

**ORIGINAL**

**COPY**

1 State of Ohio, )  
2 County of Trumbull. ) SS:

4 IN THE COURT OF COMMON PLEAS

6  
7 Thomas W. Monroe, )  
8 Plaintiff, )  
9 vs. ) Case No. 00CV2380  
10 John Maxfield, M.D., et al., ) Judge Kontos  
11 Defendants. )

FILED  
RECORDED  
JAN 24 12 19 PM '02

14 Deposition of Vijaykumar Shah, M.D., a defendant  
15 herein, called by the plaintiff for cross-examination,  
16 pursuant to the Ohio Rules of Civil Procedure, taken  
17 before Constance Versagi, Court Reporter and Notary Public  
18 in and for the State of Ohio, taken at the offices of  
19 Hann, Campbell & Powell, 3737 Embassy Parkway, Akron,  
20 Ohio, on Wednesday, December 19th, 2001, commencing at  
21 4:31 p.m.

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2 On behalf of the Plaintiff:

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17 Cleveland, Ohio 44114  
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1 VIJAYKUMAR SHAH, M.D.  
2 of lawful age, being first duly sworn, as hereinafter  
3 certified, was examined and testified as follows:  
4 CROSS-EXAMINATION  
5 By Ms. Kolis:  
6 Q Dr. Shah, we self-introduced out in the lobby. For  
7 official purposes of the record my name is Donna  
8 Kolis. I've been retained to represent the estate  
9 of Deborah Monroe.  
10 As you are undoubtedly aware, I named you  
11 as a defendant in this lawsuit. My purpose her  
12 today is to go over the medical notes you prepared  
13 regarding your care and treatment of Miss Monroe.  
14 Additionally I'm going to see if there is  
15 anything that doesn't appear in the record that you  
16 may or may not remember.  
17 Is this the first time you've given a  
18 deposition?  
19 A Yes, first time.  
20 Q The rules are pretty straight forward. I'm going  
21 to ask questions that hopefully you understand. If  
22 I ask a question, you don't understand what I'm  
23 asking, it's probably my fault, so you need to  
24 indicate that you don't understand what I'm  
25 asking. Can I secure that agreement from you?

1 A Sure.

2 Q Although we're being rather informal today, do you  
3 understand you are under oath in this proceeding  
4 just as if you are in a court of law?

5 A Okay.

6 Q Additionally, our court reporter today doesn't like  
7 body language. When I ask a question you have to  
8 say yes, no, or a complete sentence. Shakes or  
9 nods won't do it. Can I secure your agreement that  
10 you will answer everything verbally?

11 A Yes.

12 Q If at any time you want to confer with either of  
13 your attorneys, since you apparently have two here  
14 today, although some attorneys object to that, I do  
15 not. If you feel you need to confer with them on a  
16 question, state so for the record and we will stop.

17 There may come a point where one of the two  
18 fine lawyers might object. Don't answer the  
19 question that is before you until we resolve our  
20 differences or you are instructed otherwise by the  
21 court reporter, okay?

22 A Okay.

23 Q In anticipation of today's deposition can you tell  
24 me what materials you reviewed?

25 A My particular records when I took care of the

1 patient in the urgent care.

2 Q You have seen no other records?

3 A No.

4 Q You have not reviewed the records of Dr. Maxfield's  
5 care and treatment of Mrs. Monroe?

6 A No.

7 Q Have you seen the autopsy in this matter?

8 A No.

9 Q As you sit here today, although you've not seen the  
10 autopsy, are you aware of the cause of death in  
11 Deborah Monroe?

12 A No.

13 Q Have you reviewed the testimony of Dr. Maxfield?

14 A No.

15 Q Do you know Dr. Maxfield?

16 A By the name only.

17 Q Have you had a conversation with Dr. Maxfield  
18 relative to your care and treatment of Deborah  
19 Monroe at any time before today?

20 A Only time when I transferred the patient after my  
21 immediate care.

22 Q That was an appropriate answer. I should have  
23 clarified that I mean subsequent to the time you  
24 transferred her and after she died, did you have  
25 any contact with Dr. Maxfield regarding this

1 patient?

2 A No.

3 Q Were you made aware of the fact this patient in  
4 fact passed away?

5 A No.

6 Q You became aware of it when I filed a lawsuit; is  
7 that a fair statement?

8 MR. SCHOBERT: I think what he is  
9 struggling to say is he may have learned from his  
10 attorneys when he learned of her death.

11 A I didn't know that.

12 MR. SCHOBERT: I told him he doesn't  
13 have to converse. I'll let you know that.

14 Q Did you receive a copy of the lawsuit which I  
15 filed?

16 A Yes, but I don't think -- the only thing I know is  
17 when I talk to my attorney.

18 Q Not to worry about it. I want to clarify no one  
19 prior to the time I filed the lawsuit advised you  
20 as to what happened --

21 A No.

22 Q -- to Deborah.

23 Did the coroner call you at all?

24 A No, not at all.

25 Q You don't have a recollection of that?

1 A No, he didn't call me.

2 Q Doctor, let's go through first of all your training  
3 and background. I've been provided with a  
4 curriculum vitae, which we'll mark.

5 A Which is not too up to date. There you are some  
6 changes.

7 (Plaintiff's Exhibit A  
8 marked for identification.)

9 Q It's probably all encrypted very nicely here  
10 somewhere, first tell me about the medical  
11 education you received that led to your occupation  
12 as a physician?

13 A I had my medical school in India. I completed  
14 medical school in 1987. '87 to '88 rotating  
15 internship at S.S.G. Hospital at the University.

16 Q You were still in India at that time?

17 A Yes. From '89 to '91 I had a three year residency  
18 in OB/GYN in Baroda, India.

19 MR. SCHOBERT: You need a spelling on  
20 that?

21 A B-A-R-O-D-A

22 Q You completed a residency in OB/GYN?

23 A Um-hum.

24 Q Then what did you do?

25 A Then I did a senior -- worked as a senior resident



1 OB/GYN department at Jaslok, J-A-S-L-O-K Hospital  
 2 Research Center, Bombay from December '91 to  
 3 December '92.

4 Q Then I note from your resume or CV that during  
 5 January of 1993 you were preparing to immigrate to  
 6 the United States of America?

7 A Yes.

8 Q Why did you want to come to the United States? I  
 9 love asking that question.

10 A My wife is from here.

11 Q Where is she from?

12 A She is born in India, here since birth.

13 Q You were granted immigration status in early 1993?

14 A Yes.

15 Q How did you then make the transition into the  
 16 American medical community?

17 A I prepared for my medical Boards, USMLE and FLEX  
 18 which is March '93 to March '94. I become  
 19 certified by the ECFMG Board.

20 Q When did that occur?

21 A March '94.

22 Q Were you able to find employment as a physician or  
 23 enter a residency program?

24 A Residency program of the U.S, residency program  
 25 which I did at Pittsburgh, Saint Francis Medical

1 Center, May '95 to May '98.

2 Q Who was the head of the program at Saint Francis  
3 when you were there?

a A Residency director was Dr. White.

5 Q You did do a three year internal medicine  
6 residency?

7 A Yes.

a Q Are you Board certified in internal medicine?

9 A Yes, I am.

10 Q When did you obtain your Board certification?

11 A I passed my Board in August of '98.

12 Q Passed it the first time around?

13 A First time.

14 Q Great. Subsequent to the time you passed your  
15 Board in August of 1998, can you take me through  
16 your employment experience?

17 A Passed my Board in August '98. Went to Warren,  
18 Ohio, October '98. I'm practicing as a private  
19 practitioner employed by another physician  
20 incorporation working as a family care physician  
21 until now.

22 Q In 1998 you relocated to Warren, you went to work  
23 as an internal medicine physician in an office.  
24 What was the name of the medical group that you  
25 worked for?

1 A Dr. J. Patel, Incorporated.

2 Q Do you still currently work for Dr. Patel?

3 A Yes.

4 Q How much of your professional time is devoted to

5 the practice of internal medicine? Did I ask a bad

6 question?

7 MR. SCHOBERT: Can you answer that?

8 If not, ask her.

9 Q I can clarify.

10 A Can you clarify that question.

11 Q Sure, because obviously I've learned today from

12 looking at your CV since 1998 you've been a member

13 of a medical group practicing general internal

14 medicine.

15 When you saw Deborah Monroe, you saw her in

16 the capacity of an emergency room physician,

17 correct?

18 A Urgent care physician.

19 Q Urgent care physician, excuse me. I'll stand

20 clarified on that.

21 Do you have two sources of employment, your

22 internal medicine group and urgent care?

23 A I'm employed with a corporation, worked with urgent

24 care. I'm not directly employed with the urgent.

25 I work for incorporation, that is how I work for

1 the urgent care.

2 Q You work for Dr. Patel, you are not a shareholder,  
3 you are an employee?

4 A I'm an employee.

5 Q Dr. Patel has a contract --

6 A I --

7 MR. SCHOBERT: Let her finish.

8 Q To the best of your knowledge Dr. Patel established  
9 some kind of a relationship with Saint Joseph  
10 Family Medical Center, correct?

11 A Yes, as far as I know.

12 Q Through that relationship, you are -- or at that  
13 time, I don't know if you still are, we will find  
14 out, on occasion served as an urgent care  
15 physician, correct?

16 A Yes.

17 Q So when I asked you before during 1999, because  
18 that is when this incident occurred, how much time  
19 were you spending at Saint Joseph Family Medical  
20 Center per week, per month, or how did that work  
21 out?

22 A Per week about, estimate about 20 hours most  
23 probably.

24 Q So, 20 hours, would that represent a couple of  
25 days, just to the best of your recollection? I

1           want to get some idea how you were spending your  
2           time back in the Summer of 1999?

3   A       Yes, a couple days a week. Altogether, yes.

4   Q       Have you continued to work as an urgent care  
5           physician at that facility?

6   A       Yes, I'm working at the same facility still.

7   Q       You still work at Saint Joseph's Family Medical  
8           Center?

9   A       Yes.

10   Q       Do you work at any other facility?

11   A       No.

12   Q       A couple days a week you're over at Saint Joseph's  
13           in the day or in the evening?

14   A       Daytime.

15   Q       Daytime only. The other three days of the week are  
16           you seeing patients in your office?

17   A       Yes, I have my own private practice.

18   Q       Do you consider yourself to be a specialist in any  
19           branch of internal medicine?

20   A       Internal medicine.

21   Q       Within the specialty of internal medicine, what  
22           does your patient population look like, what  
23           diseases are you treating, or are you generally  
24           treating anything that comes through the door?

25   A       Yes, mixed population.

1 Q Do you have any training in emergency room  
2 medicine?

3 A I'm not trained in emergency room medicine. Except  
4 when I did my residency, we did a rotation through  
5 the emergency room.

6 Q At Saint Francis?

7 A Yes.

8 Q Did you as an internal medicine resident have a  
9 rotation?

10 A As part of training.

11 Q You have a copy of the medical records in front of  
12 you; is that correct?

13 What medical records do you have in front  
14 of you is a better question to ask?

15 A Change here.

16 MR. SCHOBERT: He wants to make sure  
17 you are aware of a couple other changes.

18 Q Doctor, in reviewing the CV you submitted to us, is  
19 there any information that you wish to change or  
20 add to it?

21 A Yes I want to change and add something. The  
22 citizenship should be U.S.

23 Q When did you become a U.S. citizen? It is like a  
24 wedding date, you are supposed to know that. I'm  
25 teasing.

1 A '96, '97 I don't remember.

2 An affiliation. I'm not a member of  
3 Westmoreland County Medical Society.

4 Q No longer a member of that association?

5 A Yes. I'm Board certified, which is not mentioned.

6 Q We got to that, fortunately.

'7 What medical records do you have in front  
8 of you?

9 A The records when I took care of the particular  
10 patient.

11 Q I want to take a look at what you are looking at to  
12 make sure you and I are looking at the same page,  
13 since there aren't a lot of them.

14 MR. SCHOBERT: You sent them to us.

15 Q You got two sides, I have one. Let me ask you a  
16 question in reverse order.

17 Would the Trumbull County EMS incident  
18 report at the back of the packet of these records  
19 become a part of your facility, the Saint Joseph  
20 Family Medical Center, records?

21 4 Yes, they are.

22 Q After the ambulance would have transported Deborah  
23 Monroe to the hospital, they would have given you  
24 their incident report to make a part of your file;  
25 is that a fair statement?

1 A As routine it should be.

2 Q When those come back, for any reason do you read  
3 them or do they just get placed in the patient's --

4 A Usually I read the information.

5 Q Do you have a recollection one way or another if  
6 you read the Trumbull County EMS incident report?

7 A As routine I read it, so I should have read it.

8 MR. SCHOBERT: She wants to know do  
9 you specifically recall?

10 A No, I don't recall.

11 Q Would it be your custom and habit to make sure you  
12 reviewed the EMS incident reports?

13 A Yes.

14 Q Silly question, why would you review an EMS  
15 incident report on a patient's transport when it  
16 came back to be part of the file, what would be  
17 your medical purpose?

18 A Can I have the question again? EMS records you are  
19 mentioning to me is when the patient transported  
20 from the urgent care to the hospital?

21 Q Correct.

22 A No, we don't see that.

23 MR. SCEOBERT: Let's go back and clean  
24 the record up. He's probably thinking the other  
25 way around.



1 A I'm thinking different way.

2 Q What you were thinking clearly, Doctor, now by the

3 answer you've given me, is that when a person is

4 transported to the family care center, you will

5 read the EMS report, correct?

6 A If the EMS brings the patient to the urgent care,

7 then I read the records. If the patient is

8 transported from the urgent care to the hospital, I

9 wouldn't have access to those records.

10 Q So the record is clear, your answer is now

11 different based on your now understanding my

12 question you wouldn't have seen the Trumbull County

13 EMS incident report that transported the patient

14 from the urgent care center to the hospital?

15 A No.

16 Q Why they showed up in this packet of records, I

17 don't know.

18 MR. SCHOBERT: We had those stapled

19 together. I gathered them, put them in front of

20 him.

21 Q Have you read this?

22 A No, not yet.

23 Q You didn't review the records?

24 A I read my records.

25 Q Well, since you have read your own records, let me

1 ask you a couple of questions. If you want to look  
2 at the back page, we can do this together, the last  
3 page is the EMS report.

4 The EMS report, we're going to assume it's  
5 correct, although I will be deposing the person who  
6 wrote the report, we will see if we can agree, you  
7 see in the middle it indicates chief complaint is  
8 upper back pain?

9 A Yes, I see that.

10 Q You don't have any doubt in your mind that is what  
11 it says, upper back pain? Is the handwriting  
12 Legible enough for you to ascertain that the chief  
13 complaint being indicated is upper back pain?

14 MR. SCHOBERT: Why don't you ask him  
15 to assume it, we can bypass --

16 Q Assume that I'm reading the chief complaint  
17 correctly, the chief complaint is upper back pain,  
18 can you make that assumption?

19 A Yes, I can make that assumption.

20 Q Doctor, is that consistent with the complaints and  
21 findings that *you* had at the time of your physical  
22 examination of the patient?

23 A In my records I wrote mid scapular region back  
24 pain.

25 Q Is mid scapular back pain different to you than

1 upper back pain?

2 MR. SCHOBERT: Objection. Go ahead if  
3 you can answer.

4 Q If you can answer it.

5 A Is a vague description of the back pain.

6 Q The upper back pain is a vague description, versus  
7 more specific. Let's go through your examination  
8 of the patient herself.

9 First of all, Doctor, do you have an  
10 independent recollection of this patient, other  
11 than the medical record?

12 A No.

13 Q So if I ask you what Deborah Monroe looked like you  
14 wouldn't be able to tell me; is that correct?

15 A That's correct.

16 Q Do you recall if she presented to the Saint Joseph  
17 Family Medical Center accompanied by any adult?

18 A I don't recollect.

19 Q You didn't speak with anyone regarding her symptoms  
20 or the history of what happened other than the  
21 patient herself; is that what you are telling me?

22 MR. SCHOBERT: I'm going to object.

23 Go ahead.

24 A As was my recollection, from my notes, I talked to  
25 the patient.

1 Q That was the question. In other words, no other  
2 person gave you information about the patient,  
3 correct?

4 A That's correct.

5 Q What time did Deborah Monroe arrive at Saint Joseph  
6 Family Medical Center?

7 A Arrival time is 1:15 p.m.

8 Q There are two different sets of handwriting on this  
9 particular sheet. There is a top section and  
10 bottom section. The top section, where it's got  
11 some essential information we will call it, blood  
12 pressure, pulse, respirations, is that written by a  
13 triage nurse?

A Written by a nurse.

15 Q Are you able to read the narrative portion of the  
16 nurse's assessment of the patient?

17 A You want me to read?

18 Q First I'm asking if you are able to. If you are  
19 able to, I would like you to try.

20 MR. SCHOBERT: I will object in case  
21 he doesn't get something right.

22 A Nursing assessment. While at work today sudden  
23 onset of back pain plus chest. Seen by paramedics,  
24 refused transportation, treatment by EMS. Ambulate  
25 to urgent care. Complains of severe back pain

1 between shoulders, feels like muscle cramp Denies  
 2 injury Denies injury, denies lifting object  
 3 Q Then right next to it, underneath current  
 4 medication I can read first one BP pill, blood  
 5 pressure pill I'm assuming?  
 6 A Yes.  
 7 Q Do you know what medication it lists underneath?  
 8 A Atenolol, question mark.  
 9 Q Were you able to ascertain her the history whether  
 10 or not that was the medication she was taking?  
 11 A As I put the question mark, probably she wasn't  
 12 sure about it.  
 13 Q Fair enough. The nurse initially takes the  
 14 temperature, pulse, respirations, blood pressure  
 15 She writes a history, then you see the patient?  
 16 A Yes.  
 17 Q Doctor, did you conduct a thorough physical exam of  
 18 Deborah Monroe?  
 19 A Yes, I did.  
 20 Q In addition to conducting a physical examination,  
 21 did you personally then take a history her in  
 22 addition to the one the nurse had taken?  
 23 A I take the history myself, yes  
 24 Q Can you read your notes into the record, where it  
 25 says physician's history, exam and assessment?

1 A Patient complains of severe back pain --

2 MR. SCHOBERT: Slow down a little bit

3 so she can get it down. Go ahead.

4 A Patient complains of severe back pain, mid scapular

5 region. Started suddenly a few hours back.

6 Initially EMS came, evaluated her, but she wanted

7 to come here by herself. She thinks pain started

8 as chest pain, now it is mid back pain. No

9 radiation. Mild arthrosis present, arthrosis plus.

10 On examination vital signs, blood pressure,

11 180 by 90, no JVD, no bruit, heart no murmur, S-1,

12 S-2 present, regular rate and rhythm, lungs clear,

13 abdomen soft. Extremities no pulse delay,

14 circulation good.

15 Q Regarding her blood pressure being 180 over 90, do

16 you have a recollection if you had a conversation

17 with her what her normal blood pressures were?

18 A I don't recollect.

19 Q Did you elicit from her a history of hypertension?

20 A Yes, it was mentioned in the blood pressure pill

21 she was taking.

22 Q You are aware of that. At that point, Doctor, did

23 you -- first of all, you ordered an EKG, correct?

24 A Correct.

25 Q Why did you order an EKG?

1 A Because patient came with chest pain. I ordered  
2 EKG on her.

3 Q Your EKGs I assume are electronically read at your  
4 facility?

5 A Yes.

6 Q Do you personally have the ability to look at an  
7 EKG strip and interpret what is on there?

8 A Yes.

9 Q Did you do that in this case? In other words, did  
10 you look at --

11 A Usually I send my preliminary report with the EKG.

12 Q If we could look at the EKG. Was this information  
13 available to you before you transferred the patient  
14 to the hospital?

15 A Yes, correct.

16 Q I'm going to read, it says nonspecific changes,  
17 possible secondary to the clinical finding of  
18 hypertension. Do you agree with that? That is  
19 what you thought the changes were from?

20 MR. SCHOBERT: Objection. Go ahead.

21 A Yes, I agree with that.

22 Q I was just asking. After you received the results  
23 of the EKG, and performed your physical  
24 examination, taken her history, what did you  
25 diagnose?

1 A I diagnosed severe back pain plus hypertension.

2 Q What did you think was the cause of her severe back

3 pain?

4 A I didn't know what was the cause of the back pain.

5 Q Did you have a differential in terms of what might

6 be causing it?

7 A Yes, quite a few differential diagnoses.

8 Q Well, we will make this nice and quick. Right

9 after it says diagnosis it says severe back pain

10 and HTN, hypertension, a nice little semi colon,

11 rule out aneurysm of aorta?

12 A Yes.

13 Q Let's talk about why -- upon what basis did you

14 believe the patient needed testing to rule out

15 aneurysm of the aorta?

16 MR. SCHOBERT: Objection. Go ahead.

17 A I did not meant to rule out aneurysm of the aorta,

18 that was the only thing to rule out.

19 Q Excuse me?

20 A I did not think that was the only diagnosis that

21 needs to be ruled out. Patient needs to be ruled

22 out for many differential diagnoses.

23 Q Well, Doctor, let's deal with what you actually

24 wrote. I understand that there could be a lot of

25 different differential diagnoses for this severe



1 back pain. Specifically, she didn't complain about  
2 low back pain to you, did she?

3 MR. SCHOBERT: Two questions, but go  
4 ahead.

5 Q It is two questions.

6 Did the patient complain to you of low back  
7 while at your facility?

8 A According to my notes, no.

9 Q The pain she was complaining of was mid sternal  
10 scapular?

11 A Mid scapular.

12 Q Was the location of the pain, the onset of the  
13 pain, and the EKG findings, combined with her  
14 hypertension, were those factors that led you to be  
15 concerned that she might have an aneurysm of the  
16 aorta?

17 A One of the diagnoses, yes.

18 Q Because specifically, what you are putting in your  
19 diagnosis is rule out aneurysm of aorta. Having  
20 said that, was aneurysm of the aorta something of  
21 primary concern to you, to have that issue cleared  
22 up?

23 MR. SCHOBERT: Objection. Go ahead,  
24 you can answer.

25 A I say again it is one of the diagnoses possible.

1 Q You weren't sending her to the hospital for an  
 2 unnecessary test, were you?

3 A Unless I know the diagnosis, how do you know what  
 4 diagnosis I'm working with.

5 Q Exactly. What else was on your list of  
 6 differentials?

7 A When patient comes with mid scapular back pain,  
 8 sudden onset, it can be many possible causes as  
 9 simple as severe acute muscle sprain, spine strain,  
 10 dissecting aneurysm, acute Mi, spasm, rupture, many  
 11 others.

12 Q I take it you eliminated muscle sprain or strain  
 13 based upon the patient's history?

14 A I don't think I can rule out.

15 Q is there anything in her history, the records that  
 16 you and i have gone over what -- I always call them  
 17 the triage nurse, the first nurse that saw the  
 18 patient, then yourself, anything suggesting injury?

19 A No injury by history.

20 Q You both elicited there was no sudden injury,  
 21 correct?

22 A Yes.

23 Q Did you not also elicit a history she had not been  
 24 lifting anything?

25 A That's correct.

1 Q So, I guess what I'm asking you is your diagnosis  
2 was not muscle sprain or strain, was it?

3 A No, severe back pain.

4 Q Did you have some reason to believe she had  
5 sustained a muscle sprain or strain based upon the  
6 history she gave you?

7 MR. SCHGBERT: Objection. Go ahead.

8 A She complained it feels like muscle cramps.

9 Q Muscle cramps?

10 A That is what she complained.

11 Q Once again she clearly indicated to you she had not  
12 sustained an injury to her chest, that she had not  
13 been lifting any objects, correct?

14 MR. SCHGBERT: Objection. Asked and  
15 answered.

16 A That is what she said.

17 Q As you are working through this process, going back  
18 to your diagnosis of rule out aneurysm of aorta, at  
19 that point what did you determine needed to be done  
20 for the patient?

21 A Needed to be sent to the emergency room for further  
22 evaluation and treatment.

23 Q That is because you didn't have a CAT scan machine  
24 at Saint Joseph Family Medical Center, correct?

25 4 Yes.

1 Q Was it your intention she be seen with a specific  
2 purpose of having a scan of the aorta?

3 A No. Looking back, sending the patient for further  
4 treatment it's up to the physician in the  
5 department to do following treatment.

6 Q You discussed this matter with Dr. Maxfield; is  
7 that correct?

8 A Yes.

9 Q You called over to Saint Joseph?

10 A I routinely call the physician on dut

11 Q Got him on the phone?

12 A Yes.

13 Q It says the reason for transfer is for further  
14 testing. Have you seen that document?

15 A Yes, the document is here. Yes.

16 Q Even though it doesn't say so on your sheet, the  
17 only way you can rule out aneurysm of the aorta or  
18 the one that was in your mind -- let me take that  
19 back.

20 What was in your mind when you said -- what  
21 tests were you looking for them to do to rule out  
22 an aneurysm of the aorta?

23 MR. SCHOBERT: Objection. Go ahead.

24 A I can't speculate that. It's up to them, depending  
25 on their physical exam, history, what they do with

1 the patient.

2 Q So it's your testimony you didn't tell Dr. Maxfield  
3 you thought that the patient needed a CAT scan of  
4 her aorta?

5 A Can you repeat the question, please?

6 Q Is it your testimony as you sit here today you did  
7 not tell Dr. Maxfield you thought she needed a CAT  
8 scan of the aorta?

9 A I don't have specific recollection what exactly I  
10 told him, but it's my routine to talk to the doctor  
11 who is receiving the patient, notify of the  
12 patient's condition and transport.

13 Q You had her transferred to the hospital for further  
14 testing because you had a concern there was a  
15 condition that existed; is that correct?

16 A I transported her because maybe a condition which I  
17 don't know, for which I didn't know.

18 Q That condition was perhaps aneurysm. You didn't  
19 have diagnostic equipment that could confirm or  
20 deny the existence of the same, right?

21 MR. SCHOBERT: Objection. Go ahead.

22 A One of the diagnoses, yes.

23 Q One diagnosis being aneurysm, correct?

24 A Many other possible, yes.

25 Q Are you aware that Dr. Maxfield testified in fact

1           you did tell him that you thought she needed a CAT  
2           scan, you seemed embarrassed to be asking for one?

3                   MR. SCHOBERT:           Objection.

4 A           How do I know his testimony?

5 Q           I'm asking if you are aware of it?

6                   MR. SCHGBERT:           Wait. First of all,  
7           you asked him whether he read his testimony. You  
8           have asked him whether he talked to Dr. Maxfield.  
9           So I'm a little concerned about the only way he  
10          could have possibly learned, if he did learn  
11          anything about Dr. Maxfield, is through his  
12          attorneys.

13                   Doctor, I'm going to instruct you if you  
14          learned from any source an answer to the question  
15          she is asking you, that doesn't involve  
16          conversations you had with Mr. Ockerman, myself or  
17          Mr. Warner, you may answer the question. Does that  
18          make sense to you? I don't know whether it makes a  
19          difference because I don't know that you had that  
20          conversation. If it's nothing you learned from  
21          your attorney, you don't have to answer the  
22          question. If it's something you learned from some  
23          other source, you have to tell her that.

24 A           Can you repeat the question again.

25 Q           Yes, I think I know the answer. You haven't read

1 the testimony of Dr. Maxfield?

2 A That's correct.

3 Q You don't know what he testified to?

4 A That's correct.

5 Q Are you aware that Mr. Ockerman and/or Mr. Schobert  
6 also represent Dr. Maxfield in this matter?

7 A I know they represent me. I don't know who else  
8 they represent.

9 Q To the best of your recollection, you didn't  
10 recommend and/or tell Dr. Maxfield what testing you  
11 thought needed to be done?

12 A No, usually I don't do that.

13 Q You do tell them what condition you are concerned  
14 about; would that be a fair statement?

15 A Yes, if I'm transferring a patient with a  
16 particular complaint, I tell them other things I  
17 can be thinking of, possible differential  
18 diagnoses. It's my routine to tell them, it's up  
19 to you, whoever is there, to come in, course of  
20 treatment or evaluation.

21 Q Doctor, on the date you examined Mrs. Monroe and  
22 took a history from her, did you have any trouble  
23 communicating with Mrs. Monroe?

24 A Nothing I mentioned in my note.

25 Q If you and a patient were having difficulty

communicating clearly with one another, would you  
 2 put that in your notes?

3 A If I had difficulty communicating with a patient,  
 4 yes, I would have mentioned it.

5 Q Do you initiate the phone call to the ambulance to  
 6 do the transfer to the hospital?

7 A Can I have question again?

8 Q Sure. I probably said that too fast.

9 Mrs. Monroe was transferred from the urgent  
 10 care to the hospital by ambulance?

11 A Yes.

12 Q Are you the person who initiates the request for  
 13 the ambulance?

14 A That's correct.

15 Q Do you talk with the paramedics and tell them why  
 16 you are transferring someone?

17 A No, I don't talk to the paramedics.

18 Q Who does that for you?

19 A Nurse at urgent care.

20 MS. KOLIS: Okay, Doctor, I don't  
 21 have any further questions.

22 MR. SCHOBERT: You have a right to  
 23 review the transcript. Since this is your first  
 24 deposition, assuming that it's ordered, I would  
 25 suggest that you review the transcript to make sure



1           that she -- I'll explain what you can review for.  
2           Indicate you do not waive signature. Tell the  
3           court reporter.

4                       THE WITNESS:           I do not waive  
5           signature.

6                       (Deposition concluded at 5:06 p.m.)

7                       (Signature not waived.)

8                               - - -

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1 I have read the foregoing transcript from page 1  
 2 through page 33 and note the following corrections:  
 3 PAGE LINE REQUESTED CHANGE  
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 20 Vijaykumar Shah, M.D  
 21 Subscribed and sworn to before me this \_\_\_\_\_ day  
 22 of \_\_\_\_\_, 2002.  
 23  
 24 Notary Public  
 25 My commission expires: \_\_\_\_\_

1 State of Ohio,                    )  
  ) SS: CERTIFICATE  
2 County of Cuyahoga.        )

3       I, Constance Versagi, Court Reporter and Notary  
4 Public in and for the State of Ohio, duly commissioned and  
5 qualified, do hereby certify that the within named  
6 witness, Vijaykumar Shah, M.D., was by me first duly sworn  
7 to testify the truth, the whole truth, and nothing but the  
8 truth in the cause aforesaid; that the testimony then  
9 given by him was by me reduced to stenotypy/computer in  
10 the presence of said witness, afterward transcribed, and  
11 that the foregoing is a true and correct transcript of the  
12 testimony so given by him as aforesaid.

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

16       I do further certify that I am not a relative,  
17 counsel, or attorney of either party, or otherwise  
18 interested in the event of this action

19       IN WITNESS WHEREOF, I have hereunto set my hand  
20 and affixed my seal of office at Cleveland, Ohio, on  
21 this 2nd day of January, 2001.

22

23



24       Constance Versagi, Court Reporter and  
Notary Public in and for the State of Ohio.  
25       My Commission expires January 4, 2003.

NAME: VIJAYKUMAR S. SHAH, M.D.  
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SSN: 139-984-6270  
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PROFESSIONAL AFFILIATION:

- AMA
- ACP

~~MEMBERLAND COUNTY MEDICAL SOCIETY, PA.~~

PREVIOUS EMPLOYMENT:

- ONE YEAR ROTATING INTERNSHIP AT S.S.G. HOSPITAL AND AFFILIATED HOSPITAL SEPT. 1987 - SEPT. 1988.
- GRADUATED SEPT. 1988
- COMPLETED 3 YEARS RESIDENCY IN OB/GYN AT S.S.G. HOSPITAL, BARODA SEPT. 1988 - DEC. 1991
- SENIOR RESIDENT AT DEPT. OF OB/GYN AT JASLOK HOSPITAL AND RESEARCH CENTER, BOMBAY DEC. 1991 - DEC. 1992.
- PREPARING FOR EMIGRATION TO USA JAN 1993.
- EMIGRATED TO USA FEB. 1993.
- PREPARING FOR USMLE, FLEX MARCH 1993 -MARCH 1994.
- SEEKING A POSITION AS A RESIDENT APRIL 1994 - APRIL 1995.
- RESIDENCY IN INTERNAL MEDICINE AT ST. FRANCIS MEDICAL CENTER, PITTSBURGH, PA. MAY 1995 - MAY 1998. *Att. 98.*
- LOCUM TENNENS - DR. OSCAR REYNA, M.D. LATROBE, PA  
JUNE 1998 - JULY 1998.
- PREPARING FOR INTERNAL MEDICINE BOARDS EXAM AUGUST 1998.
- RELOCATED TO WARREN, OHIO SEPT. 1998.
- PRACTICING AS INTERNAL MEDICINE INTERNIST AT 1455 PARKMAN RD. NW WARREN, OHIO AS OF OCTOBER 1998.

*Bl.*

*H*  
**PLAINTIFF'S  
EXHIBIT**