

1 State of Ohio,)
2 County of Cuyahoga.) SS:
3 - - -
4 IN THE COURT OF COMMON PLEAS
5 - - -
6 TANYA PEARCY, etc.,)
7 et al.,)
8)
9 Plaintiffs,)
10)
11 vs.)
12)
13)
14 OHIO PERMANENTE MEDICAL)
15)
16)
17 Defendants.)
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13 DEPOSITION OF DEBRA SEABORN, R.N.
14 Thursday, December 17, 1998
15 - - -

16 The deposition of DEBRA SEABORN, R.N., a witness
17 herein, called by counsel on behalf of the
18 plaintiffs for examination under the Ohio Rules of
19 Civil Procedure, taken before me, Kristin
20 A. Beutler, a Registered Professional Reporter and
21 Notary Public in and for the State of Ohio, pursuant
22 to notice, at The Cleveland Clinic Foundation, 9500
23 Euclid Avenue, Cleveland, Ohio, commencing at 2:35
24 p.m., on the day and date above set forth.
25

1 APPEARANCES:

2 On behalf of the Plaintiffs:

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7 On behalf of Defendant Ohio Permanente Medical
8 Group:

9 MARC GROEDEL, ESQ.
10 STEPHEN KREMER, ESQ.
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12 On behalf of Defendant The Cleveland Clinic
13 Foundation:

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15 The 113 St. Clair Building
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16 (216) 687-1311

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DEBRA SEABORN, R.N.

the witness herein, called by counsel on behalf of the plaintiffs for examination under the Rules, having been first duly sworn, as hereinafter certified, was deposed and said as follows:

CROSS-EXAMINATION

BY MR. MISHKIND:

Q. State your name, please.

A. Debra Seaborn.

Q. What is your address, please?

A. 7526 Roselawn Drive, and that's Mentor, 44060.

Q. What is your date of birth, please?

A. 6/15/67.

Q. What is your occupation?

A. Registered nurse.

Q. Who are you employed by?

A. Cleveland Clinic.

Q. What department do you work with?

A. Kaiser emergency department.

Q. Why do you work in the Kaiser emergency department if you're a Cleveland Clinic employee?

A. Kaiser has a contract with The Cleveland Clinic for specialties, and they subcontract

1 their nursing through the Cleveland Clinic.

2 Q. How long have you worked for The Cleveland
3 Clinic?

4 A. Since, it would be March of '95.

5 Q. Where did you work before March of 1995?

6 A. St. Vincent Charity.

7 Q. ER also?

8 A. Correct.

9 Q. What was the ER group name that you were
10 employed by?

11 A. I was employed by St. Vincent Charity.

12 Q. They didn't have a separate corporation?

13 A. The physicians did, but not us.

14 Q. How long did you work at St. Vincent?

15 A. Since 1990.

16 Q. Does that then take us back to when you were
17 in nursing school?

18 A. No, I worked at Lutheran Medical Center in '89
19 and worked two jobs to '93.

20 Q. Did you graduate from nursing school in '89?

21 A. Correct.

22 Q. Do you have a BSN?

23 A. Yes.

24 Q. Where is it from?

25 A. Valparaiso, V-a-l-p-a-r-a-i-s-o, University.

1 Q. Are you married?

2 A. Yes, I am.

3 Q. Is your husband in the medical field?

4 A. No, he's a Cleveland police officer.

5 Q. That's close.

6 Other than Mr. Kelly, who have you talked
7 to, and people in the legal department, who
8 have you talked to about Nikkayla Pearcy's
9 death?

10 A. I spoke with the attorney, what's his name? I
11 spoke with you, I don't know your name.

12 Q. You spoke with Mr. Groedel, the attorney for
13 Kaiser?

14 A. Correct. We were under the impression that
15 Kaiser was representing the nursing staff at
16 that time. And I spoke to Mrs. Svec.

17 Q. When did you speak with Mrs. Svec?

18 A. Over a year ago when everything started. We
19 just spoke for about 10 minutes to go over the
20 case.

21 Q. Tell me about that, that conversation with
22 her.

23 A. Basically, she asked me if I remembered the
24 patient and I said yes, We spoke about what
25 we did in the room in the first few minutes,

1 and then after that we chose that basically
2 that was the extent of the conversation.

3 Q. Who else have you talked to?

4 MR. KELLY: Don't talk about me or
5 legal representation.

6 Q. I've already told you to exclude Mr. Kelly or
7 people in the legal department here at The
8 Cleveland Clinic.

9 You've told me you talked to counsel for
10 Kaiser and you talked about Mrs. Svec.

11 A.- I spoke to one of my girlfriends, Mrs. Coon,
12 who is a registered nurse. She was not
13 involved in the case.

14 Q. Why did you do that?

15 A. Just to feel things out. This is the first
16 deposition I've been in, so to get a feel of
17 what a deposition would be like.

18 Q. Who else did you talk to?

19 A. That's it.

20 Q. What medical literature have you reviewed
21 prior to today's deposition?

22 A. None.

23 Q. What documents have you reviewed?

24 A. The ER chart.

25 Q. Since coming to The Cleveland Clinic, have you

1 worked exclusively in the Kaiser **ER**?

2 A. I worked part-time or availability for the
3 Cleveland Clinic **ER**, and that's it.

4 Q. How close in proximity is the Kaiser **ER** nurses
5 station to the Cleveland Clinic **ER** nurses
6 station?

7 A. They're adjacent, they're within one door of
8 each other, probably 30 feet, 30 yards.

9 Q. Do you know who the emergency room doctor was
10 the evening of Nikkayla's death?

11 A. Dr. Gajdowski.

12 Q. Had you worked with Dr. Gajdowski before?

13 A. Yes, sir.

14 Q. Have you talked to him since this lawsuit or
15 since Nikkayla's death?

16 A. No.

17 Q. Have you seen his deposition?

18 A. No.

19 Q. Did you know he was deposed?

20 A. I heard through legal counsel.

21 Q. Tell me about your conversation with Mr.
22 Groedel, counsel for Kaiser.

23 A. Basically, we discussed my evaluation of the
24 patient and the course of treatment that was
25 taken in the emergency room.

1 Q. That meeting took place at his office?

2 A. In the ER.

3 Q. In the ER here?

4 A. For my convenience.

5 Q. In the Kaiser ER?

6 A. Kaiser ER, in our conference room.

7 Q. And you never represented yourself to Mr.
8 Groedel as an employee of Kaiser, did you?

9 A. No.

10 Q. Do you remember this case?

11 A. Yes.

12 Q. Being that you had been at Kaiser for two
13 months, this probably stands out in your mind?

14 A. Being it was a baby.

15 Q. Have you ever lost a baby before?

16 A. Yes.

17 Q. Before Nikkayla?

18 A. Yes.

19 Q. Do you have training or special certification
20 in pediatric nursing?

21 A. No.

22 Q. Is there such training?

23 A. For pediatric intensive care, yes. I am board
24 certified in emergency nursing, which is a
25 broad spectrum, includes pediatrics during the

1 testing periods.

2 Q. Is there a subspecialty for pediatric
3 emergency room nursing?

4 A. Not that I'm aware of.

5 Q. When did you become board certified?

6 A. I became board certified, it would be -- I
7 recertified in '97, so '95.

8 Q. Do you remember the parents?

9 A. In this situation, yes.

10 Q. In this case?

11 A.- Yes.

12 Q. The record reflects the vital signs were taken
13 at 2215. Do you see that?

14 A. Correct.

15 Q. And this is on a Kaiser Permanente nursing
16 form, correct?

17 A. Correct.

18 Q. Does the record reflect what time the family
19 arrived with the baby?

20 A. The record, the first time she would have any
21 notation would be that time right there. It's
22 a nurse first system, a system where the
23 patient is seen by the nurse before they are
24 seen by registration.

25 Q. That signature of 2215 -- I'm sorry, the

- 1 notation of **2215**, is that your handwriting?
- 2 A. Yes, it is.
- 3 Q. Do you know what time Mr. or Mrs. Pearcy
- 4 walked in the doors with their baby?
- 5 A. **2215.**
- 6 Q. And how is it that you know that?
- 7 A. Because when the patient walked in I was
- 8 sitting at the triage desk. The baby was in
- 9 the mother's arms, and I said, what seems to
- 10 be the problem? I was ready to call my next
- 11 patient that I already had signed in. And she
- 12 said, my baby's not breathing right. So I
- 13 took that as a priority and saw the patient
- 14 immediately.
- 15 Q. Did mom seem to be -- strike that.
- 16 Describe for me how you assessed mom, how
- 17 did she appear to you?
- 18 A. Very calm, came in and said, my baby's not
- 19 breathing right. Brought her back to the
- 20 triage desk, office, excuse me, and I started
- 21 asking questions. It was very matter of fact.
- 22 Q. Was dad with mom?
- 23 A. No.
- 24 Q. Did anyone else come in the door with mom and
- 25 baby at that time?

1 A. Not that I can recall.

2 Q. Describe mom.

3 A. Mom was -- age-wise and everything?

4 Q. Physical appearance, age-wise as well.

5 A. She was probably about five seven, black
6 female, medium built. I couldn't fathom a
7 guess on the age.

8 Q. Was she a heavy-set woman or thin woman?

9 A. Looked like she was postpartum, like she just
10 had a baby; a little heavy, but it doesn't
11 look like she was an obese woman, no.

12 Q. And she seemed calm to you?

13 A. Correct.

14 Q. Is there a TV in the waiting room?

15 A. Yes, there is.

16 Q. When mom would have walked in, would she have
17 walked into what is considered to be the
18 waiting room area?

19 A. Yes.

20 Q. Then you're at a desk --

21 A. Yes.

22 Q. -- that has access to the waiting room?

23 A. I'm at a desk that's actually in the waiting
24 room facing the front doors. Basically, it's
25 like a broad spectrum, where you can see the

1 doors and the waiting room at the same time.

2 Q. Would it be much trouble if I ask you to take
3 a piece of paper, can you just draw out for me
4 roughly where the entrance door is --

5 A. Sure.

6 Q. -- where the waiting room area is, and then
7 where you would be at that time?

8 What we're going to do is go off the
9 record and then you can talk as much as you
10 want to off the record. But draw that and
11 then I'll have you explain it back on the
12 record.

13 (Plaintiffs' Exhibit 1 marked.)

14 Q. Plaintiffs' Deposition Exhibit 1 is the
15 drawing that you have made for me that shows
16 the layout of the emergency room, correct?

17 A. The waiting room, correct.

18 Q. **And** this is the Kaiser emergency room waiting
19 room?

20 A. Correct.

21 Q. There is an area that you have that shows
22 "triage," is that where you were?

23 A. Yes.

24 Q. So you would have been sitting at a desk in
25 the triage area?

1 A. I was standing, actually, right here
2 (indicating).

3 Q. And why would you have been standing?

4 A. This is an office. And to come out, people at
5 that time, now it's redesigned, but at that
6 time there was a clipboard here --

7 Q. Right by the --

8 A. Registration. And they would sign in. That's
9 when you take your patient's, the next
10 patient's name.

11 I was standing over there to get the next
12 patient's name when I looked up to see the
13 patient walking through.

14 Q. Were you standing behind the registration
15 desk?

16 A. This is actually a doorway. For privacy sake
17 they have a separate exam room.

18 Q. Were you standing out in the lobby area or
19 within that examining area?

20 A. The lobby.

21 Q. With the intent of going around to the front
22 of the registration desk to look see who the
23 next person was?

24 A. Correct.

25 Q. Did you actually see Mrs. Pearcy walk in the

1 door with the baby?

2 A. Yes.

3 Q. And she would have come from the area where
4 you have "entrance"?

5 A. Yes.

6 Q. Then the area that you ultimately would have
7 taken her and her baby back to would be
8 located where?

9 A. The triage exam room.

10 Q. After you were done with the triage, where was
11 she taken?

12 A. She was taken directly back to the emergency
13 department in Exam Room B.

14 Q. On this document, where will the emergency
15 room exam room be located?

16 A. There's a hallway here, then you walk through
17 a doorway here, Exam Room B is here
18 (indicating).

19 Q. If you could perhaps just place an arrow in
20 the path or the direction that you would be
21 going to Exam Room B.

22 A. Sure.

23 Q. Your arrow stops before the bottom of the
24 page, but in actuality the rooms are off this
25 page?

- 1 A. Off page, correct.
- 2 Q. She was in Exam Room B?
- 3 A. Uh-huh.
- 4 Q. How many exam rooms are there in the Kaiser
- 5 acute care area?
- 6 A. Fourteen.
- 7 Q. There's another area off the Kaiser emergency
- 8 room as well, correct?
- 9 A. At that time there was, yes.
- 10 Q. What was that called?
- 11 A.- The express department.
- 12 Q. Has that since been closed?
- 13 A. Yes.
- 14 Q. How many rooms were there in the express
- 15 department?
- 16 A. Normally they would run what's called one pod.
- 17 We have three pods. Normally have one pod,
- 18 and that has five exam rooms.
- 19 Q. At the time that Mrs. Pearcy came in at **10:15**
- 20 on May 29th, was the express care open?
- 21 A. Yes.
- 22 Q. How many nurses were working in the emergency
- 23 room that evening?
- 24 A. I don't know.
- 25 Q. Obviously, you and **Mrs.** Svec were there?

1 A. Correct.

2 Q. Do you know whether there were other nurses as
3 well?

4 A. Yes.

5 Q. Were there patients waiting in the lobby area?

6 A. Yes.

7 Q. And I take it there is a TV on someplace. The
8 TV is in the area where it says TV, right?

9 Did Mr. Pearcy, the dad, come in while
10 mom was with you and the baby in triage?

11 A. Not that I'm aware of.

12 Q. Do you know when it was that Mr. Pearcy
13 arrived?

14 A. No, I don't.

15 Q. Do you know whether Mr. Pearcy ever arrived?

16 A. He was there after we pronounced the baby.

17 Q. Do you know when before she died, the baby
18 died, that dad arrived?

19 A. Not that I'm aware of.

20 Q. Did other family members arrive during the
21 course of the evening?

22 A. Not that I can recall.

23 Q. Is it your testimony that no other family
24 members did arrive, or you just don't remember
25 one way or another?

1 A. I don't remember family members. I do
2 remember church members arriving after the
3 baby had died.

4 Q. After the baby had already died?

5 A. That's the only time I can recall having
6 anyone else in the room.

7 Q. When you say church member, what are you
8 talking about?

9 A. I don't know their religion, it was two
10 gentlemen with collars.

11 Q. A member of the clergy?

12 A. Yes.

13 Q. And there was two?

14 A. Two.

15 Q. And as to whether there were other people that
16 came in, you just don't have any recollection?

17 A. Correct.

18 Q. Did Mrs. Percy have to sign in on the
19 registration sheet?

20 A. No.

21 Q. So other than your notation of 2215 for the
22 vital signs, and your testimony that you
remember her coming in the door holding the
baby, there is nothing else that would
indicate the precise time that she physically

- 1 walked in the door?
- 2 A. No.
- 3 Q. Is that correct?
- 4 A. Correct.
- 5 Q. There's no registration form, per se, other
- 6 than what she might have gotten to had she
- 7 made it to the registration list?
- 8 A. Right.
- 9 Q. You took the vital signs in triage?
- 10 A. Everything except for the temperature.
- 11 Q. When did you take the temperature?
- 12 A. After we had taken her back to the treatment
- 13 area.
- 14 Q. 96.8, correct?
- 15 A. Correct.
- 16 Q. And how was that taken?
- 17 A. I did not take it, that's not my handwriting.
- 18 Q. What is that?
- 19 A. That's rectal. No, I'm sorry, I can't make it
- 20 out.
- 21 Q. Who took the temperature?
- 22 A. I don't know.
- 23 Q. Why didn't you take the temperature in the
- 24 triage?
- 25 A. It wasn't a priority.

1 Q. What was it about the vital signs that lowered
2 the priority of the temperature?

3 A. It was the respirations of 60, but it was
4 basically the examination. The child was
5 retracting, which means that the ribs were
6 showing when the baby would take a deep
7 breath. That's a sign of respiratory
8 distress. That made it a priority to bring
9 her right back.

10 Q. Did you ever obtain more of a history from mom
11 or from any family members as to the onset of
12 symptoms beyond what you have written under
13 the chief complaint?

14 A. Right below there's a triage note, and that's
15 my assessment. That's where I had a brief
16 history of an acute onset of shortness of
17 breath between 15 and 20 minutes.

18 Q. Prior to arrival?

19 A. Correct.

20 Q. Did you inquire any further **as** to how long, if
21 at all, the baby had been sick before this
22 acute onset?

23 A. No.

24 Q. Do you normally inquire?

25 A. If time permits.

- 1 Q. Did you ever attempt to go back and elicit any
2 further history from mom at all during the
3 course of the evening?
- 4 A. No.
- 5 Q. Whose decision was it to take the baby
6 directly to Room B?
- 7 A. Mine.
- 8 Q. You had no interaction at that point with
9 Dr. --
- 10 A. Gajdowski. Before bringing the baby back?
- 11 Q. Correct.
- 12 A. Besides taking other patients brought back,
13 no.
- 14 Q. Do you remember how busy the emergency room
15 was that evening?
- 16 A. I would consider it moderate.
- 17 Q. Tell me, when you say that, how many people
18 were waiting in the lobby?
- 19 A. To my recollection, it would be maybe three or
20 four people waiting, with a few people waiting
21 to be seen by me.
- 22 Q. Three or four people waiting to be --
- 23 A. Triaged.
- 24 Q. And three or four people waiting to be taken
25 back to an exam room or express after already

1 having been triaged?

2 A. Correct.

3 Q. Was there a unit secretary that would have
4 been at the registration desk?

5 A. Unit secretaries are in the back with the
6 treatment. We do have a registration clerk.

7 Q. Would there have been a registration clerk?

8 A. Yes.

9 Q. Do you remember who that registration clerk
10 was?

11 A. No, I don't.

12 Q. Who besides yourself would have taken the
13 temperature?

14 A. Mrs. Svec, she was the next person to take
15 care of the baby.

16 Q. Are there any other possibilities in terms of
17 who would have taken the temperature?

18 A. Someone who would assist Mrs. Svec, such as a
19 PCT, which is a patient care technician.

20 Q. Do you have any recollection of any patient
21 care technicians being involved while you were
22 involved in the triage and whatever else you
23 did?

24 A. No.

25 Q. There's a section for labs and then a bunch of

1 blocks next to that. Do you see that?

2 A. Yes.

3 Q. Is that something that would be checked off
4 based upon a physician's order?

5 A. No.

6 Q. When would something be checked off?

7 A. This is when a triage nurse tries to expedite
8 care; and if a patient needs to wait out
9 front, you could sit there and check off what
10 was done while the patient was waiting, such
11 as a urinalysis, pregnancy test, or things
12 like that, or if you sent someone down for an
13 x-ray.

14 Q. Do you have a glucometer in the emergency
15 room?

16 A. Yes.

17 Q. Why did you circle Acute 3?

18 A. Acute 3 is the emergent cases. You basically
19 do 1 for sore throats or nonurgent; number 2
20 is urgent; 3 is emergent, which means the
21 patient needs to be seen immediately.

22 Q. So you took mom and baby back to Examining
23 Room B. And then when did the doctor first
24 come in?

25 A. Dr. Gajdowski came in, I couldn't tell you

1 exactly the time, it was roughly after I gave
2 the initial epinephrine, which would have been
3 2225.

4 Q. Why did you give epinephrine?

5 A. I obtained a verbal order from Dr. Gajdowski.

6 Q. What did you tell Dr. G?

7 A. Dr. G, I presented the case, I said I had a
8 three-week-old that was short of breath, gave
9 vital signs. He said, go ahead and give
10 epinephrine, and he came in within a few
11 minutes.

12 Q. You gave the epinephrine at 2225?

13 A. Correct.

14 Q. And Dr. G then is in at 2230, correct?

15 A. I couldn't tell you for sure if it was 2230.

16 Q. The first note -- strike that.

17 Is that your handwriting of 2230?

18 A. 2230, the vital signs are my handwriting, the
19 nurses notes are not.

20 Q. Do you know whose handwriting the nurses notes
21 are?

22 A. It appears to be Mrs. Svec's.

23 Q. Was the nurses note of Mrs. Svec likely
24 written before or after the vital signs that
25 you wrote at 22301

1 A. I couldn't tell you, I don't know.

2 Q. Do you have any further entries in the record?

3 A. I don't believe so. No.

4 Q. Why did you record the pulse and the
5 respiration at 2230?

6 A. Documentation after giving epinephrine has to
7 be within five minutes to see if you have any
8 type of response from your medications.

9 Q. What did you do after noting the vital signs?

10 A. I went back to triage.

11 Q. So you would have been back in the lobby area?

12 A. Correct.

13 Q. Do you recall what Dr. G had been doing back
14 in the treatment area when you first presented
15 the case to him?

16 A. No, I don't.

17 Q. Do you recall what other emergencies were
18 being attended to back in the treatment area?

19 A. Particulars, no.

20 Q. Do you remember the subject matter of the
21 medical conditions that were being treated?

22 A. No, I couldn't tell you right now.

23 Q. Were there patients back in the treatment
24 area?

25 A. Yes.

1 Q. I'm sorry, I forgot how many examining rooms.

2 A. There is 14.

3 Q. Tell me roughly how many of those 14 rooms
4 were occupied with patients at that time.

5 A. An educated guess would be at least 8 out of
6 the 14.

7 Q. Were any of them pediatric cases?

8 A. I can't remember.

9 Q. Since you had been at The Cleveland Clinic --
10 strike that.

11 Since you had been working in the Kaiser
12 emergency room at The Cleveland Clinic, had
13 you had a situation where you triaged a
14 neonate in respiratory distress?

15 MR. KELLY: Objection. One thing I
16 want to make sure you don't do is, don't
17 give him any other patients' names,
18 because those patients, their records are
19 all privileged. But you can answer his
20 question in general without talking about
21 names.

22 A. Prior to Nikkayla?

23 Q. Yes, ma'am.

24 A. Not that I can recall.

25 Q. Do you recall working with Dr. G prior to

1 Nikkayla with regard to the triage or the
2 actual nursing care of a neonate?

3 A. Not that I can recall.

4 Q. The record reflects that there was someone
5 from anesthesia that came down or that was at
6 bedside at 11:34, and I know that this is not
7 your note, but do you know who from
8 anesthesia?

9 A. No, I don't.

10 Q. Can you tell me whose initials those are at
11 the 11:34 note?

12 A. No, I can't make it out.

13 Q. You went back to triage and, I presume,
14 triaged?

15 A. Correct.

16 Q. And you then would have been accessible to
17 people coming into the waiting room, including
18 any family members from the Percy family?

19 A. Correct.

20 Q. And you don't have any recollection until the
21 time of the baby's death of having any contact
22 with **Mr.** Percy, correct?

23 A. Correct.

24 Q. Can you describe **Mr.** Percy?

25 A. **No**, I can't,

1 Q. Were you asked to assist in any way in the
2 hands-on care of Nikkayla after 2230?

3 A. Yes.

4 Q. In what respect?

5 A. I facilitated the primary nursing care by
6 getting medications, making a phone call to
7 the pediatric ICU for more assistance.

8 Q. The primary nurse being who?

9 A. 11:15, that would have changed from Mrs. Svec
10 to Mr. Buchta.

11 Q. And would it have been Mr. Buchta that you
12 were assisting, providing medication to?

13 A. Correct.

14 Q. So you would have gone back into the examining
15 room?

16 A. Several times, correct.

17 Q. Were you back in the examining room based upon
18 the record?

19 A. There's no record of me entering the room
20 again.

21 Q. Well, how do you know then that you assisted
22 Mr. Buchta with obtaining medication?

23 A. I don't understand.

24 MR. KELLY: He's asking do you
25 remember it.

1 A. I remember, I remember going in and getting
2 things, such as other equipment and
3 medications.

4 Q. What other equipment?

5 A. Additional butterfly needle, angiocaths, the
6 additional stat cart. It's the cardiac cart
7 for emergencies.

8 Q. Where was that located?

9 A. The second one is on the other side of the ER,
10 across from B, but you have to go around the
11 corner.

12 Q. What was on that second cart that wasn't
13 available on the first cart?

14 A. The second cart had additional supplies. They
15 apparently had used the supplies on the first
16 cart.

17 Q. Did the room itself have an inventory of
18 endotracheal tubes?

19 MR. GROEDEL: Which room are you
20 referring to?

21 Q. B.

22 A. No.

23 Q. Where would the endotracheal tubes have been?

24 A. On the stat cart,

25 Q. The carts, are they all the same in terms of

1 the equipment that's on there?

2 A. Yes.

3 Q. So that there's a variety of sizes of
4 endotracheal tubes, but the variety of sizes
5 are uniform from one cart to the next?

6 A. Everything is uniform, yes.

7 Q. Whose responsibility is it to stock, if you
8 will, the cart with the equipment?

9 A. Charge nurse. If it's locked, then the
10 stocking doesn't occur until after a code or a
11 situation arises, and then they replace
12 everything that they had used.

13 Q. That charge nurse is a Cleveland Clinic
14 Foundation employee?

15 A. Yes, sir.

16 Q. Do you have any reason to believe that the
17 cart that was in the room, the first cart, had
18 any less equipment on it than the second cart?

19 A. No.

20 Q. Do you know approximately when it was that you
21 would have been asked to get the second cart?

22 A. I can't tell you a particular time. I know it
23 was after 11:30.

24 Q. Do you know what it was that wasn't already
25 available or had already been used from the

1 first cart that required the second cart to be
2 obtained?

3 A. No.

4 Q. Did Mr. Buchta page you, or how is it that he
5 got your attention to get the cart?

6 A. I was in the treatment area at that time,
7 triaging. At the time, I was in triage until
8 11:30, then I came back to take over a patient
9 assignment, so I was in that area. He called
10 for the second stat cart, I pushed the stat
11 cart over, and then I had to take care of
12 another patient.

13 Q. What room were you in in relation to B?

14 A. I was probably in C or D, within that area.

15 Q. Do you remember the nature of the emergency
16 that you were attending to?

17 A. No, I don't.

18 Q. Did anyone at any time call you in to
19 physically assist in any aspect of
20 administration of medication or attempted IV
21 access?

22 A. No.

23 Q. Did you know that they were having difficulty
24 obtaining IV access?

25 A. Initially when I brought the patient back I

1 attempted IV access with Mrs. Svec. That's
2 before I gave the epinephrine. Then after
3 that I don't know if they had a hard time or
4 not.

5 Q. You don't record anywhere on here that you --

6 A. No, I didn't.

7 Q. -- that you attempted IV access?

8 A. No, I did not.

9 Q. Why is that?

10 A. This was when she first arrived. A few things
11 were happening at the same time. Mrs. Svec
12 and I were giving Nikkayla some oxygen, we
13 were trying to get a pulse oximetry. I cannot
14 recall which one started trying to get IV
15 access. And when we had failed, that's when I
16 went to get an order for the epinephrine.
17 That happened within seconds, minutes.

18 Q. I take it that the temperature would have been
19 recorded at or around that time as well?

20 A. Correct.

21 Q. And is that considered to be hypothermic?

22 MR. KELLY: Object.

23 A. I can't tell what way they took the
24 temperature, so I can't tell you.

25 Q. If that is rectal, would that be considered

1 hypothermic?

2 A. Textbook, yes.

3 Q. And what, as a nurse, what can cause a neonate
4 to be hypothermic?

5 **MR. KELLY:** Objection. You can
6 answer.

7 A. Hypothermia can be several reasons. Could be
8 a metabolic disorder. It can be exposure. So
9 there's many reasons for hypothermia.

10 Q. Any indication that the baby had, that there
11 was any exposure issue with regard to the
12 baby?

13 A. No.

14 Q. If it's a metabolic disorder that can cause
15 hypothermia, one of those things would be
16 hypoglycemia?

17 **MR. KELLY:** Objection.

18 **MR. GROEDEL:** Objection.

19 A. It can.

20 Q. And in a neonate, even though you're not a
21 pediatrician or pediatric nurse, per se, you
22 recognize that hypoglycemia is a very common
23 cause of hypothermia in a neonate?

24 **MR. KELLY:** Objection.

 Q. Correct?

1 MR. GROEDEL: Objection.

2 A. No, I don't know that.

3 Q. Did you attempt to ascertain by a glucometer
4 whether the baby was hypoglycemic?

5 A. No.

6 Q. Certainly something you could have done,
7 correct?

8 A. It wasn't a priority.

9 Q. I understand that. But it's something that
10 you could have done?

11 A. It wasn't a priority.

12 Q. That's something that you could have done; yes
13 or no?

14 MR. KELLY: He's asking if you had
15 the capabilities.

16 A. We could do it, we had a glucometer, yes.

17 Q. So somewhere along the line between when you
18 did your triage or the initial vital signs and
19 when you recorded the second set of vital
20 signs, you attempted IV access?

21 A. Yes.

22 Q. And where was the IV access attempted?

23 A. I attempted it antecubital.

24 Q. What happened when you attempted to?

25 A. It wasn't successful, I could not get it.

1 Q. Do you know what it was about the child that
2 caused you to be unable to obtain IV access?

3 A. It's difficult to get an IV access on any
4 three-week-old, so I couldn't tell you for
5 sure.

6 Q. How many attempts did you make?

7 A. I recall two.

8 Q. Both in the same area or in different areas?

9 A. In the same arm, I couldn't tell you if it was
10 hand or antecubital.

11 Q. Is that the extent of your hands-on
12 involvement, actual?

13 A. Yes, sir.

14 Q. Are there administration of medication or
15 attempted initiation of treatment?

16 A. Yes.

17 Q. And after the fact, you didn't create any type
18 of an addendum to reflect your IV access
19 attempts, correct?

20 A. No, I did not.

21 Q. That's certainly something you could have
22 done, correct?

23 A. Yes.

24 Q. Do you know who made the late entry that shows
25 the other physicians that were participating

1 in Nikkayla's treatment, who wrote that?

2 A. I don't recall.

3 Q. Do you know who Dr. Fitch is?

4 A. No, I don't.

5 Q. What about Dr. Valez?

6 A. No.

7 Q. Dr. Sassadi (phonetic)?

8 A. I worked with Dr. Sassadi.

9 Q. What kind of doctor is he?

10 A. I don't know his specialty. He is a fellow
11 within The Cleveland Clinic that has moon-
12 lighted in the past with Kaiser.

13 MR. KELLY: I think he's also known
14 as Safadi (phonetic).

15 Q. Is Dr. Safadi still here at The Cleveland
16 Clinic?

17 A. Not that I'm aware of.

18 Q. Do you know whether he's in the U.S. or
19 outside of the U.S.?

20 A. I have no idea.

21 Q. After going back out and doing the triage, you
22 remember being asked to get the cart, and what
23 else do you remember being asked to do?

24 A. Asked to call **up** to the pediatric intensive
25 care unit.

1 Q. Were you told why?

2 A. To ask for the nurses to come down, the team,
3 the pediatric team, the nursing team.

4 Q. Why?

5 A. To assist.

6 Q. Where is the pediatric nursing team located?

7 A. They would be in the M building.

8 Q. How far is that from the ER?

9 A. The M building is located on 90th and Euclid,
10 and the ER is located on 90th and Cedar.

11 Q. Do you know why you weren't called in to
12 assist?

13 A. I was facilitating the other patients.

14 Q. There were other nurses in the emergency room,
15 correct?

16 A. After 11:30 there's three nurses.

17 Q. So you, Mr. Buchta, and who else?

18 A. Mrs. Ball.

19 Q. Mrs. Ball?

20 A. Ball, B-a-l-l.

21 Q. Did Mrs. Ball participate?

22 A. No.

23 Q. Do you know why you and -- strike that.

24 You told me that you were facilitating
25 other patients. Do you know why Mrs. Ball

1 wasn't called in to assist?

2 A. She had a patient assignment as well as the
3 triage responsibilities.

4 Q. Do you know whether there were any codes or
5 any arrests that were coexisting at the time
6 that this baby was in respiratory distress?

7 A. There was no code going on in the ER.

8 Q. So you were asked to call up and ask for
9 additional nursing personnel --

10 A. Right.

11 Q. -- to come down?

12 A. Correct.

13 Q. How many additional nurses came down?

14 A. I believe there were two or three.

15 Q. Do you know the names of any of them?

16 A. No, I don't.

17 Q. Do you know how long it was before they
18 arrived?

19 A. I don't know.

20 Q. Did you see what they did when they arrived?

21 A. No, I didn't.

22 Q. What else were you asked to do, other than
23 call down for additional nursing help and to
24 get the other cart?

25 A. I can't recall anything else.

1 Q. In looking at the record, does it cause you to
2 remember anything else that you might have
3 done?

4 A. No.

5 Q. Are you familiar with the Broselow/Hinkle
6 Pediatric Emergency System?

7 A. Yes.

8 Q. I am just going to show you Defendants'
9 Exhibit E, which is an information guide with
10 the Broselow/Hinkle Pediatric System. I'm
11 doing this for your benefit.

12 Was this a system that was followed in
13 the emergency department at Cleveland Clinic
14 Foundation back in 1995?

15 MR. KELLY: Objection. She didn't
16 work in The Cleveland Clinic Foundation
17 emergency department.

18 MR. MISHKIND: I'm asking her.

19 MR. KELLY: And I want to make sure
20 she understands you're asking about the
21 Cleveland Clinic ER, not the Kaiser ER.

22 A. I'm not familiar with The Cleveland Clinic's.

23 Q. So what about Kaiser?

24 A. Kaiser did not have it at the time, that I'm
25 aware of.

1 Q. This was something that was known about back
2 in 1995, correct?

3 A. Correct.

4 Q. That was being used by other emergency rooms?

5 A. Correct.

6 Q. Do you know why Kaiser didn't have the system?

7 MR. GROEDEL: Objection.

8 Q. Do you know of any reason why Kaiser couldn't
9 have had this system in effect?

10 MR. GROEDEL: Objection.

11 MR. KELLY: Objection.

12 A. I don't know.

13 Q. When did you first become aware of the code
14 being called?

15 A. I became aware of it with mother's response.
16 The mother was within the hallway and the
17 treatment room, and when the mother cried,
18 started screaming, is when I realized that the
19 code had been called.

20 Q. Did mom stay back by the examining room
21 throughout all of what was going on?

22 A. To my recollection, yes.

23 Q. Did you see anyone else ever escort her back
24 out to the waiting area?

25 A. I cannot recall that.

Q. Did you have any conversation with Dr. Siker,
the pediatric anesthesiologist, when he
arrived around midnight?

A. No, I did not.

Q. Do you know who it was that called him at
home?

A. I do not know.

Q. Did you know that somebody called him at home?

A. No.

Q. Did you know that someone was calling outside
of The Cleveland Clinic building for
assistance?

A. No.

Q. You weren't asked to do that, were you?

A. No, I wasn't.

Q. What about Dr. G, where was he throughout this
entire time, was he in with the baby?

MR. GROEDEL: Objection.

A. My best recollection is that he was with the
baby.

Q. After 11:30, you were done triaging, and you
were back in the treatment area, correct?

A. Correct.

Q. And you would have been able to see what was
going on in the treatment area, or you were at

1 least in close proximity to Examining Room B,
2 correct?

3 A. Correct.

4 Q. Do you recall seeing Dr. G out of the
5 treatment area Examining Room B for any length
6 of time?

7 A. No, I do not recall that.

8 Q. Is it your recollection from what you can
9 recall that Dr. G was in the treatment area
10 Room B throughout most of the time after
11 11:30?

12 A. Yes.

13 Q. Do you recall who else by way of physicians
14 came into the treatment area after 11:30?

15 A. No, I don't.

16 Q. After the baby died, did you have
17 conversations with Dr. G?

18 A. No, I did not.

19 Q. I'm sure that everyone was teary-eyed or sad
20 about the occurrence, aside from the family,
21 the care givers?

22 A. Yes.

23 Q. Did you talk with anyone at that point about
24 what was done or what wasn't done, or anything
25 of that nature?

1 A. No.

2 Q. Did you talk with the nurses that were
3 involved?

4 A. No.

5 Q. When I say talk, I mean that evening going
6 into the early morning hours, after the baby
7 has been pronounced, do you remember having
8 any conversation with anyone, nurses,
9 physicians, about what had transpired?

10 A. No.

11 Q. When you say you don't recall, is it your
12 testimony that you didn't have?

13 A. I did not speak with anyone after the code.

14 Q. What time did you leave?

15 A. I left shortly after the code; I was scheduled
16 till 3:00.

17 Q. Do you remember having any discussion with the
18 family after the baby was pronounced?

19 A. Yes.

20 Q. Tell me about that, please.

21 A. I couldn't tell you how long, probably 10, 15
22 minutes to compose myself, I did go in to give
23 my condolences.

24 Q. Where did you go into?

25 A. The treatment room.

Q. Into Room B?

2 A. Correct.

3 Q. Mom was in there?

4 A. Mom was in there.

5 Q. Who else?

6 A. There were several other people. Some I
7 recognized as clergy, and I could not tell you
8 who the other people were.

9 Q. Tell me about what went on.

10 A. Nikkayla was wrapped up in a very tight
11 blanket, she was laying on the cart. Mom and
12 several other people were sitting around the
13 cart having a conversation, almost -- they
14 were laughing and carrying on. I went in,
15 knelt down, put my hand on Mrs. Percy's knee,
16 and I gave her my condolences. And I
17 basically, knowing she was a very religious
18 person with the clergy being there, I told her
19 that Nikkayla was with Jesus right now.

20 Q. When you went in after the baby had died, it's
21 your testimony that people were laughing?

22 A. Yes.

23 Q. Who was laughing?

24 A. It was a laughter. I could not tell you who
25 it was, it was as I was walking in.

1 Q. Can you say that the laughter was coming from
2 Mrs. Percy?

3 A. I couldn't tell you.

4 Q. Did you find it unusual that there was
5 laughing?

6 A. Yes.

7 Q. Do you know, might the laughing -- were there
8 any personnel in the room at the time?

9 A. No.

10 Q. How long did this laughing go on?

11 A. Just a brief, I couldn't tell you how long.
12 When I walked in the laughter stopped.

13 Q. What else do you remember?

14 A. Mrs. Percy was tearful when I spoke to her,
15 and she said thank you, and then I left.

16 Q. Did you have any further interaction --

17 A. Not that I can --

18 Q. -- with the family or the clergy?

19 A. No.

20 Q. Do you know whether it was the clergy that was
21 laughing?

22 A. I couldn't tell you, no,

23 Q. Are you certain it was laughter?

24 A. Yes.

25 Q. Did you ever write out anything relative to

1 what you had observed that's not recorded in
2 the hospital record?

3 A. No.

4 Q. Did you keep any personal notes of what went
5 on that evening?

6 A. No.

7 Q. Do you normally keep personal notes?

8 A. No, I don't.

9 Q. What did Dr. G tell you about the
10 circumstances that led up to the baby's death?

11 MR. KELLY: Objection.

12 A. Nothing.

13 Q. He's never explained to you?

14 A. No.

15 Q. And you've worked with him since the date of
16 the death?

17 A. Dr. G does not work in The Cleveland Clinic,
18 Kaiser.

19 Q. You've worked with him since the date of his
20 death on one or more occasions?

21 A. Correct.

22 Q. And you never discussed the death?

23 A. No.

24 Q. He never explained to you what happened?

25 A. No.

1 Q. Did anyone ever explain to you why the baby
2 could not be saved?

3 A. No.

4 Q. I take it you don't have an opinion as to why
5 the baby couldn't be saved?

6 A. No. I'd like to know.

7 Q. Why do you say that?

8 A. It's unfortunate a baby died, but my personal
9 opinion is that Nikkayla would have died no
10 matter what interventions were taken.

11 Q.. You're not qualified to give that opinion, are
12 you?

13 A. No, no.

14 Q. Have you told me everything that you can
15 remember about that evening?

16 A. Yes.

17 Q. We covered everything from the moment mom
18 walked in the door until the moment you left
19 the emergency room as it relates to
20 conversations or observations?

21 A. That I can recall, yes.

22 Q. Nothing further.

23 MR. GROEDEL: No questions.

24 MR. KELLY: You have a right to read
25 the deposition transcript to make sure

1 everything that was said was taken down
2 accurately. I recommend you read it just
3 to make sure.

4 - - -

5 (DEPOSITION CONCLUDED)

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DEBRA SEABORN, R.N.

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CERTIFICATE
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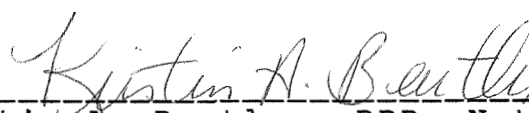
State of Ohio,)
) **ss:**
County of Cuyahoga.)

I, Kristin A. Beutler, RPR, a Notary Public within and for the State of Ohio, duly commissioned and qualified, do hereby certify that the within-named witness, DEBRA SEABORN, R.N., was by me first duly sworn to testify the truth, the whole truth and nothing but the truth in the cause aforesaid; that the testimony then given by her was by me reduced to stenotypy in the presence of said witness, afterwards transcribed, and that the foregoing is a true and correct transcript of the testimony so given by her as aforesaid.

I do further certify that this deposition was taken at the time and place in the foregoing caption specified, and was completed without adjournment.

I do further certify that I am not a relative, employee or attorney of either party, or otherwise interested in the event of this action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office at Cleveland, Ohio, on this 24th day of January, 1999.



Kristin A. Beutler, RPR, Notary Public
in and for the State of Ohio.
My commission expires September 26, 2001
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