

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

IN THE COMMON PLEAS COURT OF ASHLAND COUNTY, OHIO

|                      |   |                |
|----------------------|---|----------------|
| MICHAEL SPARR, ETC., | : |                |
|                      | : |                |
| Plaintiff,           | : |                |
|                      | : |                |
| vs.                  | : | Case No. 34518 |
|                      | : | Dr. Slagle     |
| SAMARITAN HOSPITAL,  | : |                |
|                      | : |                |
| Defendant.           | : |                |

Doc. 416

APPEARANCES:

CHARLES I. KAMPINSKI CO., L.P.A., by  
Charles I. Kampinski  
Christopher M. Mellino

For the Plaintiff

ROETZEL & ANDRESS, by  
K.R. Augenbaugh

and

GONGWER & SHAFER, by  
Philip H. Shafer

For the Defendant

BEFORE THE HONORABLE JUDGE ROBERT E. HENDERSON

January 26, 1993

Carol A. Jung, RPR-CM  
Official Court Reporter  
142 West 2nd Street  
Ashland, Ohio 44805  
419-289-0000

1                    DIRECT EXAMINATION OF CHARLES A. SLAGLE

2   By Mr. Kampinski:

3   Q.        Good morning, doctor. State your full name, please.

4   A.        Charles Alan Slagle.

5   Q.        Doctor, I'm going to ask you a number of questions this  
6 morning. If at any time you don't understand any of them, you  
7 tell me, and I'll be happy to rephrase that question if you  
8 don't understand it, okay?

9   A.        (Nods in the affirmative.)

10   Q.        Doctor, where do you practice at, sir?

11   A.        Ashland, Ohio.

12   Q.        And your office address?

13   A.        350 Hillcrest Drive.

14   Q.        And what is the nature of your practice, sir?

15   A.        Family practice.

16   Q.        What does that involve?

17   A.        Involves taking care of adults, children. It did  
18 involve taking care of obstetrical cases, helping with surgery.

19   Q.        The obstetrical involvement, that's not something you do  
20 anymore; is that correct?

21   A.        That's correct.

22   Q.        In 1986, however, you were still involved in handling  
23 obstetrical cases?

24   A.        That's correct.

25   Q.        You were involved in the pregnancy of Susanne Auman,

1 correct?

2 A. That's correct.

3 Q. Was there anything throughout your handling of her  
4 pregnancy that caused you any concern, any problems in her  
5 pregnancy?

6 A. No, there wasn't.

7 Q. She was past her due date, was she not, when she  
8 ultimately delivered?

9 A. Yes.

10 Q. I believe approximately 16 days; is that correct?

11 A. Ten or 12 days.

12 Q. I'm sorry, right. You had a couple different due dates  
13 throughout her pregnancy, correct?

14 A. One or more, yes.

15 Q. That I believe is the 16th, and she delivered on the  
16 26th?

17 A. I think the records show the 14th of July.

18 Q. So that would have made her 12 days past?

19 A. Yes.

20 Q. As a result of her being past due dates, did you conduct  
21 any kind of testing in your office once she got past her due  
22 dates?

23 A. In my office, no.

24 Q. Was it at the hospital, non-stress test?

25 A. Yes.

1 Q. Could you just briefly tell the jury what non-stress  
2 tests are and what they are designed to do?

3 A. A non-stress test is to try to determine whether the  
4 baby is compromised or having a problem because it's overdue.  
5 It involves giving the baby a sugar solution at the hospital  
6 when they're not in labor, which stimulates the baby. If the  
4 baby is stimulated and the heart rate goes up and the baby  
8 moves, that's a reactive non-stress test, and that's a good  
9 test.

10 If you don't have those findings -- the baby's heart  
11 rate doesn't go up, stays the same, or goes down -- that may  
12 not be a good sign.

13 Q. And the reason you did this, once again, was because she  
14 was past her due dates; is that correct?

15 A. That's correct.

16 Q. Would you tell the jury what the dates of those -- I  
17 think they're both in front of you, doctor. Just indicate,  
18 please, what the dates of those two were and whether or not  
19 they were okay. There should be three sets of strips there.  
20 You can just indicate what the dates are, doctor, that you did  
21 them.

22 A. One of them -- this one says 7-15. The other one is  
23 7-23.

24 Q. So you actually did one two days before she went in the  
25 hospital on the 23rd?

1 A. Right, that's correct.

2 Q. And were those both reactive?

3 A. Yes, they were.

4 Q. So, in other words, they were both fine -- I mean the  
5 test that you did on this baby indicated that it was fine in  
6 utero?

7 A. That's right.

8 Q. And there was nothing, once again -- and I apologize if  
9 I'm repetitive at all, but there was nothing during the  
10 pregnancy that alerted you or caused you any concern that she  
11 might be having a problem with delivering this child; would  
12 that be a fair statement?

13 A. During her prenatal period, no.

14 Q. You were informed, apparently, at approximately 11  
15 o'clock on the evening of the 25th that she was in the  
16 hospital. Do you recall that at all?

17 A. Just after reading my record, yes.

18 Q. Were you told that there was any problem at all with  
19 respect to her being at the hospital?

20 A. I don't recall any, no.

21 Q. Were you told that she had an elevated blood pressure?

22 A. I don't recall that, either.

23 Q. Had you been told that, is that something that would be  
24 in your record that you did recall?

25 A. If it was significant, yes.

1 Q. After 11 o'clock, when is the next time you were  
2 contacted about Susanne Aumen?

3 A. Do you mind if I look . . .

4 Q. Absolutely. Anytime you need to look.

5 A. One-thirty in the morning.

6 Q. So between 11 o'clock and 1:30, you had no input from  
7 the nursing staff with respect to anything going wrong with  
8 Susanne Aumen in the hospital; is that a fair statement?

9 A. Yes.

10 Q. Doctor, there are some standing orders -- and if you  
11 need to look at the chart, feel free to do so. I'm going to  
12 refer to two of them. One of them is an order for a fetal  
13 monitor; is that correct?

14 A. Yes.

15 Q. And the other one is an order for an enema; is that  
16 correct?

17 A. Yes.

18 Q. And the policies and procedures of the hospital indicate  
19 that when in fact an enema is given, the patient is to be on  
20 the bedpan and that she can only go to the bathroom if the  
21 physician gives his permission. You were not called, were you,  
22 to give permission for her to go to the bathroom?

23 A. No, in this case I wasn't. I can't remember that.

24 Q. And if in fact the monitor was removed in  
25 contraindication to this procedure policy, would that have been

1 inappropriate in your patient then?

2 A. It would depend on the circumstances, but probably yes.

3 Q. And you weren't told that that is what was going to  
4 happen?

5 A. No.

6 Q. Or that that is what happened?

7 A. No.

8 Q. Should have been if in fact they wanted to do this?

9 A. Yes, usually.

10 Q. Doctor, with respect to the fetal monitor, is that  
11 supposed to be removed from your patient while she's in labor?

12 A. Not normally once they put it on, no.

13 Q. If in fact there's any difficulty in obtaining readings  
14 on the fetal monitor, are you supposed to be notified?

15 A. Yes.

16 Q. And were you notified that evening?

17 A. No.

18 Q. Were you told that there were any abnormalities on the  
19 fetal monitor?

20 A. No.

21 Q. If there were, should you have been?

22 A. Yes.

23 Q. And, doctor, had you been called and told that she had  
24 elevated blood pressure, knowing that she was postdates and  
25 that she had abnormalities on her fetal monitor and/or that the

1 fetal monitor couldn't be deciphered, would you have come to  
2 the hospital?

3 A. Yes.

4 Q. What would you have done?

5 A. Evaluated the situation.

6 Q. Would you have placed an internal monitor on her?

7 A. Depending on the situation, yes.

8 Q. In other words, if you couldn't have gotten readings on  
9 the monitor?

10 A. I might have used some other device also, but eventually  
11 I would have put a monitor in.

12 Q. When we say "internal," you would have had to broken the  
13 water to place that?

14 A. If it had not ruptured by then.

15 Q. That's placed on the baby's head as opposed to across  
16 the mother's abdomen?

17 A. On the baby's scalp, yes.

18 Q. Later on in the evening were you told that the baby was  
19 suffering from any bradycardia, any distressed heart rate?

20 A. No, I wasn't.

21 Q. If the baby's heart rate was at 88, is that something  
22 you should have been told?

23 A. Yes.

24 Q. And you weren't?

25 A. No.

1 Q. When you were called at 1:30 in the morning to come to  
2 the hospital, were you told that there was any problem  
3 whatsoever throughout that evening with Susanne Auman and/or  
4 her child?

5 A. To my recollection, no.

6 Q. As a matter of fact, when you got to the hospital, were  
7 you at all surprised by what you were confronted with?

8 A. Yes.

9 Q. Can you tell the jury why you were surprised and what  
10 you were surprised with?

11 A. Well, I wasn't expecting to find the problem or the  
12 crisis that was there when I got there. The baby needed to be  
13 delivered right now, and that's what I did.

14 Q. And you didn't have -- whose job is it, by the way, to  
15 call a pediatrician if the baby is showing any evidence of  
16 distress?

17 A. Usually that's the nurse, but rarely would the doctor  
18 call, unless the nurse can get them.

19 Q. In fact, if there were any signs or symptoms or distress  
20 later on in that evening, that's something that should have  
21 been done in addition to calling you?

22 A. With my okay.

23 Q. Of course, you weren't notified, so you . . .  
24 pediatricians are called for the reason that they have  
25 additional training and expertise in resuscitations; is that

1 correct?

2 A. Sometimes, yes.

3 Q. And as a matter of fact, I think at some point, Dr.  
4 Murthi was called to come see Michael; is that correct?

5 A. That's correct.

6 Q. Actually, after the delivery and resuscitation?

7 A. Well, he was called during resuscitation, I believe.

8 Q. The resuscitation in this case took approximately 18  
9 minutes; is that correct?

10 A. That's right.

11 Q. And there was meconium staining, correct?

12 A. That's correct.

13 Q. And had you broken the water anytime earlier that  
14 evening, that's something you would have seen -- that is,  
15 meconium?

16 A. If the baby was distressed then, yes.

17 Q. Knowing what we know now -- well, before I get to that,  
18 after the resuscitation, you transferred the baby to Akron  
19 Children's Hospital?

20 A. I did not.

21 Q. Dr. Murthi did?

22 A. Yes. We probably did it together, but . . .

23 Q. And the reason you sent -- and the placenta, by the way,  
24 the baby and the placenta?

25 A. I didn't know that at the time. I know that now.

1 Q. The reason that was done would be -- why was it sent to  
2 Akron?

3 A. Well, the placenta is usually sent to pathologists  
4 almost always but not always. That's a question the nurse  
5 usually asks the doctor in the delivery room, Do you want the  
6 placenta checked?

7 Q. Why would it have gone to Akron?

8 A. I can't answer that. I don't know.

9 Q. Are they the regional --

10 A. No, it would normally be done in our hospital. I assume  
11 when the baby was sent to Akron, they want the placenta, they  
12 want everything they can get their hands on.

13 Q. Did you receive any input back from Akron with respect  
14 to the condition of Michael?

15 A. Correspondence, yes. I got a summary.

16 Q. From Dr. Flaksman?

17 A. That sounds correct.

18 Q. I believe he also sent you a letter which is almost  
19 identical to the -- as far as content to the discharge summary,  
20 correct?

21 A. Yes.

22 Q. And did he indicate to you what the cause of the baby's  
23 problems were?

24 A. Yes, he said that the baby suffered from lack of oxygen  
25 at or around the time of delivery.

1 Q. Is that consistent, doctor, with your treatment of  
2 Susanne prenatally as well as what you saw at the time of  
3 delivery?

4 A. Prenatally?

5 Q. Yeah, before -- right before the child was born -- I'm  
6 sorry. During pregnancy as well as what you saw in the  
7 delivery?

8 A. Not consistent with early prenatal period, but the late,  
9 during the time of labor, yes.

10 Q. That's what I meant, I'm sorry. { So, in other words, his  
11 findings were consistent with what you saw, and that is anoxia  
12 or hypoxia during, at, or near the time of birth?

13 A. Yes.

14 Q. And that's lack of oxygen to the baby's brain?

15 A. Yes.

16 Q. Doctor, knowing what we know now, had the monitor been  
17 changed throughout that evening, had it been on, would it have  
18 probably shown signs of fetal distress had somebody been  
19 interpreting it, looking at it, throughout that evening?

20 A. During that 30-minute period, I think.

21 Q. In other words, had it been on 30 minutes continuously,  
22 that's something you probably would have seen?

23 A. I believe there was a 30-minute period it was not on.

24 Q. It's actually not on for two hours?

25 A. It was not recording during that whole time. It was not

1 on, I believe, 30 minutes of that time after looking at the  
2 record. Maybe I'm wrong. Maybe you can correct me on that.

3 Q. Let's assume one of two things. Maybe it was only on  
4 for 11 minutes during a period of three hours prior to the baby  
5 being born.

6 A. By "on," you mean -- by "on," you mean it was not  
7 recording correctly, or it was off for a period?

8 Q. Let's take it both ways. I'm going to do it both ways.  
9 Either that it was only on for 11 minutes or that it was on and  
10 not recording properly the rest of the time, okay? Either way,  
11 all we got is 11 minutes of decipherable readings in a three-  
12 hour period?

13 A. I think that's correct, yes.

14 Q. Had it been on or decipherable for any additional  
15 period, would we probably have seen fetal distress, knowing  
16 what we know now?

17 A. Probably, yes.

18 Q. And under those circumstances, doctor, had you been told  
19 that there were signs of fetal distress, would something  
20 probably have been done to deliver this child or to fix that  
21 problem in sufficient time to take care of it?

22 A. Yeah, I would have come in earlier.

23 Q. And in your opinion, would that have made a difference  
24 here?

25 A. I don't know, really.

1 Q. That's not your area of expertise?

2 A. Probably not, no.

3 Q. Doctor, do you have a picture of Michael in your file,  
4 sir?

5 A. Yes, photograph?

6 Q. Yes. Was that taken at the first office visit after he  
7 came back?

8 A. I believe it was, yes. We usually do that.

9 Q. And that was six or seven weeks of age?

10 A. Yes.

11 MR. KAMPINSKI: It's been marked  
12 Plaintiff's Exhibit 9, Your Honor. That's all I have. Thank  
13 you, doctor.

14 THE COURT: Cross-examine.

15 CROSS-EXAMINATION OF CHARLES A. SLAGLE

16 By Mr. Augenbaugh:

17 Q. Doctor, until yesterday, you were a party to this case,  
18 weren't you?

19 A. That's correct.

20 Q. One of the defendants here?

21 A. Yes.

22 Q. And, of course, we met before when Mr. Kampinski took  
23 your deposition up in Cleveland, right?

24 A. That's right.

25 Q. And in 1986, I believe, you indicated to Mr. Kampinski

1 that you were slowing down in O.B. business?

2 A. That's what I said in my deposition, yes.

3 Q. The fact is you only did four deliveries in '86 before  
4 this one?

5 A. I can't remember that. Did 27, I believe, in '85.

6 Q. In '85 you said you did 12 to 15?

7 A. That's what I said then, but I checked that.

8 Q. Once a month or maybe a little more?

9 A. Maybe two or a little more.

10 Q. And your intent was that you wanted to stop doing  
11 deliveries over the years?

12 A. Yeah.

13 Q. In fact, you did stop doing deliveries and you haven't  
14 done one since 1988?

15 A. That's correct.

16 Q. When you went to medical school, did you have a course  
17 or something about reading fetal hearing monitors?

18 A. Not in medical school, no.

19 Q. Didn't have them then, did they?

20 A. That's right.

21 Q. And when you would monitor the patients before the  
22 existence of the fetal heart monitor, what would you do -- how  
23 would you do that?

24 A. We did that with a fetoscope, or a doppler.

25 Q. That is a device that would permit you to listen to the

1 fetal heart too?

2 A. Yeah, it's like a stethoscope in one case that's a  
3 fetoscope.

4 Q. Do you still use that?

5 A. I'm not sure. Today I think they do, yes.

6 Q. With regard to the prenatal care of Susan Auman, how  
7 pregnant was she when you first saw her?

8 A. Well, she was by ultrasound about 16 and a half weeks.

9 Q. What is the length of the gestation period for people?

10 A. Forty weeks.

11 Q. Does that definition include 40 weeks plus or minus two  
12 weeks?

13 A. That's usually what I regard a normal pregnancy, yes.

14 Q. That's a generally accepted definition of the standard  
15 term gestational period of people?

16 A. (Nods in the affirmative.)

47 Q. What was Susan Auman's length of gestation?

18 A. She was 10, 12 days overdue. She was about 41, 42  
19 weeks.

20 Q. Forty-one weeks plus?

21 A. Yes.

22 Q. But within the plus or minus two-week period ordinarily  
23 ascribed to the definition of normal gestation?

24 A. That would agree with my definition, yes.

25 Q. So now Mr. Kampinski has referred to her as postdate.

1 That simply means that she didn't deliver on the day you  
2 thought she would deliver; is that what that means?

3 A. On the day we calculated, yes, she did not.

4 Q. That doesn't mean she was overdue by medical definition,  
5 does it?

6 A. Doesn't in my case, no.

7 Q. Twenty-six weeks would put her in the third trimester,  
8 the last third of her pregnancy when she came to you, or close  
9 to it?

10 A. Yeah, close to it, the end of the second trimester.

11 Q. You hadn't seen her anytime before that?

12 A. No.

13 Q. Did you ask her if she smoked?

14 A. Yes.

15 Q. What did she tell you?

16 A. Yes.

17 Q. She said she did smoke?

18 A. Yeah.

19 Q. Now, is that an important thing if you're in your  
20 prenatal history, smoking?

21 A. Yes.

22 Q. Now, you hadn't had an opportunity, then, to attend Ms.  
23 Auman before the time when she was 26 plus weeks' pregnant?

24 A. That's correct.

25 Q. Now, you're familiar with the term preeclampsia?

1 A. Yes.

2 Q. What is it?

3 A. It's a condition where the mother is hypertensive. She  
4 may have protein in her urine. She may have swelling, or  
5 edema.

6 Q. Did Miss Auman have that condition?

7 A. Not during the prenatal period, no.

8 Q. Would you categorize her pregnancy as a high-risk  
9 pregnancy?

10 A. I did not, no.

11 Q. That's because there weren't any of those bad signs that  
12 developed during the period when she was carrying this child?

13 A. That's right.

14 Q. She didn't have hypertension?

15 A. No.

16 Q. She didn't have an extra amount of protein in the urine?

47 A. No.

18 Q. She wasn't diabetic, she wasn't too young, too old, that  
19 sort of thing?

20 A. That's correct.

21 Q. So there was no reason for you to classify her as  
22 someone that needed special attention because of the high-risk  
23 nature of her pregnancy?

24 A. That's correct.

25 Q. Because it wasn't high risk?

1 A. I agree.

2 Q. Now, I want to ask you a couple things about what  
3 happened here in the hospital. Mr. Kampinski asked you about  
4 the patient getting up to go to the bathroom. I assume that if  
5 a patient gets up to go to the bathroom, you got to take the  
6 fetal monitor off -- I mean she can't carry it around with her?

7 A. At least disconnected somehow. We did not keep it on  
8 when they went to the bathroom.

9 Q. And in your admitting orders for Ms. Auman, you ordered  
10 an enema?

11 A. Yes.

12 Q. Now, I suppose that your expectation was that once you  
13 ordered an enema that this patient would need to go to the  
14 bathroom?

15 A. Hopefully, yes.

16 Q. And the hospital has a procedure about giving an enema,  
17 indicating that the -- a person can get up to go to the  
18 bathroom if the membranes are not broke, correct?

19 A. I'm not clear on that. I don't remember that exactly.

20 Q. Well, you made no order in your chart about her not  
21 going to the bathroom, did you?

22 A. That's correct.

23 Q. So in fact your orders don't speak to the subject at all  
24 whether she could go to the bathroom or whether she couldn't go  
25 to the bathroom?

- 1 A. Let me look at them. I don't think they did.
- 2 Q. It's not fair for me to ask you unless you're looking at  
3 it.
- 4 A. It doesn't address that, no.
- 5 Q. You didn't order it one way or another?
- 6 A. Pardon?
- 7 Q. You didn't order it one way or another?
- 8 A. No, I just told her Fleet's Enema.
- 9 Q. But you did order that she could shower as appropriate,  
10 right?
- 11 A. Yes.
- 12 Q. She certainly wasn't going to do that on the bedpan?
- 13 A. No, in the first, when they come in the door.
- 14 Q. Well, you allowed her up for the shower but not to go to  
15 the bathroom; are we to understand that?
- 16 A. I did not check that order.
- 17 Q. You've had some questions about the fetal heart monitor,  
18 and Mr. Kampinski asked you about this subject of variability.  
19 What is that?
- 20 A. Variability is a change in the baby's heart rate,  
21 basically.
- 22 Q. And that happened here, didn't it?
- 23 A. Yes, there was a variable.
- 24 Q. You looked at it?
- 25 A. Looked at the tracing.

- 1 Q. I'm sorry, the tracing. What time did that happen?
- 2 A. Did what happen? Did the monitor, you mean?
- 3 Q. No, when there was a change in the variability?
- 4 A. Oh, it changed all through the process, at least the
- 5 part that we can see.
- 6 Q. Sure. That doesn't necessarily mean ominous things for
- 7 the child, does it?
- 8 A. Variability?
- 9 Q. Yes.
- 10 A. No.
- 11 Q. Now, then, in the process -- we'll come back to this a
- 12 little later, but in the process of Miss Auman's labor, you
- 13 ordered some Vistaril?
- 14 A. Yes.
- 15 Q. And what's that for?
- 16 A. That's for restlessness, anxiety, scared.
- 17 Q. Calm them down, is it?
- 18 A. Yes.
- 19 Q. Sedative-like thing?
- 20 A. (Nods in the affirmative.)
- 21 Q. And when you give that drug, is it not true, doctor,
- 22 that that can have an effect on the variability that's
- 23 demonstrated on the fetal heart monitor?
- 24 A. It could.
- 25 Q. And this order to give Vistaril was given by you on the

4 phone, right?

2 A. Yes, I believe it was.

3 Q. That's what the records show, says you did that by a  
4 phone order, right?

5 A. I believe you're correct, yes.

6 Q. So you must have been on the phone with the nurses for  
7 some reason to have given that order, wouldn't you have?

8 A. Do you mind if I take a minute and take a look at the  
9 record?

10 Q. Sure. Do you want to look at your records there?

11 A. What time was that given?

12 Q. The way I make it out, you ordered that sometime before  
13 11:50, because it was given at 11:50. Would you agree with  
14 that?

15 A. I probably was not on the phone at that time. Many  
16 times I'll give them that order on the phone when they first  
17 call me. It's kind of a standing order. As a matter of  
18 fact --

19 Q. At some point, you gave -- you ordered Vistaril; told  
20 the nurses to give this patient Vistaril?

21 A. Yes.

22 Q. And you did it over the telephone?

23 A. That's the only way I could have done it, yes.

24 Q. Sure. So in that conversation, you at least learned  
25 that the patient was restless, didn't you? Must have, or else

1 you wouldn't have ordered Vistaril?

2 A. No, it may not go that way.

3 Q. You just order it anyway?

4 A. We tell the nurse when they become restless use Vistaril  
5 on this patient.

6 Q. So restlessness isn't necessarily a condition of labor  
7 that is something that you have to go to the hospital to look  
8 at, is it?

9 A. No, no.

10 Q. Lots of patients do that?

11 A. Yes.

12 Q. And the Vistaril is intended to calm the patients down,  
13 and you gave that order over the phone?

14 A. At some time, yes.

15 Q. Incidentally, I notice the nurses had a problem trying  
16 to reach you in the beginning. Do you know where you were?

17 A. I have no idea. I had to be there.

18 Q. Had to be where?

19 A. At my home.

20 Q. And the note indicates that at about 10:15 they tried to  
21 get you but couldn't get you for about an hour or so.

22 A. Did they dial the right number? I don't know. If I was  
23 there at 11, I had to be there at 10, or whatever it was.

24 Q. And during this conversation when they finally did reach  
25 you, I assume you have no specific recollection of what you

1 were told?

2 A. That's a good assumption, yes.

3 Q. You knew enough to know that you needed to prescribe  
4 Vistaril?

5 A. Yeah, that's usually what I use.

6 Q. At one point, the fetal heart rate dropped to 88?

7 A. Yes.

8 Q. Now, that was at 1:32, if I read the record correctly.  
9 Do you see that?

10 A. Yes.

11 Q. But you had been called two minutes earlier by the nurse  
12 to come over, right?

13 A. Looks that way in the record, yes.

14 Q. When the placenta is saved following the delivery -- and  
15 why do you do that?

16 A. Well, we want a pathology exam. It kind of protects it.  
17 If there's something wrong with that, it might lead to the  
18 baby's well-being or a bad outcome. It may show up in the  
19 placenta.

20 Q. Or in fact the proper, qualified pathologist or a person  
21 that knows what he's doing can look at the placenta, study it,  
22 and tell you what went on during the course of the pregnancy,  
23 can't he?

24 A. Sometimes, yes.

25 Q. Because the way the cells look in the placenta can tell

1 the story about things, events that might have occurred during  
2 the time when the baby was growing?

3 A. That could happen, yes.

4 Q. Do you have any opinion what caused Michael Sparr's  
5 brain damage?

6 A. No, I don't.

7 Q. Do you have any opinion as to whether the outcome would  
8 have been any different if the pediatrician had been called and  
9 was there?

10 A. No, I really don't.

11 Q. Do you have any opinion as to whether the outcome would  
12 have been any different if you were there?

13 A. I was there.

14 Q. Well, earlier?

15 A. Oh, earlier. I wish I was at this point. I wasn't.

16 Q. Well, the question was, doctor, do you have an opinion  
17 as to whether the outcome of this case would be any different  
18 had you been there earlier?

19 A. No, I don't.

20 MR. AUGENBAUGH: Thank you. No  
21 further questions.

22 THE COURT: Recross, Mr.  
23 Kampinski.

24 MR. KAMPINSKI: Thank you, Your  
25 Honor.

1                    REDIRECT EXAMINATION OF CHARLES A. SLAGLE

2 By Mr. Kampinski:

3 Q.        Doctor, just so there's no confusion, there's a  
4 difference in the terms of "post-term" and "postdate," correct  
5 -- she was postdate?

6 A.        Yes.

7 Q.        She wasn't necessarily post-term?

8 A.        Calculated date, yes.

9 Q.        Doctor, Mr. Augenbaugh asked you a question but didn't  
10 give an opportunity to find in the record the time of the  
11 order. Do you have the physician's orders there, sir?

12                    MR. KAMPINSKI:                    If I could approach  
13 the witness, Your Honor.

14                    THE COURT:                    You may.

15 Q.        It's got T.O. Dr. Slagle when it refers to the Vistaril,  
16 correct?

17 A.        Yes.

18 Q.        And this has all of the pre-partum orders, correct?

19 A.        Yes.

20 Q.        And there's only one time on there, isn't there, doctor?

21 A.        Yes.

22 Q.        And could you tell the jury, please, what time that is?

23 A.        Twenty-three hundred, or 11 p.m.

24 Q.        At 11 o'clock. And that's the same time you were called  
25 to let or to be told that Susan Auman was in the hospital,

1 correct?

2 A. Yes.

3 Q. So any suggestion that you were called again -- I mean  
4 that would be inappropriate in terms of the record; I mean it  
5 was 11 o'clock, wasn't it?

6 A. Looks that way, yes.

7 Q. You're not a pediatrician or pediatric neurologist, are  
8 you, doctor?

9 A. No.

10 Q. So it's really not fair to ask you questions regarding  
11 causation of brain damage. You can help us as far as when it  
12 occurred, but you can't tell us why?

13 A. That's right.

14 Q. And you've probably already given us your opinion with  
15 respect to that?

16 A. Yes.

17 Q. And the fetal heart rate, by the way, dropped to 88 at  
18 1:28; did it not, doctor?

19 A. I see the 1:32.

20 Q. You don't see it at 1:28?

21 A. I don't see 1:28 recorded here, unless it's on the  
22 strip.

23 Q. This is a copy of the strip, doctor, and here's 1:20,  
24 here's 1:30, and here's 88. And that was before you were  
25 called, correct, doctor -- you weren't called until 1:30?

1 A. I really can't see it from here.

2 Q. All right.

3 A. It says 88 there, yes.

4 Q. And then 88 again, and both of those are before 1:30;

5 about 1:25, somewhere in that area?

6 A. Yes.

7 Q. And that was before you were called, correct?

8 A. Yes.

9 Q. And you weren't told of that, doctor, were you?

10 A. I don't recall that, no.

11 Q. You expect -- I mean you as a physician, you rely on the

12 nurses to do their job, don't you, doctor?

13 A. Yes.

14 Q. And you expect them to follow the policies and

15 procedures that are enforced at the hospital, don't you?

16 A. Yes.

17 Q. And when you give orders -- I mean you don't write down

18 that they ought to follow the policies and procedures; you

19 assume that they're going to do that, don't you?

20 A. That's correct.

21 Q. And if in fact the policy and procedure is to place the

22 patient on a bedpan so as to not have the monitor removed, you

23 expect the nurses to comply with that, don't you?

24 A. Yes.

25 Q. And Mr. Augenbaugh only read part of the exception, and

1 that is, May go to the bathroom if membrane intact. He didn't  
2 read the rest. And the physician gives his permission. And  
3 that's not something you did -- I mean this is not something  
4 you write in the chart in the order, She can go to the  
5 bathroom, she can't go to the bathroom; this is part of the  
6 policy and procedures?

7 A. I don't remember them asking me, no.

8 Q. And it's not something where you said that she could  
9 go -- I mean that's not in the orders?

10 A. They don't usually ask me. Not always asked.

11 Q. But if they follow the policies and procedures, they  
12 should?

13 A. I assume that, yes.

14 Q. Doctor, when Mr. Augenbaugh asked you if she didn't  
15 need -- or his question was she didn't need special attention  
16 because she wasn't a high-risk pregnancy, she did need proper  
17 attention regardless of what she was; wouldn't that be a fair  
18 statement?

19 A. All pregnant patients need proper attention.

20 Q. She needed constant monitoring because that's what your  
21 order provided?

22 A. All patients get the monitoring.

23 Q. Except she didn't, correct?

24 A. Well, I think she did.

25 Q. She didn't get it in the manner in which it could be

1 deciphered?

2 A. I'd say that's true, yes.

3 Q. And she should have; isn't that correct -- or you should  
4 have been notified so that she could have?

5 A. Yes.

6 Q. And when Mr. Augenbaugh asked you about a properly-  
7 qualified pathologist, could you tell the jury what board  
8 certification is -- is that where physicians are given tests to  
9 demonstrate their qualifications?

10 A. Well, they have to complete training in that specialty,  
11 and they usually are examined. And then they become certified  
12 if they meet those standards.

13 Q. If in fact one were going to determine qualifications to  
14 read pathology in terms of a placenta, would a board-certified  
15 pediatric pathologist be more qualified at least in the  
16 abstract than one who wasn't a board-certified pediatric  
17 pathologist?

18 MR. AUGENBAUGH: I object to that  
19 question, Your Honor. How would he know that? He's a family  
20 practitioner.

21 THE COURT: He can answer if he  
22 can. If he can't, he should say he can't.

23 A. I don't know any pediatric pathologist, at least in my  
24 practice. It must be a super specialty.

25 Q. Right. And if somebody had that super specialty, would

1 they be more qualified to read a child's pathology than someone  
2 who didn't?

3 A. A child is not a placenta.

4 Q. Well, okay. That's a super specialty, you say?

5 A. It's a step beyond a pathologist, I would guess.

6 MR. KAMPINSKI: Doctor, thank you.

7 THE COURT: Recross, Mr.

8 Augenbaugh.

9 RECROSS-EXAMINATION OF CHARLES ALAN SLAGLE

10 By Mr. Augenbaugh:

11 Q. To be perfectly accurate about your order on fetal  
12 monitoring, your order didn't say continuous fetal monitoring,  
13 did it?

14 A. It didn't say continuous, no.

15 Q. It doesn't say continuous? The word "continuous" was  
16 Mr. Kampinski's word. Actually, your order says, "Fetal  
17 monitor when active labor, unless not requested by the  
18 attending"?

19 A. That's what it said, that's right.

20 Q. It doesn't say continuous fetal monitoring like Mr.  
21 Kampinski quoted, did it?

22 A. No, it does not.

23 MR. AUGENBAUGH: Thank you.

24 FURTHER REDIRECT EXAMINATION OF CHARLES A. SLAGLE

25 By Mr. Kampinski:

Q. Is that "continuous" continuous fetal monitoring --

3  
2 "fetal monitor when active labor unless not requested by  
3 attending"?

4 A. Usually it is.

5 THE COURT: You have one more  
6 chance, Mr. Augenbaugh?

7 MR. AUGENBAUGH: I give up on that,  
8 sir.

9 THE COURT: Doctor, you're  
10 excused at this time. You may stand down.

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25