or rashes | <input type="checkbox"/> diverticulosis | <input type="checkbox"/> childhood hyperactivity | <input type="checkbox"/> polio | |
| <input type="checkbox"/> bronchitis | <input type="checkbox"/> hernia | <input checked="" type="checkbox"/> chicken pox | <input type="checkbox"/> rheumatic fever | <input type="checkbox"/> |
| <input type="checkbox"/> emphysema | <input type="checkbox"/> hemorrhoids | <input type="checkbox"/> German measles | <input type="checkbox"/> malaria | <input type="checkbox"/> |

Have you ever been turned down for life insurance, military service or employment because of health problems? . . . Yes ☐ No ☒

Major Hospitalizations: If you have ever been hospitalized for any major medical illness or operation, write in your most recent hospitalizations below. Check this box ☐ if you have had more than four such hospitalizations. (Do not include normal pregnancies)

	Year	Operation or Illness	Name of Hospital	City and State
1st Hospitalization	<u>1986</u>	<u>T & A</u>	<u>St. E's</u>	
2nd Hospitalization				
3rd Hospitalization				
4th Hospitalization				

Tests and Immunizations: Mark an X next to those that you have had. Enter the year when you last were given the tests or "shots."

- | Year | Year |
|--|--|
| <input type="checkbox"/> 19__ chest x-ray | <input type="checkbox"/> 19__ mammogram |
| <input type="checkbox"/> 19__ kidney x-ray | <input checked="" type="checkbox"/> tetanus "shots" |
| <input type="checkbox"/> 19__ G.I. series | <input checked="" type="checkbox"/> 19 <u>87</u> polio series |
| <input type="checkbox"/> 19__ colon x-ray | <input type="checkbox"/> 19 <u>84</u> typhoid "shots" |
| <input type="checkbox"/> 19__ gallbladder x-ray | <input type="checkbox"/> 19__ flu injections |
| <input type="checkbox"/> 19__ electrocardiogram | <input checked="" type="checkbox"/> 19 <u>73</u> mumps "shots" |
| <input checked="" type="checkbox"/> 19 <u>87</u> TB test | <input checked="" type="checkbox"/> 19 <u>68</u> measles "shots" |
| <input type="checkbox"/> 19__ sigmoidoscopy | <input checked="" type="checkbox"/> 19 <u>70</u> Rubella |

Medicines: Mark an X in the box next to any medicines that you are now taking, or that you are sensitive or allergic to.

- | taking | to: | taking | to: |
|--------------------------|--|--------------------------|---------------------------------------|
| <input type="checkbox"/> | <input type="checkbox"/> antibiotics | <input type="checkbox"/> | <input type="checkbox"/> aspirin |
| <input type="checkbox"/> | <input type="checkbox"/> penicillin | <input type="checkbox"/> | <input type="checkbox"/> diet pills |
| <input type="checkbox"/> | <input type="checkbox"/> sulfa | <input type="checkbox"/> | <input type="checkbox"/> antacids |
| <input type="checkbox"/> | <input type="checkbox"/> opiates/codeine | <input type="checkbox"/> | <input type="checkbox"/> laxatives |
| <input type="checkbox"/> | <input type="checkbox"/> diuretics/water pills | <input type="checkbox"/> | <input type="checkbox"/> cold tablets |
| <input type="checkbox"/> | <input type="checkbox"/> sedatives | <input type="checkbox"/> | |
| <input type="checkbox"/> | <input type="checkbox"/> stimulants/caffeine | <input type="checkbox"/> | <u>None</u> |
| <input type="checkbox"/> | <input type="checkbox"/> Demerol | <input type="checkbox"/> | |
| <input type="checkbox"/> | <input type="checkbox"/> blood pressure medicine | <input type="checkbox"/> | |

Your Signature

David Paul Gonda

5/26/88

CONTINUE TO NEXT PAGE

HEAD and NECK

92. ☒ frequent headaches *throbbing*
93. ☐ neck pains *& ASA*
94. ☐ neck lumps or swelling

EYES

95. ☐ wears glasses
96. ☒ blurry vision ✓
97. ☐ eyesight worsening
98. ☐ sees double
99. ☒ sees halo ✓
00. ☐ eye pains or itching
01. ☐ watering eyes
02. ☐ eye trouble

EARS

03. ☐ hearing difficulties *vibration left*
04. ☐ earaches *ear at times*
05. ☐ running ears
06. ☐ buzzing in ears
07. ☒ motion sickness ✓

MOUTH

08. ☐ dental problems
09. ☐ swellings on gums or jaws
10. ☐ sore tongue
11. ☐ taste changes

NOSE and THROAT

12. ☐ congested nose
13. ☒ running nose
14. ☐ sneezing spells
15. ☐ headcolds
16. ☐ nose bleeds
17. ☐ sore throat
18. ☐ enlarged tonsils
19. ☐ hoarse voice

RESPIRATORY

20. ☐ wheezes or gasps
21. ☐ coughing spells
22. ☐ coughs up phlegm
23. ☐ coughed up blood
24. ☐ chest colds
25. ☐ more sweating, night sweats

CARDIOVASCULAR

26. ☐ high blood pressure
27. ☒ racing heart ✓ *only at rest*
28. ☐ chest pains *new exercise*
29. ☐ dizzy spells *sharp rather than Tech*
30. ☐ shortness of breath
31. ☐ shortness of breath at night
32. ☐ more pillows to breathe
33. ☐ swollen feet or ankles
34. ☐ leg cramps
35. ☐ heart murmur

DIGESTIVE

- heartburn _____ 49.
bloated stomach _____ 50.
belching _____ 51.
stomach pains _____ 52.
nausea _____ 53.
vomited blood _____ 54.
difficulty swallowing _____ 55.
constipation _____ 56.
loose bowels _____ 57.
black stools ☒ 58. *4x/week*
grey stools _____ 59. *bloated*
pain in rectum _____ 60. *streaky*
rectal bleeding ☒ 61.

URINARY

- nightfrequency _____ 62.
day frequency _____ 63.
wets pants or bed _____ 64.
burning on urination _____ 65.
brown, black or bloody urine _____ 66.
difficulty starting urine _____ 67.
urgency _____ 68.

MALE GENITAL

- weak urine stream _____ 69.
prostate trouble _____ 70.
burning or discharge _____ 71.
lumps on testicles _____ 72.
painful testicles _____ 73.

FEMALE GENITAL

- last menstrual period 1/1 74.
post-menopausal or hysterectomy _____ 75.
noticed vaginal bleeding _____ 76.
abnormal LMP _____ 77.
heavy bleeding during periods _____ 78.
bleeding between periods _____ 79.
bleeding after intercourse _____ 80.
recent vaginal itching/discharge _____ 81.
no monthly breast exam _____ 82.
lump or pain in breasts _____ 83.
complications with birth control _____ 84.
last Pap test 1 85.

OBSTETRIC HISTORY

- gravida _____ 86.
para _____ 87.
pre-term _____ 88.
miscarriages _____ 89.
still births _____ 90.
has had an abortion _____ 91.

MUSCULOSKELETAL

1. ☒ aching muscles or joints
2. ☐ swollen joints
3. ☒ back or shoulder pains *stiff*
4. ☐ painful feet
5. ☐ handicapped

SKIN

6. ☐ skin problems
7. ☐ itching or burning skin
8. ☐ bleeds easily
9. ☐ bruises easily

NEUROLOGICAL

10. ☐ faintness
11. ☐ numbness
12. ☐ convulsions
13. ☐ change in handwriting
14. ☒ trembles

MOOD

15. ☒ nervous with strangers
16. ☒ difficulty in making decisions
17. ☐ lack of concentration or memory
18. ☒ lonely or depressed
19. ☐ cries often
20. ☐ hopeless outlook
21. ☒ difficulty relaxing
22. ☒ worries a lot
23. ☐ frightening dreams or thoughts
24. ☒ shy or sensitive
25. ☒ dislikes criticism
26. ☐ loses temper
27. ☐ annoyed by little things
28. ☐ work or family problems
29. ☐ sexual difficulties
30. ☐ considered suicide
31. ☐ desired psychiatric help

GENERAL

32. ☐ gained/lost more than 10 pounds
33. ☒ tends to be too hot or cold
34. ☒ loss of interest in eating
35. ☒ always hungry ✓
36. ☐ more thirsty lately
37. ☐ armpits or groin swelling
38. ☐ exhausted or fatigued
39. ☐ sleeping difficulties
40. ☐ exercises less than 3 times per week
41. ☐ cigarettes _____ cigars/pipes ☒ don't smoke
42. ☐ two or more alcoholic drinks per day
43. ☐ over 6 cups of coffee/tea per day
44. ☒ uses sleeping pills, marijuana, tranquilizers
45. ☐ has used hard drugs
46. ☐ drives vehicle over 25,000 miles per year
47. ☒ never _____ sometimes _____ always wears seat belts
48. ☒ *2NE* visited in the last 6 months

Special problems or symptoms: _____

Patient's Signature: David P. Jones

DATE

SUBJECTIVE - OBJECTIVE - ASSESSMENT - PLAN

Date of message 1 / 10		Time of message 10:00		for Dr.		Physician's orders/Followup action									
Caller DOROTHY		Relation to pt. MOTHER		Pt. name DAVID		Age		I called							
Message MRS GONDA WANTS TO TALK TO YOU ABOUT PROBLEM SONS HEART SOUNDS VERY CONCERNED															
Caller's phone no. 788-1964		Call back at: AM PM		Pt Chart No.		Initials		Call back? Yes <input type="checkbox"/> No <input type="checkbox"/>		Chart slip? Yes <input type="checkbox"/> No <input type="checkbox"/>		Followup Completed S: AM PM		Initials	

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Nagy-Baker Court Reporting, Inc.
26 Market Street, Suite 810
Youngstown, OH 44503
(330) 746-7479

March 31, 1998

Thomas J. Travers, Jr., Attorney at Law
Manchester, Bennett, Powers & Ullman
Atrium Level Two - The Commerce Building
Youngstown, OH 44503

Re: Gonda vs. Ruiz, et al

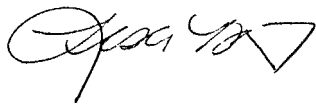
Dear Attorney Travers:

Please find enclosed a notary certificate to be attached to your transcript of the deposition of Dr. Juan Ruiz taken in the above case.

These pages may now be attached to your transcript.

Thank you for your time and consideration in this matter.

Sincerely,



Lisa C. Baker

Enclosures

cc: All counsel

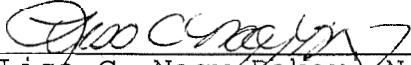
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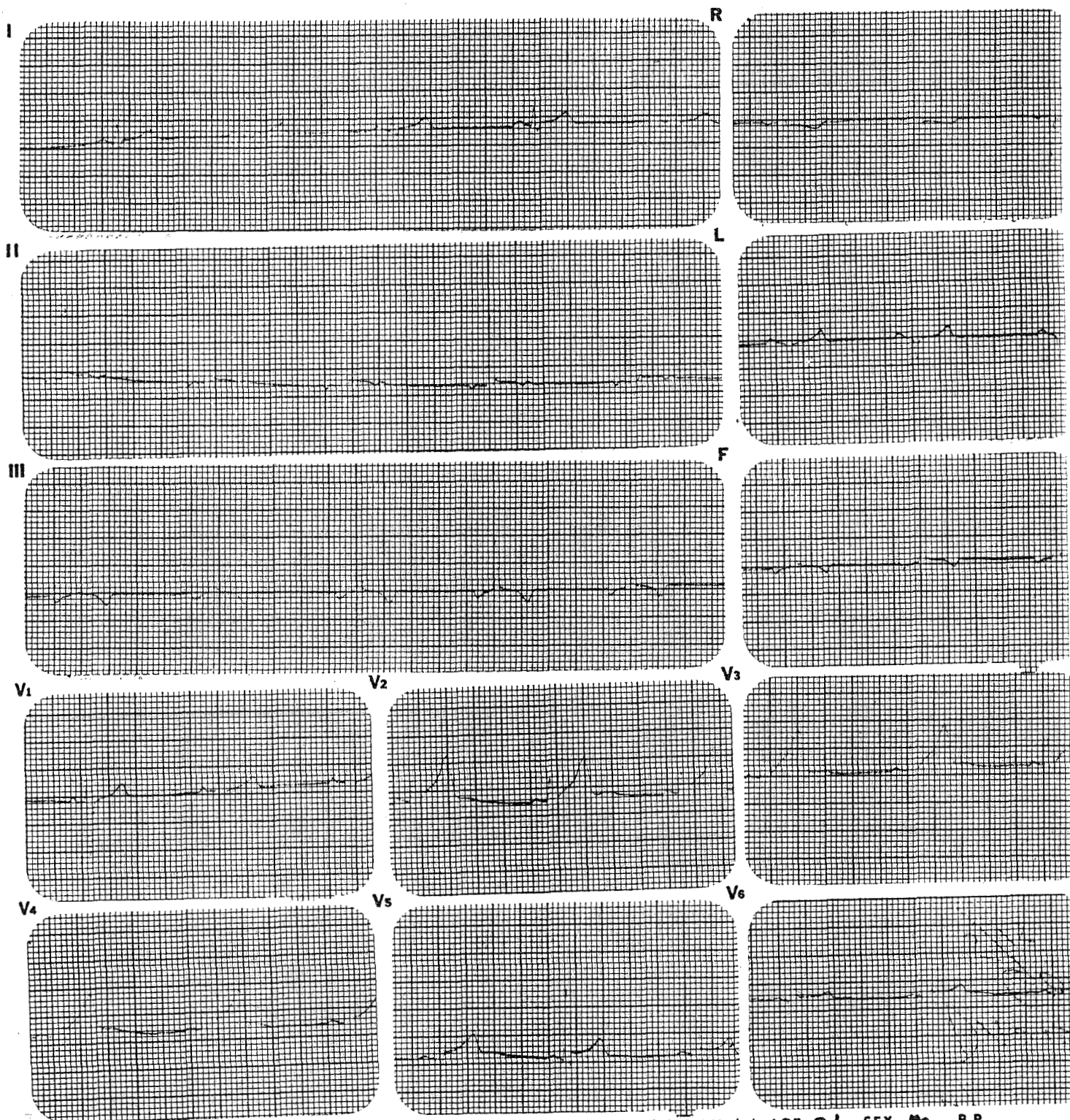
1 STATE OF OHIO)
2 MAHONING COUNTY) SS: CERTIFICATE

3
4 I, Lisa C. Nagy-Baker, Notary Public with
5 the State and County aforesaid, duly commissioned and
6 qualified, do hereby certify that the above-named, DR. JUAN
7 RUIZ, was by me first duly sworn to testify the truth, the
8 whole truth, and nothing but the truth, and that the
9 foregoing deposition was written by me in stenotype in the
10 presence of the witness; that by the failure of the witness
11 to read and sign his deposition within seven (7) days of
12 its submission to him, signature was waived.

13
14 I do further certify that I am not of
15 counsel, attorney or relative to either party, or otherwise
16 interested in the event of this action or proceeding.

17
18 IN WITNESS WHEREOF, I have hereunto set
19 my hand and seal of office at Youngstown, Ohio, this 31st
20 Day of March, A.D., 1998.

21
22 
23 Lisa C. Nagy-Baker, Notary Public
24 My Commission Expires 12/12/98
25



CLIN. DIAG.: asymptomatic- Pre-employment

ECG DESCRIPTION:

INTERPRETATION: Low atrial rhythm -
Early repolarization -
wide QRS-T angle

DIG. () QUIN. () AGE 21 SEX M B.P.

ECG REQUEST BY
ATR. RATE 56-58 VENTR. RATE 58-58
INTERVALS: P-R 0.13" QRS 0.08" QTc
AXIS: +85° AT = -30°
RHYTHM: Low atrial rhythm

PATIENT: David Gonda

INTERPRETED BY Juan A. Puyano
DATE: 5/15/80

INTERPRETATION

S. Tachycardia

Increased repolar process (weight 1.10g)

Remnant of juvenile T pattern vs ischemic (doubt)

J. Murgans 6/27/95

PATIENT *Jonida, David*

DOCTOR *J. Murgans*

AGE *27* SEX *M* HGT.

DRUGS

RATE *120* PR *0.24"*

QRS *0.08"* QT *0.28"*

AXIS *+75°*

DATE *6-27-95* ECG. NO.

WGT.

BP

CODE	I	II	III	AVR	AVL	AVF	V1	V2	V3	V4	V5	V6
LEAD GROUP	I	II	III	AVR	AVL	AVF	V1	V2	V3	V4	V5	V6

I II III RLF GAIN
VI THRU V6 GAIN

