IN THE COURT OF COMMON PLEAS

CUYAHOGA COUNTY, OHIO

LINDA G. MORRISON, Administrator,)
Plaintiff,)
-vs-) No. 408705
RICHARD LIGHTBODY, M.D., et al,)
)
Defendants.)

The discovery deposition of DR. MARTIN M. SILVERMAN, taken in the above-entitled cause before CHERYL LYNN MOFFETT, a Notary Public and Certified Shorthand Reporter of Cook County, Illinois, on the 19th day of July, A.D., 2002, at 5737 South University, Chicago, Illinois, at the hour of 11:00 o'clock a.m., pursuant to notice.

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PRESENT:

MS. DONNA TAYLOR-KOLIS,
FRIEDMAN, DOMIANO & SMITH CO., L.P.A.,
Sixth Floor - Standard Building,
1370 Ontario Street,
Cleveland, Ohio 44113-1704,

Appeared on behalf of the Plaintiff;

Mr. JONATHAN W. PHILIPP,
JANIK & DORMAN, L.L.P.,
9200 South Hills Boulevard - Suite 300,
Cleveland, Ohio 44147-7601,

Appeared on behalf of the Defendant Richard Lightbody;

MR. RICHARD H. STOFFERS,
MAZANEC, RASKIN & RYDER CO., L.P.A,
100 Franklin's Row,
34305 Solon Road,
Cleveland, Ohio 44130,

Appeared on behalf of the Defendant William Tiedemann and Mental Health Services for the Homeless, Inc.;

MS. REBECCA A. WISTNER,
SQUIRE & SANDERS,
4900 Key Tower,
127 Public Square,
Cleveland, Ohio 44114-1304,

Appeared on behalf of the Defendant Frances McIntyre.

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I N D E X

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P R O C E E D I N G S

(WHEREUPON, the witness was duly sworn.)

DR. MARTIN M. SILVERMAN,

called as a witness herein, having been first duly sworn, was examined and testified as follows:

EXAMINATION

BY MS. KOLIS:

Q. Dr. Silverman, as you know, we've just been introduced, my name is Donna Kolis, and I represent the estate of Matthew Morrison. It is my understanding from Attorney John Philipp who represents Dr. Richard Lightbody that you are ready, willing and able to give testimony at the trail of this lawsuit. Is that a fair statement?

A. Yes.

Q. Doctor, you were employed by the law firm of Janik and Dorman to review this matter, is that correct?

A. Yes.

Q. To the best of your recollection when were you initially contacted?

A. It would be in the correspondence file whatever the date is on that.

Q. In your report you indicate it was January 9 of 2001.

A. Right.

Q. I'm going to assume that's correct.

A. Yes.

Q. How is it that this law firm came to contact you in this matter, if you know?

MR. PHILIPP: Objection to form.

THE WITNESS: I don't know.

BY MS. KOLIS:

Q. So, you just got a phone call from someone. Do you know who the attorney was that called you originally?

A. Yes, Tom Prislipsky. P-r-i-s-l-i-p-s-k-y. Is that close?

Q. That's right on target **I** think.

MR. PHILIPP: That's right.

BY MS. KOLIS:

Q. When Mr. Prislipsky contacted you initially, did he tell you anything about this particular claim?

A. Just that he was defending a physician, an inpatient psychiatrist in regards to a former inpatient who subsequently died by suicide.

Q. Doctor, based upon the research that I have

been able to perform, obviously you are not a stranger to the medical/legal arena. Is that a fair statement?

A. That's a great fair statement.

Q. To the best of your recollection, without holding you to any preciseness, how many times have you given a deposition in a suicide case?

A. I'd say 20, 25 times. Somewhere in there.

Q. And I gather based upon prior testimony as near as I've been able to obtain that you have reviewed far more cases than that?

A. Yes.

Q. When did you first begin doing medical legal reviews?

A. Late '91, early '92.

Q. And through that period of time, approximately how many reviews have you done a year?

A. Well, very variable. Very variable. Obviously I started of slowly. And there have beer, peek periods, but I would say probably I've seen about 80 cases all together.

Q. And how many times have you actually testified in court?

A. About half dozen.

Q. My understanding -- once again I'm always

subject to revision, no doubt -- is that you exclusively do medical/legal matters in suicide cases.

A. Yes. There's been one or two, but I've never testified. Again, asked to look at files relating to other matters.

Q. So, dealing with something in psychiatry other than suicide would be an aberration for you, at least based upon what I've seen, is that correct?

A. Right.

Q. To the best of your ability, once again not making this a precision contest, what is your percentage breakdown for physician versus the patient?

A. It's running about 60 percent plaintiff, 40 percent defense.

Q. And how is it that back in 1991 you started doing reviews in suicide cases?

A. Well, actually I'd been called before that. I turned down phone calls because I didn't feel that this was an area that I was prepared to get involved in. But as my expertise in the area of suicide and suicide prevention began to grow and as I saw the legal arena as an area to try to clarify issues of

standard of care, I became more interested in learning about how that works out.

Q. When you indicate to me that you saw the legal arena as a -- I don't know if you used the word method, but a way to clarify the standard of care, could you expound about that answer a little bit? What are you really trying to tell me was the reason you got involved?

MR. PHILIPP: Note my objection.

THE WITNESS: Based on my work, my sessions with my colleagues, my own education and reading, I saw that court decisions could very well influence matters of standard of care for not only the practice of medicine but also the training of physicians as they prepare to become physicians. And inasmuch as I'm on faculty here and I do a lot of medical student education in psychiatry residency training, I became very interested in this area.

Q. At one point you had a book in press. And I know I'm going to botch the title. Originally I think it was titled How To Avoid Liability In Suicide Cases, but the editor subsequently changed it to Risk Management? Is that what it was?

A. Correct.

Q. What was the essential nature of that writing? I have not had the opportunity, although I have ordered the book. Can you give me the overall gloss I guess of that particular book that you published?

A. A number of us who are the coeditors of the book have been publishing in the literature on the topic of liability and standards of care. And Bruce Bomgar who's the lead editor decided that it would be a good idea to try to pull all of the published papers together, add a few others, and produce a book that would be directed mainly at clinicians to address clinicians so we could raise their awareness and consciousness about issues of standard of care. He added two lawyers onto the editorial list. And, so, there were three, four, maybe six people. I have the book if you want to see it.

Q. That's okay. I've already ordered my copy. I'm sure I'll get to read it in the next two weeks.

A. So, we re-printed the articles that have been published and we added additional chapters *to* round it out.

Q. Now, as the editor of that particular book,

would it be your contention that the chapters contained within that particular book are authoritative as to what the standard of care requires of a clinician?

A. No. I don't think there is any one treatise or any one text that is authoritative per se.

Q. Well, I'm assuming since you were editor that you would have reviewed the chapters and that you would not have included medical literature within that book that was not good science I guess would be one way of putting it. Would you agree with that?

A. We tried as best we could to be as contemporary and as comprehensive as we could, but I can't sit here and say that it is the authoritative statement.

Q. Doctor, I launched into this probably because I'm in a hurry to get this done so that everybody is happy today. Just a couple of ground rules about my depositions. I'm sure that everybody tells you what they feel like telling you, but obviously so far you speak nice and slowly and articulate, and that's good because the court reporter has to take everything down orally. So, in response to any question I ask, of course, you have

to give her an oral response of some sort.

You understand, Dr. Silverman, that you are under oath today just as if you were in a court of law. I'm assuming that you understand that.

A. Yes.

Q. You also, I would guess, understand that today is my, probably, only opportunity to speak with you before trial, is that correct?

A. Correct.

Q. I will be asking you a series of opinion questions today. I'm certain you're used to being asked opinion questions. Is that a fair assumption on my part?

A. Yes.

Q. In the state of Ohio, because I don't know what other states you testified in, in rendering medical opinions, you are required to answer those to a reasonable degree of medical probability. Do you know what that means?

A. Yes.

MR. PHILIPP: Objection.

BY MS. KOLIS:

Q. Loosely stated -- I don't know if anybody wants to redefine it any another way. In other

words, the opinions that you give have to be based upon your experience, education, training, and they must be more likely than not for you to answer yes. Do you understand that?

A. Yes.

Q. Fair enough. So, today instead of every time I ask you an opinion question saying, "Doctor, do you hold that opinion to a reasonable degree of medical probability," I'm just going to ask you what your opinions are and assume that they are all to a reasonable degree of medical probability unless you indicate otherwise. Is that fair?

A. Yes.

Q. Going through your CV I probably just kind of missed it because your CV is kind of large. Doctor, are you board certified?

A. Yes.

Q. What are you board certified in?

A. Psychiatry.

Q. When did you obtain your psychiatry board?

A. I believe it was 1981, but I have to double check.

Q. I just missed it because you put your education at the back. So, let me take a look.

MS. WISTNER: Can we go off the record?

(WHEREUPON, a discussion was had off the record).

BY MS. KOLIS:

Q. Doctor, I'm going to mark your CV Plaintiff's Exhibit A.

(WHEREUPON, Plaintiff's Exhibit A was marked for ID).

BY MS. KOLIS:

Q. In any event, Doctor, you don't have to locate it, but you're telling me that based upon your CV you finished a residency in psychiatry in 1978, correct?

A. Yes.

Q. At the conclusion of the residency you then did a fellowship in medical sciences. What is a fellowship in medical sciences?

A. The Department of Psychiatry here at the University of Chicago was awarded funds, and I don't remember at this point what the source was, to nurture young faculty, junior faculty, give them an opportunity to stay on and to develop areas of expertise. And I was one of their residents, graduate residents who was given that opportunity to

stay on, have part of my salary funded to free me up to explore areas to teach, to train, to learn how to teach and get involved in academic areas.

Q. So, the fellowship was not in psychiatry, it was a fellowship introducing you into academic medicine?

A. Well, it was awarded to the Department of Psychiatry for psychiatrists.

Q. That was unclear from the way your CV was written. That's why I asked

Doctor, what's your DEA number? Tell me a page. I don't think these are paginated.

A. Page 18. Plus my medical license is there. I can give you my DEA number if you like it.

Q. Yes, that would be appreciated.

A. AS9735971.

Q. Have you ever had any restrictions placed on your DEA license?

A. No.

Q. Fair enough. In evaluating this particular case, certain materials were submitted to you, correct?

A. Correct.

Q. I have a report dated May 22, 2002, and I need to inquire of you whether or not you have

written any other reports in this matter?

A. No.

Q. This is the sole report you wrote?

A. Right.

Q. And you didn't write it until you received a lot of material, correct?

A. Correct.

Q. Initially you received, at least from my review of the correspondence, which we'll get marked in in a minute, you would have only received the St. Luke's medical records, the initial submission. Does that comply with what you think you received?

A. No.

Q. Then I misread the letter, so let me take a look.

The initial letter that you received on January 9 says, "Dear Dr. Silverman: Thank you for agreeing," agreeing to I don't know what, "this matter on behalf of Richard Lightbody. Enclosed for your review is a copy of the St. Luke's medical records pertaining to the decedent."

A. That's correct.

Q. So, I didn't misunderstand it. Initially all you got was records, correct?

A. Correct.

Q. When you received those records, did you take notes as to your impressions upon what was contained in them?

A. You have my notes which are in the file, but at that point I don't think I took any specific notes other than to then contact Mr. Prislipsky and ask for more information, ask for more material because I was intrigued and thought at that time that I would be comfortable defending Dr. Lightbody, but I needed to see what else was there.

Q. Well, first of all, let me ask you this. The inquiry I guess is pretty straight forward. We're going to have all your files marked, and I'm going let you use this because obviously it's not a memory contest either. Initially all you received was the St. Luke's records, is that correct?

A. Right.

Q. We've already established that. You didn't have an autopsy, correct?

A. Right. If you don't mind giving me my correspondence.

Q. I don't mind at all.

A. It's this one.

Q. This one?

A. Yes. I can tell you the order within which I saw things or read things.

Initially all I received was the St. Luke's medical records.

Q. Let me stop right there. So, you just had the St. Luke's records. I take it you didn't have Mental Health Services Crisis Intervention notes at that point?

A. That's correct.

Q. You didn't have the Cleveland Public School District notes, is that correct?

A. As the first materials I received, correct.

Q. What you just testified to is based upon what you saw in the St. Luke's chart you felt you could defend Dr. Lightbody? Is that a fair statement?

A. No. What the fair statement is was that pending the other materials I felt that, as I read at least the chart, there was a good defense in favor of Dr. Lightbody not being a causative agent in Matthew Morrison's death.

Q. How did you draw that conclusion by simply reading the St. Luke's chart?

A. Because I was asked to read the chart, and

I was asked to determine whether or not Dr. Lightbody's conduct in terms of evaluating Mat Morrison and his treatment was below the standard of care.

Q. So, based solely upon the chart -- let me retract it.

Would it be fair for me to assume, and I hate making assumptions in life, but let's do it. Would it be fair for me to assume that what you're telling me is that when you read the chart that you did not see any issues of premature discharge?

MR. PHILIPP: Objection, form.

THE WITNESS: Among other things, yes.

BY MS. KOLIS:

Q. I just asked that one first. It's not all inclusive.

So, you do not believe that Dr. Lightbody prematurely discharged Matthew?

A. That's correct.

Q. You believe that he gave him adequate psychiatric evaluation while he was in the hospital?

A. Yes.

Q. What is the next set of records you received after the St. Luke's records?

A. The Cleveland Public School records.

Q. And when in time did you receive those?
A. January 30.
Q. And did you take notes after you read the Cleveland Public School records?
A. Well, I keep running notes of depositions.
Q. And of the medical records?
A. Yes.
Q. We're going to look in your note folder a little bit later I'm sure.
Did you have any conclusions at the completion of having read the Cleveland Public School records?
A. I didn't see anything in the Cleveland Public School records that would change my initial impression regarding Dr. Lightbody's standard of care.
Q. Let me ask a different question so that maybe Bob and Rebecca can maybe relax the rest of the afternoon.
Based upon the way that you wrote your report, you said, "I have been asked to review the case for your client, Dr. Lightbody. My comments are limited to standards of care pertaining to Dr. Lightbody and his responsibilities as they pertain to

the care and follow-up of Matthew Morrison." That's right out of your report. Do you recall those two sentences?

A. Yes.

Q. Can I gather, based upon the way that you wrote that introduction, that you will not be offering opinions in this matter as to whether or not the standard of care was breached by anyone other than Dr. Lightbody?

A That's correct.

Q. You're solely confining yourself to Dr. Lightbody's conduct?

A. That's what I was asked to do and that's what I'm prepared to do.

Q. That is what you were asked to do. Let me ask you the question a different way. Although you were asked solely to look at the conduct of Dr. Lightbody, do you hold opinions as to other people's conduct in this matter?

A. No.

Q. So, you will be offering no opinions as to anyone else?

MR. PHILIPP: Regarding standard of care?

BY MS. KOLIS:

Q. As to whether or not anyone else was negligent in this matter or a proximate cause of Matthew Morrison's death.

A. I will not be offering opinions as stated.

Q. I'm not trying to play with you.

A. Let me say it my way and see if we can agree. I am not going to comment on the negligence or standard of care as it applied to Mr. Tiedemann or Francis McIntyre or Jerry Beard-Chaney or any of the other key players who were involved in Mat Morrison's care.

Q. So, now that we have that kind of out of the way, as you read it, was Matthew Morrison's death preventable?

A. I really don't think that -- I think if there were actions that had occurred in a different sequence that he would not have died on December 10 -- I'm sorry.

Q. December 10 is correct, Doctor.

A. But what his long-term prognosis would be I'm going to risk. I don't know.

Q. Well, let's sort of break that out. When you say -- I don't know what you just said. I was

listening, but I didn't get it.

Let me ask the question this way. Do you believe based upon the series of events that occurred that there was intervention that could have occurred prior to December 10 that would have prevented Matthew from committing suicide on December 10?

MR. STOFFERS: Objection.

THE WITNESS: Well, I believe that had Dr. Lightbody been called or contacted by someone and alerted to the fact that Matthew Morrison had a sudden turn for the worse on December 8, the precipitating event, I believe that Dr. Lightbody, based on what I know about this case, could have made an effort to have Matthew Morrison more formally evaluated, possibly by Mr. Tiedemann's group or someone else. And if, in fact, Matthew Morrison was suicidal on December 8 and/or was psychotic on December 8 that there would have been medical intervention. Whether that would have prevented his subsequent suicide, I can't predict that, but that's the best I can give.

BY MS. KOLIS:

Q. Is it fair to say, Doctor, that in other cases where you've testified on behalf of patients

that you didn't have any trouble rendering an opinion that if appropriate medical intervention occurred that the people would not have killed themselves?

A. At the time --

MR. PHILIPP: Just note my objection.

THE WITEESS: At the time in the framework we're talking about, right.

BY MS. KOLIS:

Q. Right. And let me follow up the question. Based upon the sparcity of information that's available from the hospitalization, can you draw any conclusions as to what Matthew's psychiatric diagnoses might have been?

MR. PHILIPP: Objection.

THE WITNESS: I'm comfortable with the diagnosis that he was given at discharge.

BY MS. KOLIS:

Q. Well, based upon that diagnosis, and for the record could you state what that diagnosis was?

A. Major depressive disorder with psychotic features.

Q. Given those diagnoses, based upon your experience as a practitioner, isn't it likely that ongoing psychotherapy, medical monitoring, medications

would have resulted in a child who got over his suicidal ideations, more likely than not?

A. Well, that's a difficult question to answer because I think we're compounding a few concepts here. If he was not suicidal the likelihood of his killing himself by suicide would be quite low. If he continued to have symptoms of a major depressive disorder with psychotic features, he would be at increased risk for suicide. If, on the other hand, he was appropriately medicated and receiving care, more likely than not he would not be suicidal.

Q. In your introductory section of your report, you indicate a number of things that you looked at. Who is Frank Pettoli?

A. I don't know.

Q. Why don't you look at your file and see if you can find the report of Frank Pettoli for me.

It's a report dated 10-29-99. Do you know who Frank Pettoli is?

A. I don't remember off hand.

Q. Would you be surprised if I told you I thought he was a psychiatrist? He would be surprised.

A. As I said, I don't know who he is,

Here's the autopsy, toxicology, Frank

Pettoli.

Q. May I see the report, please?

A. He's a licensed psychologist.

Q. Because I don't know what that is.

Okay. There you go. There's so many documents in this case most of us have forgotten what they are.

A. So, we both forgot.

Q. All right. Hand that one back.

MR. STOFFERS: Who is it?

MS. KOLIS: He's the psychologist that saw Mrs. Morrison. Everybody's got that.

MR. PHILIPP: Allied Behavioral Sciences, I'm sorry, for the record.

BY MS. KOLIS:

Q. Doctor, I'd like to go through your understanding of the facts of this case. And you can certainly use any material that you need to.

On the second page of your report, you indicate that on November 10, 1998, an apparent suicide note was discovered by Mrs. Morrison at home. Have you ever seen that note?

A. No.

Q. Have you ever seen the suicide note that

Matthew wrote on December 8, 1998?

A. Yes.

Q. Were you able to read that note?

A. Most of it, but not all of it.

Q. And you couldn't read all of it because?

A. Well, between his handwriting and his grammar it made it quite difficult to figure out where sentences stopped and where sentences ended.

Q. As you conclude this paragraph, you're saying, "Mrs. Morrison contacted Mental Health Services," et cetera. We're all in agreement that that is a fact.

You said the initial contact note indicated no suicidal intent and no suicidal plan. Can you tell me where you derive that fact from?

A. From reading the initial contact note written by the Mobile Crisis Unit team.

Q. Are you saying that it's your understanding based upon those records and, perhaps, maybe reading Mr. Tiedemann that there was not a concern that Matthew had a suicidal intent?

A. According to the Mobile Crisis Unit records that I received, Bates Stamp Page 4, under this initial contact note, which is the title of this

page, it was checked off that there was no suicidal attempt and no suicidal plan as well as no prior suicide attempts.

Q. Further in that is there not a more in-depth interview which is recorded by Mr. Tiedemann indicating that Matthew thinks about killing himself about 50 percent of the time?

A. That may be there but you'll have to direct me to where it is.

Q. So, your review of the material didn't disclose that to you, that that was part of his initial assessment?

MR. PHILIPP: Objection, form.

THE WITNESS: I don't remember at this moment whether I saw that or not. As I said, the initial contact note for him indicates that there was no suicidal intent and no suicidal --

BY MS. KOLIS:

Q. Do you know who filled out -- I'm sorry. I didn't mean to cut you off. That's a bad habit I have.

Show me which document you're looking at. You told me it was Bates stamped before.

This initial contact, do you know whose

handwriting this is?

A. Not off hand.

Q. The signature says Cindy Walsh, Family Health Care. Do you see that?

A. Yes.

Q. Having pointed that out to you, does this lead you to conclude that this is Mrs. Morrison calling in as an initial contact to Mental Health Services?

A. That may very well be telephone contact, yes.

Q. Sure. And the way it's written it's a narrative. Would you assume that's the mother giving that information?

A. Yes.

Q. Would you expect someone with Linda Morrison's educational level to know whether a person has a suicidal intent or plan?

A. It was my understanding from reading Mrs. Morrison's deposition that she had a very close relationship with her son and she said at one point, "My son would never lie to me."

And she from her deposition reports that when Matthew came home from school that afternoon,

the afternoon of November 10 when she discovered the suicide note in the couch, she discussed with Matthew what the note was all about and why he had wrote it. I would assume that she asked him if he thought about killing himself or whether he had a plan to kill himself. And I also assume that Cindy Walsh, because she checked these off, may very well have asked specifically of Mrs. Morrison whether Matthew was reporting suicidal intent, suicidal plan, or frequent thoughts. And the frequent thoughts was checked off.

Q. My question was different than the one that you answered. Would you anticipate that -- and we don't have to deal with any other parents, just deal with Linda Morrison. Would you expect under these circumstances that she was a person in a position to assess whether or not a person had suicidal intent or suicidal plan?

A. I think if it was explained to her what those terms mean, yes.

Q. But you don't know what the initial intake clerk at Mental Health Services explained to her, correct?

A. Correct.

Q. It was just an initial emergency call. I'm

going to hand this over.

A. Sure.

Q. So, you are basing the fact that you don't think Matthew had suicidal intent or plan based on this initial contact note?

A. That's what I documented.

Q. Then why was he hospitalized at St. Luke's?

A. Because Mr. Tiedemann based on his evaluation felt that Matthew Morrison was in need of hospitalization because he was hearing voices.

Q. Do you recall whether or not Mr. Tiedemann also thought that Matthew was potentially suicidal?

A. I think that was raised because he said the voices were telling him to kill himself.

Q. If there's a notation that the client thinks about killing himself 50 percent of the time, would you as a psychiatrist say that the persons was, perhaps, at that point, at risk for actually committing suicide?

A. Not necessarily.

Q. Would it be a factor in your assessment? I mean you wouldn't ignore that fact, would you?

A. Of course not.

Q. So, if someone called you and said, "I'm

thinking about killing myself 50 percent of the time," can I assume that you would ask them to come into your office?

A. Or I would do a further assessment on the phone.

Q. What factors would you be looking for in your further assessment to determine whether or not the person is at risk for suicidal ideas and conduct?

A. At risk for ideas? I'm confused by the question.

Q. What further information would you need to know in addition to a client saying that they were thinking about killing themselves 50 percent of the time to make the assessment that a person was at risk for suicidal conduct?

A. Well, among others, I would like to know if there's any history of suicide attempts, the onset of the suicidal thoughts, the length, the duration, frequency, whether or not there was a precipitant that was associated with the onset of the suicidal thoughts. I would like to know what the home support structure is like or generally the social support network. I would like to know if the individual is on medication. I would like to know what the

medication is and how much. I would like to know some demographics about the individual: Race, gender, age. I would like to know if there was a family history of suicide or, specifically, prior exposure to individuals who committed suicide. I would like to know if there was any involvement of alcohol or other drugs, either chronic or acute. I would like to know obviously if the individual has any intent to act on those thoughts, do they have a wish or desire to die as opposed to just thinking about it. And I would like to know whether they have a plan to commit suicide and how extensive that plan is. And I would like to know if they have access to means by which they would carry out the plan and how extensive and involved that that access might be. That's where I would start.

Q. So, based upon your review of all the documents available prior to the time that Matthew went to St. Luke's Hospital, you don't think that Matthew was suicidal?

MR. PHILIPP: Objection.

BY MS. KOLIS:

Q. Is that the opinion you hold, Doctor?

A. I think we're going to get hung up on the

term suicidal. I think at the point that Matthew Morrison was admitted to the hospital he was admitted for an assessment of why he was having suicidal thoughts. He was admitted to provide safety and security until further notice until they could determine whether or not he was truly suicidal or not. And it is unusual, relatively unusual for a 13-year-old to have a sudden onset of auditory hallucinations. And the cause of that, the underlying etiology of that needed to be determined and resolved.

Q. I'm going to switch gears a little bit. You do not have a private practice of psychiatry at this point, or do you?

A. That also needs a little explanation.

Q. Yes. It was very unclear to me in reading prior depositions what you actually do. I probably should talk to you about it.

A. I have multiple duties and responsibilities at the University of Chicago. Primarily I'm the Director of the Student Counseling and Resource Service. In that capacity, I supervise 20 clinicians, and I see students, registered students, at the university on a weekly -- or on a regular basis.

In addition, I'm Associate Professor of

Psychiatry in the Department of Psychiatry of the University of Chicago. In that capacity, I also do clinical work with non-registered individuals, people in the community. And I do treat them, but the billing for those individuals goes through the Department of Psychiatry, and I'm not the direct recipient of those services in terms of payment.

I am what is called a full-time employee of the University of Chicago, so I'm not allowed to have a private practice, I'm not allowed to see patients outside of the University of Chicago umbrella. And whoever I do see, the revenue goes to the department.

So, the technical answer to your question is, no, I don't have a private practice, but that's because I'm not allowed to have a private practice.

Q. Having said that, I just want some little clarification from some other things I read. What percentage of your professional time do you spend in the active clinical practice of psychiatry treating patients?

A. If we include both my work here at the Student Counseling Service and the patients I see for the department, it's approximately 15, maybe 18 hours a week of direct patient care.

Q. Okay.

A. But I don't work a 40-hour week either for the University if you include all my other activities. So, I guess of my daytime work it's a third to maybe a half of my 40-hour week is devoted to direct patient care.

Q. Currently you have admitting privileges at the University's hospitals, is that right?

A. Right.

Q. But the work that you do is not in the hospital, or it is?

A. It is not.

Q. That's what I thought, and I just wanted to be sure about that. So, what you're doing is outpatient psychiatric psychotherapy or -- I don't know what you do, I'm sorry.

A. Assessment, diagnosis, psychotherapy, medication, medication management, referral, supportive work. A full range of services in an out-patient setting.

Again, the University of Chicago training program is one that's designed that residents have primary responsibility for the care of inpatients. So, when I refer a student for inpatient

hospitalization, the care is provided by a resident in training. We do have a faculty member who runs the inpatient service, but I'm involved to the extent that I'm consulted with, but I don't write orders and I don't officially discharge a patient from the hospital.

Q. Because, in fact, in your program there's a clinical attending psychiatrist who supervises the resident in the hospital, correct?

A. That's correct.

Q. All right. So, you don't do that.

How much of your professional time per week are you involved in the actual teaching of medicine?

A. Again, that varies by time of the year, but it can be upwards of eight or ten hours a week.

Q. Which represents what percentage of your professional time?

A. Of my time at the University, probably about 20 percent.

Q. And then you have a lot of administrative and academic responsibilities, is that right?

A. Yes.

Q. And what percentage of your professional time does that constitute per week?

A. Whatever's left over to make up 100 percent. Again, could be as much as 15 or 20 hours a week depending on the week. I sit on committees, I do a lot of clinical administration and other forms of administration for the University.

Q. Your patient population is college aged students, is that correct?

A. No. It's registered students at the University of Chicago. And the age range runs 17 to 35, approximately. That's the bulk of your students. Some are older, one or two are younger.

Q. Like the Doogie Howser type?

A. That's right.

Q. And you have a couple of those here?

A. Exactly, right.

Q. You are not currently practicing child psychiatry. Is that a fair statement?

A. That's a fair statement.

Q. Do you know by chance Dr. David Shaffer?

A. Yes, I do.

Q. Okay. Thought so.

In this particular instance, is it a fair conclusion based upon the totality of the information that's been provided to all of us that Matthew

Morrison didn't simply come home on November 10 and say, "Mom, we need to sit down and talk. I'm thinking about killing myself.'' Is that right? Is that your understanding that she found these notes, is that right?

A. That's my understanding correct.

Q. So, to that extent would you agree with me that Matthew Morrison may have had issues that he didn't want to discuss with his mother?

A. I can assume -- all I can say is around this particular issue, yes. I have no information about anything else.

Q. Fair enough. While Matthew was at St. Luke's Hospital, and you certainly can look at the chart, he was on suicide checks every 15 minutes, wasn't he?

A. Correct.

Q. And that remained so through the moment of discharge. Is that a fair statement?

A. It's a fair statement.

Q. Would you agree with me that as a principle of psychiatric medicine that you should not release a person from the hospital who has been on 15-minute suicide checks until they've had a period of time on

not so intense suicide checks to see if they're stable?

A. That procedure. The policy differs with different hospitals. I don't know what the exact policy was at St. Luke's Hospital in terms of the issue of coming off of Q 15 and how much time needed to elapse before discharge.

It varies. Generally you're correct. Generally most of the time there is a period of time where a patient is taken off of Q 15, advanced to Q 30 or given other privileges before they're discharged.

Q. Doctor, it isn't a matter of hospital policy, it's a matter of the standard of care. Would you agree with that?

A. I think it would be seen on a case by case basis.

Q. Do you recall giving testimony in the Edwana Overbee Lafaze case versus Livingston, Roslyn?

A. Yes, I do.

Q. Do you remember that case?

A. I remember the case.

Q. And can I assume that since you were under oath in that case both at deposition and at trial that what you said, either in deposition or trial,

would have been truthful?

A. I hope so.

Q. Do you have a recollection of testifying under oath in that matter that the standard of care requires a psychiatrist to give a person a period of time not on intense suicide checks before they leave a hospital so that you can make sure that they truly are stabalized?

A. I don't doubt that I said that at that time.

Q. Well, that was in 1999. This is only 2002. Has something changed in medicine in three years?

MR. PHILIPP: Objection. The facts of the case can change.

THE WITNESS: My testimony in every case is specific to the circumstances because there's no two cases that are the same.

BY MS. KOLIS:

Q. Well, there might not be two cases that are exactly the same, Doctor, but aren't we looking for in evaluating these cases the standard of care?

A. Yes.

Q. So, in this particular case, Matthew Morrison was hospitalized in November of 1998. You

are going to disagree with me that the standard of care required that he be given additional time without Q 15 suicide checks to make sure that he was truly stable?

A. Well, I wouldn't put it the way you stated it, and I wouldn't necessarily disagree with what you're suggesting. I think it's unusual that this is what happened, that he was kept on Q 15 up until the point he was discharged. That is not usually the way it's done, but that doesn't necessarily mean to me that it is a deviation from the standard of care.

Q. Okay. We'll move on. Let's talk about medication. What medications was Matthew on and when were they prescribed? You can look at your report, you can look at anything you need to look at.

A. He was first put on Trilafon and then Cogentin was added and then Paxil was added. So, he was on those three medications at the point he was discharged. Trilafon was begun on November 13, 1993; Cogentin was added on November 14; and Paxil was added on November 16.

Q. And why was the Paxil added on November 16?

A. Because I believe that Matthew was also suffering from depressive symptoms.

Q. And the Cogentin was added for what reason?

A. Because it was apparent that he had developed some extrapryamidal symptoms or some dystonic reaction to the Trilafon which he received the day before.

Q. As a matter of the standard of care, how long should a psychiatrist monitor a child who's been placed on Paxil before they release them from a hospital?

A. I don't know.

Q. Okay.

MR. STOFFERS: What was the answer?

MS. KOLIS: His answer was he doesn't know.

BY MS. KOLIS:

Q. When a psychiatrist prescribes anti-psychotic medications, do you have an opinion, Doctor, what the standard of care requires in terms of amount of time or result to monitor to make sure that that drug is effective?

A. Usually one would closely monitor a patient until the point in which the target symptoms are resolved.

Q. In this particular instance, the Trilafon

was prescribed by Dr. Lightbody for what reason?

A. Because of the auditory hallucinations.

Q. On the day of Matthew's discharge, do you find any evidence in the chart that Dr. Lightbody conducted an exit interview with Matthew or examined him?

A. There is not a specific note stating that he had a formal evaluation. Nevertheless, there is a clue that that might have occurred in that his final note said "ready to go" or something to that effect suggesting that he may have had contact with Matthew in the process of the discharge that day.

Q. On other occasions when you have testified on behalf of plaintiffs, have you not rendered an opinion that it is below the standard of care for a physician to discharge a person who was thought to be at risk for suicide without doing a complete assessment on the day of discharge?

A. That's correct. But in this case, I don't believe that Matthew Morrison was at risk for suicide on the day he was discharged.

Q. And that's why you would think it would be appropriate for Dr. Lightbody not to give him a complete assessment on the date of discharge?

MR. PHILIPP: Objection, form.

THE WITNESS: I don't know about the term appropriate. He had a team meeting that morning with the nurses, the psychiatric resident who had seen Matthew the day before. He had a meeting with all of his staff, and they decided that he was ready for discharge.

I gather from the record that Dr. Lightbody read the chart, kept up with the notes that were entered in there. And consistently throughout the entire chart, based on at least the computer printouts, there was never a risk of suicide, there was never suicidal ideation or suicidal plans documented. All those boxes were always checked off as no. So, my reading -- and for that matter, the word suicide does not appear anywhere in the chart, at least for the last few days. So, although the auditory hallucinations might have been there, the issue of whether Matthew was suicidal was not documented suggesting to me that that was not an issue.

Q. Let's talk about his auditory hallucinations because I know they're referred to in your report. You indicate somewhere in your report, and I probably

should look at it, but if this doesn't comport with your recollection you tell me, that the voices that Matthew was hearing were his own?

A. Correct.

Q. Where did you get that information from?

A. From the chart.

Q. Show me where in the chart it says that the voices that he is hearing are his own.

A. Dr. Lightbody's discharge summary, Bates Page 106.

Q. His typed discharge summary?

A. Yes.

Q. Okay. Go ahead.

A. States, "He spoke about hearing 'voices' and recognize that hearing these were in his own head."

Q. Were in his own head meaning they weren't outside of his body? Do you know what that sentence means?

A. Yes.

Q. What does it mean?

A. What it means is that the voices that he was hearing were voices that were not -- he was reporting that the voices were within his head as if

they were his own thoughts as opposed to reporting that he hears foreign or external voices telling him what to do.

Q. Is there anything in the medical charting other than his discharge summary that says that?

A. Well, on November 11, Bates 94, Dr. Lightbody reports that Matthew recognizes that the voices are his own thoughts but reporting them as being scary.

Q. So, what significance does it have to you whether or not they're his voice or someone else's voice that he's hearing?

A. The literature having to do with auditory hallucinations, the meaning of auditory hallucinations, and whether one can use that as a diagnostic tool suggests that auditory hallucinations that are reported as being within one's head are not often associated with schizophrenia, for example, and that those reports are not often associated with command hallucinations which are the ones that we are most concerned about because it is the command hallucinations that are associated with self-destructive behaviors, or can be associated with self-destructive behaviors. So, the fact that someone

says, "I'm having these voices in my own head," rarely, unless those voices are self-denigrating, are rarely associated with self-destructive behaviors.

Q. Because I was wondering what the importance was why it was in the report, and that's why I asked you.

I take it you've read Dr. Lightbody's deposition carefully?

A. Yes.

Q. When's the last time you had the opportunity to read it?

A. Well, I skimmed through it just the other night.

Q. I'm going to paraphrase what I believe Dr. Lightbody testified to because I don't have it, and you can tell me what you think he said. But was it clear to you that the conditions under which he agreed to discharge Matthew is that Matthew would have an outside psychiatrist?

MR. PHILIPP: Objection, form.

THE WITNESS: What I understood to be the case was that the team decided that Matthew was ready for discharge implying to me that he was no longer suicidal and that the medications were beginning to

take effect and that it was safe to discharge him from the hospital. It was my understanding that as part of the discharge process what was discussed was follow-up care. And the follow-up care was through the Applewood System.

It is my understanding from Dr. Lightbody's deposition that the nurses were given the responsibility to go through the discharge process with the patient and his mother, and that it was the nurses who were assigned the responsibility to inform the patient and his mother about follow-up care, but that the decision to refer Matthew to Applewood was because there was appropriate follow-up care there that involved both psychotherapy and medications. That also appears in the record.

Q. In your expert report you indicated that you read the deposition of Linda Morrison dated November 7, '01.

A. Correct.

Q. Have you ever read the other part of her deposition?

A. Yes.

Q. So, that just didn't make it on the report?

A. I didn't read it at the time I prepared the

report.

Q. You've subsequently read it?

A. Correct.

Q. Is it good -- forget good medical practice. Is it below the standard of care for a psychiatrist to discharge a patient such as Matthew Morrison -- meaning everything that is in the chart about Mat -- without insuring that there is an outside psychiatrist to monitor both the medication and to make sure that there's a psychiatrist available for counseling purposes?

MR. PHILIPP: Objection, form.

THE WITNESS: I think Dr. Lightbody, by stating it in the chart that there was a referral that was going to be arranged with Applewood assumed that that was how things were going to go.

BY MS. KOLIS:

Q. That isn't the question I asked you, so we'll work on that after this.

A. I'm sorry.

Q. That's okay. We're still with the standard of care. Would you agree with me that it would be a violation of the standard of care for a psychiatrist in this particular situation to discharge a child

such as Matthew Morrison into the general community without insuring that there is an outside psychiatrist available to monitor the medications and to be available for counseling?

A. Yes.

Q. Now, would you agree with me that Dr. Lightbody has the ultimate responsibility to insure that his team takes appropriate steps to make sure that the child has a psychiatrist?

MR. PHILIPP: Objection to form on several levels.

MS. KOLIS: Well, I don't know what your several levels are, but I think he can answer the question.

THE WITNESS: I think it's Dr. Lightbody's responsibility to insure that a referral is made to a clinic or to a facility where there would be medical matters and psychiatric care as follow-up, yes.

BY MS. KOLIS:

Q. In this particular instance, are you aware that there is a dispute of facts as to how the placement or arrangement is to be made?

A. Yes.

Q. What's your understanding of that factual

dispute?

A. As I understand it, Mrs. Morrison was under the impression that Miss Beard-Chaning was going to contact the Applewood System and make an appointment for Mat and that Miss Beard-Chaney would call Mrs. Morrison with the appointment date in the ensuing few days. That's Mrs. Morrison's side of it.

Miss Beard-Chaney's side of it was that she, in fact, did initially contact Applewood to let them know that a referral was being made to Applewood and that they should be expecting to hear from Mrs. Morrison in regard to setting up the appointment and that at the point on December 8 that Mrs. Morrison contacted Miss Beard-Chaney an appointment had been set up but that there was a request from Mrs. Morrison to try to move the appointment sooner in time from December 30 to something sooner.

Q. As a matter of the standard of care, would you agree with me that a psychiatrist cannot delegate the responsibility to another person to make a contact with an outside psychiatrist unless they do some following up to insure that that happens?

I can withdraw it and ask it a better way. I see you're pondering the question.

A. Well, I'm pondering the question because it happens all the time, at least on an inpatient unit. A decision is made to discharge a patient, and the nurse or the social worker will call a facility in which there are psychiatrists to make arrangements for follow-up but not necessarily talk to a specific psychiatrist who is on staff at a facility.

Q. But they do set up the appointment, and the appointment is documented in the chart. Would you agree with that?

A. The they being?

Q. Whomever. You said all the time your nurses or your social workers or whoever at the behest of the psychiatrist will call a facility for follow-up care, correct?

MR. PHILIPP: Objection.

THE WITNESS: If it is the responsibility of them to do so, yes.

BY MS. KOLIS:

Q. And then they document it?

A. They should document it, yes.

Q. And you said that you're called in as a consultant. If you had a child such as Matthew Morrison who was being discharged into the community,

wouldn't you want to know that there was a definite appointment set with a psychiatrist?

A. If I'm called in as a consultant for what purpose?

Q. I knew you were going to get me on that one. You don't have any patients in the hospital who you're discharging, is that right?

A. Me currently?

Q. Right.

A. I do not have any patients in the hospital.

Q. Because I thought we already established you don't have inpatient cases at present, right?

A. At this moment, correct.

Q. Do you feel comfortable enough, Doctor, given the limited nature of your practice to address issues regarding the standard of care as to whether or not a psychiatrist should establish an outside psychiatrist for a child?

A. Yes.

Q. Okay. So we get past that.

In other legal matters have you not testified, Doctor, that an inpatient psychiatric case should not be discharged from the hospital until the physician insures that a definite appointment has

been made?

A. I don't doubt I made those statements, but I also don't feel that in this case Dr. Lightbody deviated from that statement. The team did decide about a referral, the referral was approved by the team in Dr. Lightbody's presence, and a system was in place that the nurses and Miss Beard-Chaney would convey that to the appropriate people and that that would take place. I don't think it's below the standard of care that Dr. Lightbody himself had to pick up the phone and make the call.

Q. I though I asked you a different question, and perhaps I didn't do it very articulately.

If a physician himself or herself is not going to make the contact with the psychiatrist, don't they still -- because don't they still have the ultimate responsibility to insure that that appointment is made?

MR. PHILIPP: Objection to form.

THE WITNESS: I suspect in the ideal world that would be part of a physician's responsibility, although in the real world it doesn't often go that way.

BY MS. KOLIS:

Q. So, you're saying in the real world you think that the standard of care is that the physician need not concern himself with whether or not an actual contact has been made with the psychiatrist once the patient is discharged?

A. No.

MR. PHILIPP: Objection to form.

THE WITNESS: I am not saying that.

BY MS. KOLIS:

Q. I'm trying to figure out what you're really saying.

A. The standard of care, as I understand it, has to do with, first, it refers to what a prudent and reasonable practitioner, clinician would do under similar circumstances within their community. And I think, as I understand the practice of inpatient psychiatry, that the psychiatrist is responsible for insuring that follow-up care is arranged and identified and that under his or her direction that's carried out.

Q. But in this case, there was no assurance that the follow-up plan was in place and could be followed up by Dr. Lightbody, was there?

A. There wasn't a system in place such that Dr. Lightbody with be absolutely assured that all of the discharge pieces were carried out. That's correct.

Q. Jerry Beard-Chaney from your review -- let me strike that.

From your review of the depositions, would you agree that Jerry Beard-Chaney was providing services to Matthew Morrison at the direction of Dr. Richard Lightbody?

MR. PHILIPP: Objection.

BY MS. KOLIS:

Q. You can answer it.

A. I don't know whether she was doing this at the direction of Dr. Lightbody. She was carrying out the team's recommendations as to discharge planning and follow-up care. The decision was made for Matthew to be followed up at this facility, and she was given the responsibility to insure that -- well, she was involved in the process. I don't know that Dr. Lightbody specifically told her that that is what she had to do.

Q. Did you gather -- and I know there are a lot of facts in this case. Is it your understanding

based on Mrs. Morrison's testimony that on the day of discharge Mrs. Morrison met with Dr. Lightbody and Jerry Beard-Chaney together in a meeting?

A. My understanding was that Mrs. Morrison did meet with Dr. Lightbody and met with Mrs. Beard-Chaney, but I don't remember at this point whether all three of them were in the same room at the same time.

Q. Do you recall Mrs. Morrison's testimony that Dr. Lightbody told her that Jerry Beard-Chaney would take care of everything for setting up the appointments?

A. That's true.

MR. PHILIPP: Objection to form.

THE WITNESS: I believe that's the wording in Mrs. Morrison's deposition, yes.

BY MS. KOLIS:

Q. Do you have a factual basis to dispute that that's what was said?

A. I don't believe that either Mrs. Beard-Chaney or Dr. Lightbody agreed with -- had the same understanding of what took place in those matters.

Q. Isn't it important for a psychiatrist to make certain that there is no misunderstanding

between him or herself and the parent of a child who is just being discharged for evaluation for suicidal ideation?

A. Yes.

Q. In what way can a psychiatrist assure himself within that relationship with the parent that the parent knows precisely how follow-up care will occur?

A. One way is to sit down with the parents face to face and go over the care provided in the hospital, the prognosis, the treatment plan and the referral.

Q. Should Jerry Beard-Chaney have told Dr. Lightbody on December 8 about the phone call she received from Mrs. Morrison?

A. Not necessarily.

Q. Why not?

A. Because, A, Mrs. Morrison did not request it; B, she reported that Matthew was doing fine and that there was no problem; C, that Matthew had been evaluated by the school psychologist that afternoon and was released from school without the need for Mr. Tiedemann or the crisis mobile unit to get involved; and, D, Mrs. Morrison said that she was going to be

speaking to Mr. Tiedemann later that evening. And I think it was reasonable for Miss Beard-Chaney to assume that if there was still a problem or there was a need for further intervention that Mr. Tiedemann would have gotten involved again at that time.

Q. So, you're saying it was okay for her not -- and I'm reading it right out of your report. You're saying that it was okay for Jerry Beard-Chaney, who was the social worker in the psychiatric unit working under the direction of Dr. Lightbody, not to tell him because she should assume that Mr. Tiedemann was going to address this?

MR. PHILIPP: Objection to form.

MR. STOFFERS: Objection.

BY MS. KOLIS:

Q. Let me ask the question a better way. In your report you wrote precisely, Page 4. "It was Miss Beard-Chaney's reasonable belief that Mental Health Services, Inc. would do an appropriate evaluation if needed." Do you see where you wrote that?

A. No.

Q. I'm sorry.

A. That's okay.

Q. The second to the last paragraph. Second to the last sentence.

A. I see that. Thank you.

I still stand by that.

Q. So, it is for that reason and that reason alone that you believe that she didn't need to tell Dr. Lightbody that, A, Matthew had written a new suicide note and, B, he had not yet been seen by an outside psychiatrist?

MR. PHILIPP: Note my objection. He's given you a laundry list of reasons.

THE WITNESS: That is not the only reason.

BY MS. KOLIS:

Q. What are the other reasons again?

A. That Matthew was evaluated by a school psychologist earlier in the day and was deemed not to be suicidal and allowed to go home with his mother. B, the mother reported that he was doing just fine, that they ate dinner together, he was playing in his room, and there were no issues here.

I'm going to have to go back and reread my answer.

I mentioned that Mr. Tiedemann who had been contacted earlier in the day and was going to

call back later that evening, and Mrs. Morrison did not request from Mrs. Beard-Chaney that she get in touch with Dr. Lightbody.

Q. I take it you've seen no social work notes in this case subsequent to the time Matthew was discharged?

A. I saw the Crisis, all the notes from the Crisis.

Q. Ask a stupid question get a stupid answer. I take it that --

MR. PHILIPP: It wasn't a stupid answer, it was an accurate answer.

BY MS. KOLIS:

Q. I take it that you have not seen any social work notes authored by Jerry Beard-Chaney -- I'm sorry, social work notes by Jerry Beard-Chaney subsequent to the time Matthew was discharged, correct?

A. That's correct, because Mr. Tiedemann is also a social worker.

Q. I'm sorry. I wasn't thinking. I'm thinking we're still on St. Luke's here.

So, you haven't seen anything in writing from Jerry Beard-Chaney, correct, to confirm any of

the information that she provided to us in her deposition?

A. That's correct.

Q. Do you think that's unusual that there are no social work notes in existence that confirm these conversations?

MR. PHILIPP: Objection.

THE WITNESS: No.

BY MS. KOLIS:

Q. Do you work with social workers?

A. I sure do.

Q. Would you expect social workers to take notes based on telephone calls from patients of yours?

A. Yes.

Q. That's all I have to ask you on that.

Your last paragraph on Page 4. I like to hear myself talk so I read. "Later that evening, Mr. Tiedemann spoke with Mrs. Morrison at home. Mrs. Morrison denied a need for outreach services." When you wrote that sentence, what did you mean?

A. According to Mr. Tiedemann's deposition, he asked her if he needed to stay involved, whether Matthew was in need of intervention that evening or

at other times. According to Mr. Tiedemann's deposition, Mrs. Morrison said no. According to Mrs. Morrison's deposition, she didn't request that Mr. Tiedemann come out that evening and provide additional services.

Q. Do you consider yourself a crisis intervention specialist?

A. Yes.

Q. Just wanted to establish that before I started asking these questions.

Is a parent in the best position to know whether or not a child who has just written a suicide note is truly not suicidal?

MR. STOFFERS: Objection.

THE WITNESS: I think that depends on the degree of exposure/experience that a parent has had with these issues and with their child around these issues, yes.

BY MS. KOLIS:

Q. In this particular instance, was Linda Morrison the best person to evaluate whether or not Matthew was stable?

MR. PHILIPP: Objection to form.

BY MS. KOLIS:

Q. You can answer the question, Doctor.

A. I think that in some regards she may not have been but in other regards absolutely. She states in her deposition that she knew her son very well, that they had a very good relationship, and that up until the moment she left the house on the 10th there was no indication to her that he was suicidal. He had expressed no suicidal intent, ideation to her at that point.

I think Mrs. Morrison did rely in this case on the 10th the school psychologist's decision to -- or evaluation, I should put it that way, that he was not in need of further evaluation.

Q. Is that what you gathered from Mrs. Morrison's deposition testimony that she was relying on the school psychologist?

A. She said that she was relying on Mr. Tiedemann and Miss Beard-Chaney as well.

Q. Your last sentence, and I just want to make sure I have the context of it correct so that I don't cross examine you at trial and you say something otherwise. It says, "Mr. Tiedemann then implemented a case termination based on Mrs. Morrison's report

that Matthew was calm and that her impression was that the suicide note was situational because a peer had made fun of Matthew that day he wrote a note saying he was going to kill himself. No suicide plan was mentioned in the note." You've read the note? Correct.

MR. PHILIPP: Objection.

THE WITNESS: Yes.

BY MS. KOLIS:

Q. Did you see a suicide plan mentioned in the note?

A. As we started off saying earlier today, it was difficult for me to precisely decipher that note, but I agree with you if that reference to a building was talking about jumping off of a building then that would been a suicide plan.

Q. Do you recall that Mr. Tiedemann who was familiar with Matthew was actually able to read that note, and that's what he says the note says?

MR. STOFFERS: Objection. At what time?

BY MS. KOLIS:

Q. Put it in context for Bob. You understand the testimony is that Mr. Tiedemann did not see the note that day?

A. Correct.

Q. At his deposition he was presented with this note that was written by Matthew and he was able to read it. It says I'm going to kill myself by jumping off, and I think he said bridge or building.

A. That's why I had trouble with it, too. I couldn't figure it out.

So, then that last sentence should be deleted.

Q. Right. That was the only reason I'm asking you. I didn't understand the context. So, I'll just take that out.

A. I'll be happy to delete that sentence.

Q. Let's go through your opinions. Starting on Page 6, Doctor, you have listed what your opinions are in this case, and you've got several of them. I think we've covered them, but I want to make sure.

A. You wouldn't expect anything less from me, would you?

Q. No, absolutely not. I just want to make sure we've got the universe covered here.

A. Okay.

Q. Your first opinion is that he, being Dr. Lightbody, no longer had a clinical relationship

with Matthew Morrison. At what point did he no longer have a clinical relationship with Matthew Morrison?

A. In my view, at the point that Matthew Morrison was discharged from the hospital and follow-up arrangements were discussed and instituted.

Q. You would agree with me that Dr. Lightbody provided the Morrison family with a prescription and one refill?

A. Correct.

Q. And that would have extended it 60 days from the time of discharge? Is that your recollection?

A. Right.

Q. Is it also your recollection from Dr. Lightbody's testimony himself that the Morrison family could contact him if they needed help?

A. If they needed emergency help, yes.

Q. So, truly the relationship had not yet terminated. Would you agree with that?

MR. PHILIPP: Objection to form.

THE WITNESS: I think Dr. Lightbody made himself available in case of an emergency and would have offered his service as an inpatient psychiatrist in that context, but he was not seeing Matthew or

following Matthew. That was never an issue or request or discussion.

BY MS. KOLIS:

Q. And that sort of ties in with your second opinion. You're saying that Dr. Lightbody no longer had a duty to provide care for Matthew unless Mrs. Morrison contacted him to seek emergency medical intervention.

A. That's correct.

Q. From Mrs. Morrison's testimony were you able to determine that it was her belief that if she needed to contact Dr. Lightbody her understanding was that she was to call Jerry Beard-Chaney?

A. That was her testimony, yes.

Q. Your third opinion is that Dr. Lightbody had offered his availability to Mrs. Morrison should she choose to seek it, which she did not do.

A. That's correct. She never called him.

Q. If she called Jerry Beard-Chaney in the belief that Jerry Beard-Chaney would talk to Dr. Lightbody, did she not, in fact, seek Dr. Lightbody's help?

MR. PHILIPP: Objection to form.

THE WITNESS: If she believed that that was

correct, then that is what she believed. That's not the way it was presented to her or what she agreed to by signing the aftercare form. She had three numbers: She had Mrs. Beard-Chaney, she had the Department of Psychiatry, and she had a third number to call if she needed to.

BY MS. KGLIS:

Q. You don't doubt, do you, based upon Mrs. Beard-Chaney's testimony that Mrs. Morrison was calling Jerry Beard-Chaney, do you?

MR. PHILIPP: Objection. When? When, what, how?

BY MS. KGLIS:

Q. All right. Let's back it up. You read Jerry Beard-Chaney's deposition, correct?

A. Right.

Q. You don't have a reason to dispute that Mrs. Morrison did call Jerry Beard-Chaney on December 8, correct?

A. Correct.

Q. All right. Your fourth opinion is that the care and treatment by Dr. Lightbody was not a proximate cause of Matthew's death.

A. Correct.

Q. Can you tell me what was a proximate cause of Matthews's death?

A. The fact that --

MR. PHILIPP: Note my objection to form.

MR. STOFFERS: I'll object also.

THE WITNESS: I can't give you a cause for his death at the time he died.

BY MS. KOLIS:

Q. So, at trial you will not be offering an opinion as to why Matthew Morrison died? Not how, why.

MR. PHILIPP: Objection to form.

THE WITNESS: I believe that it may well have been related to a resurgence or re-emergence of his psychotic symptoms which were evident by this new suicide note being written on December 8. However, he died two days later, and in the interim two days there was no clear indication that he was preoccupied with auditory hallucinations or was acting in a depressed way. I think the suicide note episode on December 8 was an intervening episode that, if you will, broke any chain of causation between Dr. Lightbody and Matthew Morrison's death.

Q. Do you also have a law degree, Doctor? I'm

just asking.

A. Not yet.

Q. Working on it?

A. Should I be?

Q. I don't know.

MR. PHILIPP: For the record, he didn't read my brief.

BY MS. KOLIS:

Q. Opinion No. 5. At the time of discharge from St. Luke's Medical Center, Matthew was not acutely suicidal or in imminent risk for suicide.

A. I believe that, yes.

Q. Was Matthew Morrison at risk for suicide? Not acutely suicidal or at imminent risk. What are the suicide risk percentages, because I know you've testified to them before, for people who have just experienced an inpatient stay?

A. Within the first 24 to 72 hours statistically is the time frame in which most suicides occur for patients who had been admitted to hospitalization for evaluation or treatment of suicidal intent, plans of that nature. So, the risk period for recurrence of suicidal behavior is within the first 72 hours.

Q. Doctor, in the past do you recall

testifying regarding -- let's see if I can phrase it. I'll close my eyes and try to see it on the page: That there's a correlation between people who will, once again, experience suicidal ideation or even attempts based upon the length of time from when they see their physician? In other words, the further out it gets from having contact with the physician the more likely it is that that person will have another episode or will attempt to kill themselves?

A. I'm having trouble with your question because you're talking about both ideation and intent, or I think you said attempt, which in my view are two different situations. The literature says that people who die by suicide more likely than not to have had contact with a primary care physician or a physician or mental health professional, depending on which article you read, within the last ten days and as far as two weeks, but within that time. So, more often than not there has been a mental health contact in a short time. What that means we don't know.

Q. As part of your opinion in No. 5, you say Matthew was discharged on appropriate medications for his diagnosis with the appropriate follow-up plans

conveyed to Mrs. Morrison at the time of discharge. That's your opinion in this case, correct?

A. Correct.

Q. All right. Factual disputes aside, this is the opinion that you hold?

A. I think the follow-up to the Applewood System was the opportunity for him to get psychiatric care, was an appropriate follow-up. At that time of discharge it wasn't clear when the date of that follow-up was going to occur, but it was appropriate that he be referred to such a physician.

Q. It wasn't just appropriate. Wasn't it medically necessary that he be given follow-up care?

A. Yes.

Q. I think we've gone through Opinion 6 ad nauseum, so let's go to No. 7. It says, "Matthew Morrison and Mrs. Morrison were subsequently in contact with a set of professionals on December 8, 1998. Specifically, the Mental Health Services, Inc. Mobile Crisis Team (William Tiedemann and the Cleveland Public Schools Crisis Team (Francis McIntyre). On December 8, 1998 the school psychologist did not find him at imminent risk for suicide."

Let me ask you about this first. Based upon your reading of Fran McIntyre's deposition -- first of all, let me ask you. Have you ever read the deposition of Kirsten Hogesfeld?

A. Yes.

Q. So, there's some more stuff on there that you read?

A. Yes. I can tell you what that is for the record.

Q. Why don't you do that.

A. In addition to what appears on this opinion document to Mr. Philipp, I've also read the first deposition of Mrs. Morrison, which is May 8, 2001; the deposition of Kirsten Hogesfeld which was February 15, '02; report of Cheryl Wills, M D., March of '02; and report of Kenneth DeLuca, Ph.D. Those are the additional.

MR. PHILIPP: And the suicide note?

THE WITNESS: And the suicide note of December.

BY MS. KOLIS:

Q. You have not read any of the experts' depositions?

A. Not yet.

Q. Do you intend to read them before trial?
A. If Mr. Philipp feels that I should look at them, I will do so.
Q. All right. Fran McIntyre is a school psychologist, is that correct?
A. Yes.
Q. Is it clear to you that the Mobile Crisis Team was responsible for some of the training of the school psychologist to help them learn how to do crisis intervention?
MR. PHILIPP: Objection.
THE WITNESS: It was my understanding that the Mobile Crisis Team was called in to assist the Cleveland school system to evaluate the extent of a crisis, but that they were not called by the school when the school felt that their assistance was needed.
BY MS. KOLIS:
Q. From your careful review of the Medical Health Services note, can you agree with me that it is Mrs. Morrison who called Mental Health Services on the morning of December 8 after she was called by the school?
A. I know that's Mrs. Morrison's testimony.

Q. You can look at the note, the December 8 note. I can just show it to you right here. Nom called because school contacted her because of a suicide note was found. Do you see that?

A. Yes.

Q. Mom upset about client's current mental state, et cetera, et cetera. Now, you can tell mom is still at home, right? Mom is afraid because she can't get to school because of transportation issues.

A. Yes.

Q. So, having read that is it now clear to you that it is Mrs. Morrison who called Mental Health Services after the school contacted her?

A. Yes.

Q. Good enough.

A. To talk to Mr. Tiedemann.

Q. Right.

A. Yes.

Q. Back to where I was. Did you look at the suicide scale that Fran McIntyre used?

A. Yes, I did.

Q. What's your impression of the diagnostic or predictive value of that particular instrument?

A. Well, I don't put a lot of faith in most of

these scales or assessments. I put my faith in a good clinical examination and the mental status assessment and asking the questions we talked about early on as to how you assess someone for suicide.

Q. Is it clear to you in reading the material that's presented that Mrs. McIntyre is not a clinical psychologist?

A. My understanding is that she has a master's level training in school psychology and that her title is a school psychologist.

Q. "Mrs. Morrison elected to put her faith in the assessments and offers of interventions by the Mobile Crisis Team and the Cleveland Public School Crisis Team as well as her own observations and knowledge of her son's acts." Didn't she, in fact, however, call Jerry Beard-Chaney that day and say that a new suicide note was found?

A. I know she said that in her deposition. I believe in Mrs. Beard-Chaney's a phone call was made, but I don't know if that was said as opposed to -- or in addition to clarifying the appointment at Applewood or asking that it be moved up. I just don't remember at this moment how Mrs. Beard-Chaney categorized the entire phone call.

Q. The way that you wrote No. 7, I don't know if No. 7 is your opinion or just a recitation of the facts. That's why I guess I'm going through this.

A. It's my opinion. The sentence says, "Despite the apparent warning sign." That sentence is an opinion. I believe that that's what Mrs. Morrison did.

Q. Oh, I see what you're saying. So, in other words, what you're saying is that Dr. Lightbody didn't deviate from the standard of care because it's your impression based upon all the material you've read that she was relying on other people other than Dr. Lightbody on December 8 to make the assessment of Matthew's condition?

MR. STOFFERS: Objection.

THE WITNESS: At that time Dr. Lightbody knew nothing about anything of this at any point, so I don't see how he can be held accountable for subsequent actions.

BY MS. KCLIS:

Q. Could he be held accountable for placing this child in the community at large, if you will, with no psychiatrist to follow up with him?

MR. PHILIPP: Objection to form.
THE WITNESS: If, in fact, there was no follow-up appointment or follow-up plans made, then I would agree with that statement. But at the point of discharge it's very clear from the records that follow-up plans had been discussed or reviewed and discussed with Mrs. Morrison to which she agreed.
BY MS. KOLIS:
Q. But your answer is if appropriate follow-up plans were not made, someone could determine that a psychiatrist placed this child in this position without another psychiatrist?
MR. PHILIPP: Objection to form.
THE WITNESS: I don't quite agree with that statement. I mean if the statement is if there was absolutely no effort made or no plan to link Matthew Morrison with medical follow-up, then I agree with you that Dr. Lightbody wasn't doing his job.
MS. KOLIS: I'm going to make a request. It's a little unusual. I'm still on schedule, right, People?
MS. WISTNER: We're fine.
MS. KOLIS: I'd like to take a water break, have a cigarette, and look through his notes. And I

might not have anything else to ask him.

(WHEREUPON, a break was had in the proceedings).

BY MS. KOLIS:

Q. Dr. Silverman, I have a few more things to talk to you about. Actually they're not really question, they're just identification. I totally forgot to ask you how much money you're charging me per hour today.

A Four hundred dollars an hour.

Q. Is that your standard deposition charge?

A. Correct.

Q. If you prepare a bill and send it Jonathan, or you can mail it to me directly and I will CC him, I'll make sure you get paid ASAP. Okay?

A. Thank you.

Q. Handing you what we're going to mark Plaintiff's Exhibit B, these apparently are your notes, is that correct?

A. That's true.

(WHEREUPON, Deposition Exhibit B was marked for ID).

BY MS. KOLIS:

Q. We're going to let the court reporter take

it. She will copy it and make it part of the exhibit packet.

A. Fine.

Q. I just want to go through and identify the documents. You've got hand-written notes from the St. Luke's Medical record, correct?

A. Correct.

Q. Now, you write some things in black and some things in red, and they're not going to copy that way, but I want you to promise me you'll bring this to trial.

What is the significance of black versus red in your handwriting?

A. Well, I always mark deposition materials in red, so I always have a red pen in my hand. And sometimes if there's something important I'll just transfer it over, and usually the red indicates something that I want to highlight, but not always. And I also have a black pen to write down things that I'm tracking but I'm not highlighting in the document, if you follow what I'm saying.

Q. So, that's the system you've developed over the last ten years or so?

A. Right. And it's not foolproof, and in some

cases it doesn't logically follow, but I use two pens when I go through documents.

Q. So, you've taken notes on St. Luke's, the Cleveland Public School records. There's actually two sets.

A. Right, I received two different documents.

Q. The Mobile Crisis Unit records, the coroner's report, and then you've got all your notes from your version of the depositions, your depos summaries right?

A. Those are right out of the depositions.

Q. Right. What I'm just saying is this is how you summarize the depositions.

A. Correct.

Q. So, you've got summaries for Linda Adkins, Part 1, Part 2; Dr. Lightbody; Geraldine Beard-Chaney; William Tiedemann; Fran McIntyre, Fran McIntyre, you've got two sets of Fran McIntyre; Kirsten Hogesfeld; David Shaffer report; Cheryl Wills report; correct?

A. And, well, just make a note that I also looked at DeLuca.

Q. And there just aren't any notes on it, it just says report of DeLuca. So, that's B, and I

might leave it here, but we'll make sure the court reporter gets it.

C is going to be -- Plaintiff's Exhibit C is simply your correspondence file, correct?

A. Yes.

(WHEREUPON, Deposition Exhibit C was marked for ID).

BY MS. KOLIS:

Q. Now, you have one file marked notes and then this one's marked personal notes, correct?

A. You asked me to bring everything, so I brought everything.

Q. What's the difference between the notes file and the personal notes file?

A. The notes file are from the depositions and materials directly. The personal notes are additional information, thoughts, things that I have derived in order to help me to write a report, abstractions from the material. Some of it is outside information, some of it is what I've gleaned from reading the reports.

Q. We'll end up marking that Exhibit D, but I want to ask you a couple questions about it out of your personal notes file.

A. Sure.

(WHEREUPON, Deposition Exhibit D was marked for ID).

BY MS. KOLIS:

Q. Handing you this document which is the second piece of paper that will be in this exhibit. Now, you had your red pen out right?

A. I sure did.

Q. Tell me what that piece of paper is about.

A. I was very interested -- as a suicidologist, someone who is interested in this field, I was curious to learn about the incidence of suicide in white males age 13 by hanging. It seemed to me that that was a very rare event, and I wanted to look at both the incidence of white male 13-year-olds dying by suicide nationally in 1998 and locally in Ohio in 1998. So, these are all the numbers that I derived from my research that documents the fact that in 1998 in the state of Ohio white males between the ages of 10 to 14 years of age, there were a total of 10 suicides by hanging in the entire state.

Q. As part of that further back in this packet is some stuff that looks like you do what I do. I don't know if you Google, but somehow you got this

information, right? And this one's called an SIEC Alert, right?

A. Suicide Information and Education Center.

Q. And in this one it says Instance of Child Suicide and Suicidal Behaviors. "Data from Statistics Canada indicates that during the period of 1993 to 1997, 229 Canadian children ages five to fourteen completed suicide." The fact that this is from a Canadian study doesn't affect you one way or the other? Doesn't it say, "Highly lethal methods were common. For both males and females, hanging and firearms account for 90 percent of the deaths." Is that sort of what's in here?

A. Yes.

MR. PHILIPP: Referring to the second page.

BY MS. KOLIS:

Q. The second page.

A. No. It's generic U.S. data and state of Ohio data referring to comparing hangings against all deaths comparing 10 to 14-years-old against all 10 to 14-year-olds, et cetera, et cetera.

Q. The third page in your personal notes says check list. This is a check list for risk of suicide?

A. That's my check list of things that I'd like to go through to see whether there were possible deviations from the standard of care. So, those are questions that I ask myself in reading material. And then as I go through it, I check it *off* yes or no. It's a worksheet for me.

Q. Oh, I see. Let me ask you this question. You've really got great handwriting for a physician. I will say that.

A. Thank you.

Q. Right in the middle of the page it says free of voices at time of discharge with a question mark. And initially you wrote yes and then you wrote some --

A. This some testing removed refers to the prior hospitalizations for surgeries. The line that we're talking about says "not documented either way."

Q. So, from your review of all the materials there is no documentation either way as to the status of the voices at the time of discharge?

A. On the, I'm sorry?

Q. On the 19th of November.

A. Right.

Q. All right. I get the context.

The fourth piece of paper says -- is that RFS at the top?

A. Yes.

Q. Well, you'll have to tell me what RFS is.

A. Risk factors. What I like to do is I like to set up the risk factors versus protective factors, and I like to look at what is it that increases someone's risk for suicide versus what protects someone from suicide. And as I go through the materials, significant factors I list them on one side of the ledger or the other. So, that sheet for me shows both Matthew's risk factors for committing suicide as well as protective factors that would protect him against committing suicide as we, the people who study this problem, understand risk factors and protective factors.

Q. When you list these risk factors, and you've got several for him, right?

A. Yes.

Q. Learning disability program by history.

A. Correct.

Q. Recent move six months ago. Adjustment to school. Loss of relative with --

A. No. Loss of relationship with father.

Q. Did you determine that he ever had a relationship with his biological father?

A. Well, that's why I had a question mark.

Q. No father in the home. I can't read it.

A. Maternal aunt.

Q. Maternal aunt suicide within last year. Hallucinations, right?

A. Right. Voices telling him to kill himself and psychiatric diagnosis with associated psychotic features. Those are typically considered to be risk factors that would increase someone's risk above the rest of the population. It does not necessarily mean that someone's going to die from suicide because, as you well know, lots of folks have those risk factors and are not suicidal.

Q. So, in looking at this there's no statistical correlation based on these risk factors existing in combination that can tell you this person is going to go on to commit suicide?

A" I can't predict suicide one way or the other, either by risk factor or protective factor. But in each case I like to see a relative balance because, again, this is my product that you asked to see

Q. That's all right. I'm just asking what the thinking was.

And then this page. We're five pages in. I think it's called issues?

A. Correct.

Q. These are the issues the way you framed them?

A. Yes.

Q. Just looking to see if there's anything else I need to ask you.

Let me ask you a question about the bottom. You outline the issues on the top, and then you come to your position. I gather that's your conclusion. You reached the conclusion -- do you know when you took these notes?

A. No. Well, actually what happens is I start these pages and --

Q. Add materials as you receive them?

A As you can see there are arrows in corners. And, again, this is my work product, and I use these work products to then develop whatever statements or opinions that I'm requested to do.

Q. All right. You reached the conclusion and your position that it was the responsibility of mom

to make the follow-up appointment and linkages, correct?

A. Yes.

Q. And in reaching that conclusion, did you discount the testimony of Linda Morrison that she was told that Jerry Beard-Chaney would make the appointment?

A. Yes, and I'll tell you why.

Q. Okay. You can tell me why.

A. Because it's, from my understanding of both Dr. Lightbody's deposition and Miss Beard-Chaney's deposition, that the standard operating procedure for St. Luke's and that inpatient unit is to tell the parents that they need to do that. So, it seemed to me that from my perspective the body of evidence weighed more heavily on that conclusion than a different conclusion.

Q. No. 2. Your position was that Mental Health Services were to insure linkage, correct?

A. That was a statement that came from Mr. Tiedemann's deposition.

Q. Was it not also contained in the Mental Health Services record that their ongoing responsibility was to insure linkage?

A. Yes.

MR. STOFFERS: Objection.

BY MS. KOLIS:

Q. Did they insure that there was linkage?

A. I believe that, if I remember correctly, Mr. Tiedemann, when he talked to Mrs. Morrison, he did document the fact or discussed the fact that there was linkage to him that was arranged.

Q. On December 8.

A. Correct.

Q. Did the suicide note of December 8 constitute a new crisis for Matthew Morrison?

A. As I see it, yes.

Q. All right. And then No. 3: School on 12-8-98.

A. Intervention.

Q. Intervention. Question no contact with CIS.

A. Right. There is some dispute, and it wasn't clear to me, whether, in fact, there was a discussion held between Miss McIntyre and Mr. Tiedemann while Mrs. Morrison was at the school. I believe Mr. Tiedemann said he didn't talk to her.

I may be getting this confused. One or the

other between Mrs. McIntyre and Mr. Tiedemann said -- one said they talked, the other one said they didn't talk. So, I had a question mark as to what exactly happened.

Mrs. Morrison said they did talk. Mrs. Morrison reports that Mr. McIntyre handed her the phone after she talked to Mr. Tiedemann.

Q. How did you reach this position? "McIntyre evaluated Matthew on 12-8 and determined he was safe to go home with no need for emergency evaluation by CIS."

A. Well, she, and my opinion is that -- in fact, Mrs. McIntyre did evaluate Mat on 12-8. We have evidence that that occurred. And she called Mrs. Morrison and said, "Come pick up your son." And she said the only instructions that she gave Mrs. Morrison was that she should encourage Mat to write down his thoughts in a journal. So, my conclusion was that she determined that he was safe to go home because otherwise, she would have done otherwise and he wouldn't have been safe to go home. She would have pulled into action some other plan.

Q. Do you recall Fran McIntyre testifying that Mrs. Morrison left the school before Mrs. McIntyre

had a final conversation with her?

A. Yes.

Q. You have the SIEC Alert in here, Sources and Resource, The Harvard Medical School Guide to Suicide Assessment and Intervention. Doug Jacobson and I worked together before. You have an arrow drawn to his book.

A. Right.

Q. And why is that?

A. Because it's --

Q. The Gospel?

A. No, it's not the Gospel. I know Doug as well, and myself and two colleagues also published a text book of suicideology. And between Doug's book, my book and actually a book that was put out internationally, we have the three current textbooks in the field, and I was a little disappointed that Doug's was listed and not ours.

(WHEREUPON, a discussion was had off the record).

BY MS. KOLIS:

Q. Back on the record. And then you have --

A. The issue of the Fragile X syndrome came up in the record and I think in one of the depositions.

So, I am not remembering exactly the details. I went to the Web and looked it up.

Q. Did you look it up because you had no conversance with Fragile X syndrome?

A. I knew the terms, I didn't know the details.

Q. That's what I meant. You just had to refresh your memory as to what it was. And then in the back --

A. Those two you don't need.

Q. I don't know that we need to copy that again. That's your report. Let me just take it out.

A. And my CV which you've already discussed.

Q. And my understanding, Doctor, is that, because we real briefly looked at some of the other documents, things that you circle in red end up being on your note list anyway?

A. Absolutely.

Q. So, that's what you do? Just circle and go back through and list?

A. And then I also list the page number on my note.

Q. Doctor, have we covered all of the opinions that you intend to render at trial? Is there anything that you and I have not discussed?

MR. PHILIPP: Note my objection to the form.

THE WITNESS: Pending review of additional materials, at this time those are my opinions.

MS. KOLIS: I don't have any further questions for you at this time.

EXAMINATION

BY MR. STOFFERS:

Q. Dr. Silverman, we met earlier today. I'm Bob Silverman, and I represent Mental Health Services for the Homeless and Bill Tiedemann who are also defendants in this case. I just have a couple of questions for you. In your report you reference a treatment team at St. Luke's Hospital.

A. Yes.

Q. I take it the treatment team consisted of Dr. Lightbody?

A. Correct.

Q. Jerry Beard-Chaney?

A. Correct.

Q. Who else is on the treatment team at the hospital?

A. Well, the nursing staff.

Q. Okay.

A. The psychiatric resident who attended the last treatment team meeting, and a representative from the Crisis Mobile Unit.

Q. Do you know what input a member of the Mobile Crisis Unit had in regard to the decision to discharge Matthew?

A. I would have to assume that that member concurred with the group decision. Otherwise, I would expect to have learned otherwise.

Q. Do you have any other information other than that?

A. No.

Q. There is an aftercare or I think it's called a psychiatric aftercare treatment plan. I think that was maybe referred to some time as the discharge plan.

A. Correct.

Q. To your knowledge, was there any reference in that to services to be provided by the Mobile Crisis Unit?

A. No.

Q. Or Mental Health Services itself?

A. It's Page 28, Bates 82. I can take a quick look.

Bates 82. There is no reference to Mobile Crisis Unit.

Q. When you reference in your report that Mrs. Morrison denied a need for outreach when she spoke to Mr. Tiedemann in the evening of the eighth, are you talking about Mr. Tiedemann offering to come out and assess Matthew?

A. That was the -- right. The way I understood it was Mr. Tiedemann offered, she said it wasn't necessary because things were fine with Mat.

Q. You were asked in regard to I guess Opinion 7. You have your report in front of you?

A. It keeps on floating around the room.

Q. Opinion No. 7.

A. Okay.

Q. I'm specifically looking at the second full sentence which starts on December 8, 1998, the suicidologist did not find him in imminent risk of suicide.

A. Correct.

Q. Then you go on, "Despite the apparent warning sign, Mrs. Morrison elected to put her faith in the assessments and offers of intervention by the Mobile Crisis Team and the Cleveland Public School

Crisis Team. Do you see that?

A. Yes.

Q. The assessment you're referencing there, are you referencing the assessment that was performed by Ms. McIntyre that day?

A. Yes.

Q. And the offers of interventions, are you referencing Mr. Tiedemann's offers?

A. Yes.

Q. And then a couple sentences later you state, "In fact, then on December 8, 1998, Mrs. Morrison chose not to avail herself of the services offered by the Mobile Crisis Team on at least two occasions that day."

A. Yes.

Q. Are you referencing offers made at the public school that day?

A. I do have a correction that I put in here. It's minor, but for the record --

Q. What page?

A. The last line of No. 7.

MR. PHILIPP: Page 7.

THE WITNESS: Page 7, the last line of No. 7: Apparently on December 8, 1998, Mrs. Morrison

informed others that she could adequately monitor her son's behavior. I inserted, "That day and evening and ensuing days." The point I wanted to clarify was that she felt as though she didn't need any assistance. So, it's a minor correction.

BY MR. STOFFERS:

Q. If we could, one other thing, go back to Page 4 of your report, the last paragraph. I think you testified that in regard to your statement there that Mr. Tiedemann offered outreach services, you reference his deposition testimony.

A. Yes.

Q. And was that also in his records from the Mobile Crisis unit?

A. Yes.

Q. I just wanted to clarify that.

One last thing. You had taken out the reference to no suicide plan was mentioned in the note.

A. Correct. There was some dispute exactly what that was.

Q. Was it your understanding then on December 8 that Mrs. Morrison had not seen the suicide note that day?

A. That's correct.
Q. The information she got about the suicide note came from Miss McIntyre, correct?
A. That's correct.
MS. WISTNER: Objection.
BY MR. STOFFERS:
Q. And then that information from Miss Morrison was then passed on to Mr. Tiedemann?
A. I'm sorry. I lost the last part.
Q. Is this how you understand the events to occur in regard to information about the suicide note on December 8: That Ms. McIntyre read the note; that she told Mrs. Morrison her reading of the note I guess; and that Mrs. Morrison then told Mr. Tiedemann something about the note?
MS. WISTNER: Objection.
THE WITNESS: Not exactly. My understanding was that because the suicide note was found or came to the attention of one of the teachers, Ms. McIntyre was asked to get involved or to assess Mat. She called Mrs. Morrison and said come to school because of this incident. The suicide note was not seen by Mrs. Morrison that day, but it was the suicide note -- it was because of the suicide note and the

call to school that Mrs. Morrison contacted Mr. Tiedemann and Miss Beard-Chaney prior to going to the school.

Q. My question was as to what was contained in the note, Mrs. Morrison got her information from McIntyre, right?

MS. WISTNER: Objection.

BY MR. STOFFERS:

Q. McIntyre told Morrison what was in the note? If you know.

A. I don't remember that to be the case.

MR. STOFFERS: Then I have no more questions. Thank you.

EXAMINATION

BY MS. WISTNER:

Q. Good afternoon, Doctor. My name is Rebecca Wistner. I represent Fran McIntyre. I introduced myself earlier. I have a few questions for you.

First of all, I don't think, and correct me if I'm wrong, that your report has been marked as an exhibit.

MS. KOLIS: It wasn't.

BY MS. WISTNER:

Q. You have your report in front of you,

though?

A. Yes.

Q. If you could turn to Page 4. In the second full paragraph, it says, "On December 8, 1998, a second suicide note was discovered at school. Mrs. Francis McIntyre, a school psychologist evaluated Matthew and determined that Matthew did not have a suicide plan." Your reference to that determination, is that based solely on the suicide risk scale?

A. Yes.

Q. And am I correct from your previous testimony that you had trouble reading the suicide note?

A. I had trouble figuring out -- yes, I had trouble with deciphering it.

Q. Let me turn your attention to Page 7 of your report. Opinion No. 7. And you've been asked about this before. The first sentence indicates that the school psychologist did not find him at imminent risk for suicide. Do you see where I'm referring?

A. Yes.

Q. Am I correct that that opinion is based solely on reviewing the suicide risk scale?

A. Yes, and the fact that she allowed him to

go home.

Q. Would you agree with me that based on reading Fran McIntyre's deposition that Miss McIntyre was using the suicide risk scale or that she testified that she was using the suicide risk scale more as a tool for dialogue with Matthew rather than a tool for obtaining a particular score?

MR. STOFFERS: Objection.

THE WITNESS: Right. That's what she said.

BY MS. WISTNER:

Q. And do you recall reviewing Linda Morrison's testimony that Miss McIntyre never told her that Matthew was at no risk for suicide?

MR. STOFFERS: Objection.

THE WITNESS: I don't remember that exact testimony. Sorry, but I don't remember that.

BY MS. WISTNER:

Q. And am I correct that you have not reviewed the depositions of any other Cleveland School District employees other than Fran McIntyre?

A. That's correct.

Q. So, to the extent that other school district employees have testified that it is common practice for Mental Health Services to interview

students with crises at home later in the day, you would not know about that?

MR. STOFFERS: Objection.

THE WITNESS: I didn't review any other depositions from the school district.

BY MS. WISTNER:

Q. Going back to your Opinion No. 7. A little further down in that paragraph it indicates that Mrs. Morrison elected to put her faith in the assessments and offers of interventions by the Mobile Crisis Team and the Cleveland Public School Crisis Team. Do you see that?

A. Yes.

Q. Did you review the testimony of Linda Morrison that she was not relying on any assessment by Fran McIntyre but that she was relying on Bill Tiedemann and/or Jerry Beard-Chaney to tell her what to do?

MR. STOFFERS: Objection.

THE WITNESS: Well, this is my opinion. This sentence is my opinion that this is how I understand her behavior that day. Her testimony does state what you just mentioned.

BY MS. WISTNER:

Q. So, you're saying you don't believe her testimony?

A. No, I believe that that's her testimony. I believe because she knew Miss Beard-Chaney and she knew Mr. Tiedemann that she looked to them for support, but I have to believe that she was called to the school because there was some concern about Mat, and the people in authority at the school gave her the impression that he was safe to go home.

Q. Would you agree based on your review of the depositions in this case that both Linda Morrison and Fran McIntyre had the understanding that someone -- well, namely Bill Tiedemann was supposed to be following up later that day --

MR. STOFFERS: Objection.

BY MS. WISTNER:

Q. -- with Matthew and his mother?

MR. PHILIPP: Answer the question.

THE WITNESS: As I understand the testimony in the depositions, Miss McIntyre knew that the Mobile Crisis Unit was involved with Mat and his mother because Mat's mother called them in advance and talked with them on the phone. And Mrs. Morrison, of

course, looked to them for emergency help. She didn't think that this was an emergency on the evening of December 8.

BY MS. WISTNER:

Q. Let me follow up on a question that Miss Kolis asked you earlier. You would agree that Fran McIntyre was not a clinical psychologist?

A. Yes.

Q. Do you have occasion to work with school psychologists in your work?

A. Not currently. I used to be a school teacher.

Q. And I apologize, I have not read through your CV.

A. That's okay. It was a long time ago.

Q. When were you a school teacher?

A. 1969, 1970. And I have 18 credits towards a master's degree in school psychology.

Q. When did you complete those credits?

A. Summer, fall, winter and spring of '69, '70. While I was teaching I started a master's program.

Q. And where was that?

A. Mt. Clair State College which is now called

Mt. Clair State University in New Jersey. And I'm not basing any of my opinions relevant to any of that material that I was involved in 35 years ago, 32 years ago.

Q. And you're not offering an opinion in the context of the standard of care of a school psychologist in the State of Ohio?

A. That's correct.

MS. WISTNER: I have no further questions.

EXAMINATION (further)

BY MS. KOLIS:

Q. I'll ask you a last or close to last question. You have reviewed Mrs. Morrison's medical and psychiatric care records close to the suicide, correct?

A. Whatever Mr. Philipp sent me. I'm sure it's not a complete record. Frank Pettoli records.

Q. Well, you said you had the report of Frank Pettoli, but it also says you have the records of Mrs. Morrison's medical and psychiatric care post suicide.

A. This is Dr. Pettoli's report.

Q. And that's the only thing that you've seen?

A. I guess so.

Q. It would be unlike you to write something that you didn't look at.

A. That's why I'm now confused. My whole file is here, unless I -- well, I would have taken notes on it had I seen it, so I can check myself from these other exhibits.

Q. Your correspondence seems to indicate that on March 27 that you actually -- you had the other thing, the Pettoli thing a long time ago. It looks like you got records of Mrs. Morrison's post-suicide psychiatric and medical care.

A. I guess so, but --

Q. Don't have them?

A. I don't remember. I'm sorry, but I don't have a recollection of reviewing those materials at this time.

Q. Well, if you don't and there are no notes then I guess I can't ask you any questions about it. I didn't see any notes.

A. I don't have any documentation that I reviewed it. So, I'm sorry. I don't know what happened.

MS. KOLIS: I take it he's going to read.

MR. PHILIPP: Yes.

MS. KOLIS: Did anybody else have anything?

MR. STOFFERS: No.

MS. WISTNER: No.

* * AND FURTHER DEPONENT SAITH NOT * *

STATE OF ILLINOIS)
) ss:
COUNTY OF C Θ ○ K)

I, CHERYL LYNN MOFFETT, a Notary Public and Certified Shorthand Reporter within and for the County of Cook and State of Illinois, do hereby certify that heretofore, to-wit, on the 19th day of July, A.D., 2002, personally appeared before me at 5737 South University, MARTIN M. SILVERMAN, M.D., a Witness in a cause now pending and undetermined in the Court of Common Pleas for Cuyhoga County, Ohio, wherein Linda G. Morrison is the Plaintiff, and RICHARD LIGHTBODY, M.D., et al., are the Defendants.

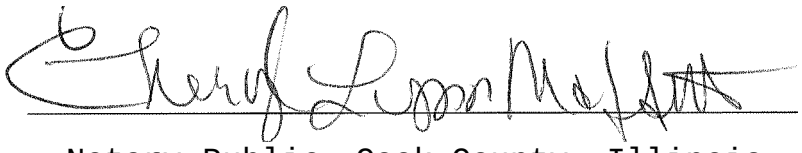
I further certify that the said MARTIN M. SILVERMAN, M.D., was by me first duly sworn to testify the truth, the whole truth and nothing but the truth in the cause aforesaid; that the testimony then given by said witness was reported stenographically by me in the presence of said witness and afterwards reduced to typewriting; and the foregoing is a true and correct transcript of the testimony so given by said witness as aforesaid.

I further certify that there were present at the taking of this deposition MS. DONNA TAYLOR-KOLIS on behalf of the Plaintiff; MR. JONATHAN

W. PHILIPP on behalf of the Defendant, Dr. Richard Lightbody; MR. ROBERT H. STOFFERS on behalf of the Defendants William Tiedemann and Mental Health Services for the Homeless, Inc.; and MS. REBECCA A. WISTNER on behalf of the Defendant Francis McIntyre.

I further certify that I am not counsel for nor in any way related to any of the parties to this suit, nor am I in any way interested in the outcome thereof.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal this 24th day of July, A.D., 2002.



Notary Public, Cook County, Illinois

and

Certified Shorthand Reporter

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