

1 The State of Ohio, )  
County of Cuyahoga. ) SS:

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3 IN THE COURT OF COMMON PLEAS

4 TANYA PEARCY, ETC., ET AL., )

5 Plaintiffs, )

6 -v- )

Case No. 318874

7 OHIO PERMANENTE MEDICAL )

8 GROUP, INC., ET AL., )

9 Defendants. )

10 DEPOSITION OF ELIZABETH SVEC, R.N.

11 Monday, December 14, 1998

12

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14 Deposition of ELIZABETH SVEC, R.N., called for examination  
15 by the Plaintiffs under the Ohio Rules of Civil Procedure,  
16 taken before me, Robert A. Cangemi, a Notary Public in and  
17 for the State of Ohio, at the offices of Reminger &  
18 Reminger, 7th Floor, 113th St. Clair Building, Cleveland,  
19 Ohio, commencing at 4:00 p.m., the day and date set forth.

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COMPUTER-AIDED TRANSCRIPTION



1 APPEARANCES:

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On Behalf of the Plaintiffs:

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Howard Mishkind, Esquire  
Becker & Mishkind Co., LPA  
660 Skylight Office Tower  
Cleveland, Ohio-44115

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On Behalf of the Defendants:

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Jay Kelly, Esquire  
Marc Groedel, Esquire  
113th St. Clair Building  
Cleveland, Ohio 44113

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1 ELIZABETH SVEC, R.N.

2 called by the Plaintiffs for examination under the  
3 Ohio Rules of Civil Procedure, after having been first  
4 duly sworn, as hereinafter certified, was examined and  
5 testified as follows:

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EXAMINATION

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- - - - -

9 BY MR. MISHKIND:

10 Q Would you please state your full name for the  
11 record?

12 A Elizabeth Svec.

13 Q Ma'am, my name is Howard Mishkind, I represent the  
14 estate of Nikayyla Pearcy.

15 This has to do with the lawsuit that's been filed  
16 against the Cleveland Clinic and against Kaiser.

17 I am going to ask you some questions to try to  
18 understand what involvement you had during the  
19 emergency room situation back on May 29th and May 30,  
20 1995.

21 If I ask you anything that you don't understand,  
22 please tell me that you don't understand the  
23 question --

24 A All right.

25 Q -- and I will attempt to rephrase it, or if I feel

1 as if it was a decent question, I will have Mr. Cangemi  
2 read the question back to you, and we will start over  
3 again, okay?

4 A Okay.

5 Q Have you had your deposition taken before,  
6 ma'am?

7 A No.

8 Q I have a couple of requests of you at the  
9 beginning. Your attorney has already sort of  
10 acknowledged that your voice has a tendency of being  
11 soft.

12 With the fan on, I want to make sure that the Court  
13 Reporter gets everything that you have to say. Keep your  
14 voice up in response to my questions.

15 A Okay.

16 Q Wait until I am done with my question, so  
17 that we are not overlapping each other. It makes **his**  
18 job more difficult in terms of figuring out who asked  
19 what.

20 A I understand.

21 Q If you don't know an answer because you weren't  
22 there, or because you just do not recall, tell me that you  
23 don't know.

24 If I need to explore further with you the  
25 reason that you don't know or don't recall, I will do so,

1 but I don't want you to guess or to assume that something  
2 was done if in fact you don't know whether it was or was  
3 not.

4 Fair enough?

5 A Fair enough. ..

6 Q I am going to start out with some easy questions,  
7 and then we will talk about the specifics of this tragedy,  
8 okay?

9 A Okay.

10 Q You are employed where?

11 A Presently?

12 Q Yes.

13 A St. Luke's Hospital.

14 Q And the official name of your employer now is  
15 whom?

16 A I think it is Caritas Hospital Network.

17 Q How long have you been employed at St.  
18 Luke's?

19 A Since September.

20 Q Of 1998?

21 A Yes. "

22 Q What department do you work in?

23 A The emergency division.

24 Q Are you at the main hospital or one of the  
25 satellites?

1 A The main hospital.

2 Q Prior to September of 1998, where were you  
3 working?

4 A Wickliffe Country Place.

5 Q And tell me what you were doing there,  
6 please.

7 A I was a staff nurse.

8 Q What period of time were you there?

9 A From June to early part of October.

10 Q June of 1998?

11 A June of 1998.

12 Q So you were working both at Wickliffe Country Place  
13 and at St. Luke's for a period of time?

14 A For a period of time.

15 Q And before June of 1998, where were you  
16 employed?

17 A Cleveland Clinic.

18 Q Tell me how many years you worked at the Cleveland  
19 Clinic.

20 A Four years.

21 Q Did you go directly from the Cleveland Clinic to  
22 Wickliffe Country Place?

23 A Yes.

24 Q So, if I mark down roughly June of 1994 to June of  
25 1998, am I pretty close?

1 A Yes.

2 Q Do you have a **BSN**?

3 A No.

4 Q Associate's degree?

5 A Diploma.

6 Q Diploma?

7 A Yes.

8 Q Where did you get your diploma from?

9 A Maine Medical Center.

10 Q Maine?

11 A Maine.

12 Q As in the State of Maine?

13 A Yes.

14 Q And what year, please?

15 A **1966.**

16 Q Do you have any formal education other than what is  
17 required of you to maintain your licensure since you  
18 graduated from Maine Medical Center?

19 A No.

20 Q Do you have an area of nursing that you specialize  
21 in?

22 A Most of my time was spent in either criteria care,  
23 in any form of criteria care.

24 Q You obviously were working in the emergency room on  
25 the evening in question in the Nikayyla Pearcy case, and



1 were working in the emergency room at the St. Luke's; do  
2 you come include the emergency room in that critical care  
3 umbrella?

4 A Yes.

5 Q Is it exclusively the emergency room, or have you  
6 done CCU, as well?

7 A I have done CCU and ICU.

8 Q Did you practice for a period of time up in the  
9 State of Maine?

10 A Yes.

11 Q I take it that's where you are originally  
12 from?

13 A Yes.

14 Q Where do you live? What is your home address,  
15 please?

16 A 38249 Hastings Avenue, Willoughby.

17 Q Before working at the Cleveland Clinic, where was  
18 your last employment?

19 A St. Luke's Hospital.

20 Q How many years were you working there?

21 A I started there in 1981. I worked at Lake West  
22 emergency division for a year and a half, right around  
23 1990, then I went back to St. Luke's.

24 Q Up until 1994?

25 A Up until 1994.

1 Q Have you ever been a party to any  
2 lawsuits?

3 A No.

4 Q Have you ever served as an expert witness in any  
5 medical negligence case?

6 A No.

7 Q Are you currently serving as an expert  
8 witness in any medical negligence case or nursing  
9 negligence case?

10 A No.

11 Q Back in May of 1995, your employer was the  
12 Cleveland Clinic Foundation?

13 A Yes.

14 Q Can you explain to me, if you know, how  
15 you were assigned or working in the emergency department  
16 that I refer to, or it has been referred to as Kaiser  
17 emergency room at the Cleveland Clinic Foundation on that  
18 night?

19 A Cleveland Clinic hired me to work in the Kaiser  
20 emergency division.

21 Q I am sorry?

22 A Cleveland Clinic hired me to work in the Kaiser  
23 emergency division.

24 Q From 1994 up until 1998, was that where you worked  
25 exclusively?

1 A I worked for a year in the Cleveland Clinic  
2 emergency division.

3 That would be, I think, 1997 to 1998.

4 Q From 1994 up to 1997 you were working as an  
5 employee of the Cleveland Clinic, but were assigned to  
6 work in Kaiser's emergency division?

7 A Yes.

8 Q Did you have an occasion during that  
9 period of time, from 1994 to 1997, to work back  
10 in the emergency department of the Cleveland Clinic  
11 Foundation?

12 MR. KELLY: You are talking  
13 absent that year that she said --

14 MR. MISHKIND: She said 1997 to  
15 1998.

16 MR. KELLY: Okay.

17 BY MR. MISHKIND:

18 Q I am talking from 1994 to 1997.

19 A I worked in the Kaiser emergency division for three  
20 years.

21 Then I transferred to the Cleveland Clinic  
22 emergency division. It was just considered a different  
23 unit.

24 Q Did you have to apply for that position, or how did  
25 it come about?

1 A I had to apply.

2 Q Did you have a different boss when  
3 you moved over from Kaiser to the Cleveland Clinic  
4 emergency room?

5 A No.

6 Q Who was your boss?

7 A I don't remember the name of the director at that  
8 time.

9 Q This would be the director of nursing?

10 A Yes.

11 Q The director of nursing for the --

12 A I don't know exactly. I don't know what the  
13 organizational chart was at the time.

14 Q Okay.

15 A I know there was a director who covered both  
16 emergency divisions.

17 Q And what I was starting to say, and just as a  
18 reminder, wait until I finish my question.

19 Sometimes it seems like it is forever until I come  
20 to the end of my question.

21 The director of nursing, that was your boss, so to  
22 speak, was the director of nursing for both of the nurses  
23 working in the emergency room at Kaiser/Cleveland Clinic,  
24 and the nurses working in the emergency room of the  
25 Cleveland Clinic Foundation?

1 A Yes.

2 Q Did any of the nurses that you worked with in the  
3 emergency room at Kaiser/Cleveland Clinic also work in the  
4 emergency room next door at the Cleveland Clinic emergency  
5 room?

6 MR. KELLY: We all know we  
7 are talking about the Kaiser facility at the  
8 Clinic.

9 You may want to call one Kaiser and one  
10 the Cleveland Clinic, each side, because it is  
11 kind of confusing to me.

12 I don't know if there is any affiliation  
like the name might connote.

14 MR. MISHKIND: I have no  
15 problem.

16 BY MR. MISHKIND:

17 Q You understand the designation, there's two  
18 different emergency rooms at the Cleveland Clinic  
19 Foundation, one which is designated as the Kaiser  
20 emergency room, and one that's designated as the Cleveland  
21 Clinic emergency room, correct?

22 A Correct.

23 Q Were there nurses that worked as employees of the  
24 Cleveland Clinic in both places and would switch off  
25 between one and the other?

1 A There were nurses who would work, they  
2 call it PRN status, that would work one place or the  
3 other.

4 We didn't routinely rotate through the  
5 divisions.

6 Q Now, when you were working in the Kaiser emergency  
7 room, were you wearing some ,type of clothing designating  
8 yourself as a Cleveland Clinic employee?

9 A Nursing scrubs.

10 Q Did it have your name on the scrub?

11 A Yes.

12 It had a name tag that I wore.

13 Q And besides having your first and last name and  
14 R.N., did it indicate that you were a Cleveland Clinic  
15 employee?

16 A Yes.

17 Q It did?

18 A Yes.

19 Q You are certain of that?

20 A Yes.

21 Q Do you belong to any nursing associations?

22 A No.

23 Q For example, are you a member of the Emergency  
24 Nurses' Association?

25 A Not presently.

1 Q Ever been?

2 A Yes.

3 Q When were you?

4 A I think it expired in 1996.

5 Q Do you receive any nursing journals dealing with  
6 pediatric emergency issues?

7 A No.

8 Q Have you ever received any such journals?

9 A Not specifically for pediatrics.

10 Q Do you own any pediatric texts in the area of  
11 nursing or in medicine that refer to issues relative to  
12 assessing and managing pediatric airways?

13 A No.

14 Q If you need information on assessing and managing  
15 pediatric airways, what journals or what textbooks would  
16 you customarily look to?

17 A The hospitals where I work.

18 Q You would rely on the references that they  
19 provide?

20 A Yes.

21 Q And the Cleveland Clinic had a number of references  
22 available to you during the time that you were there as  
23 well, correct?

24 A I believe so.

25 Q There is an organization called PALS, are you

1 familiar with that?

2 A Yes.

3 Q What does that acronym stand for?

4 A Pediatric Advanced Life Support.

5 Q Do you have training in Pediatric Advanced Life  
6 Support?

7 A No.

8 Q Have you ever had such training?

9 A No.

10 Q Tell me, if you would, what information  
11 have you had an opportunity to review prior to today's  
12 deposition?

13 A The chart.

14 Q Anything else?

15 A No.

16 Q Have you seen the deposition testimony taken in  
17 this case?

18 A No.

19 Q Are you aware of the fact that Dr. Gajdowski's  
20 deposition was taken?

21 A No.

22 Q Have you seen any of the policies and procedures  
23 that were promulgated concerning triaging pediatric  
24 patients from the Cleveland Clinic  
25 Foundation?



1 MR. KELLY: We gave him  
2 certain things.

3 A No.

4 MR. KELLY: He wants to know  
MR. KELLY: He wants to know  
5 if you saw them.

6 A No.

7 Q When you were working as a nurse in the Kaiser  
8 emergency room at the Cleveland Clinic Foundation, would  
9 you be required to follow the policies and procedures  
10 outlined by the department of emergency nursing services  
11 for the Cleveland Clinic, or were you to follow the  
12 policies and procedures outlined by Kaiser for emergency  
13 nursing services?

14 MR. KELLY: Objection. You  
15 can answer the question if you understand  
16 it.

17 A I don't know that they were different.

18 Q That's what I am trying to find out.

19 Understand that when I ask you a question, again,  
20 if you don't know, you simply tell me.

21 A Okay.

22 Q I have been provided with a number of policies and  
23 procedures dealing with the triaging of pediatric patients  
24 and respiratory management issues, all of which are  
25 Cleveland Clinic prepared documents, and they have certain

1 references to related topics that are used or were used in  
2 establishing or promulgating these documents, these  
3 policies.

4           What I am trying to understand is, were there  
5 similar documents available to you that Kaiser wrote that  
6 would be available in the emergency room at the Kaiser/  
7 Cleveland Clinic facility?

8 A       They had a policy book.

9 Q       Do you know whether there's policies in terms of  
10 triaging a pediatric patient or respiratory care, in terms  
11 of establishing an airway, whether or not the policies and  
12 procedures that were in writing by Kaiser were different  
13 than the policies and procedures that were outlined by the  
14 Cleveland Clinic Foundation?

15           Again, if you know.

16 A       I don't know.

17           I don't remember.

18 Q       Have you had an opportunity to study any of the  
19 policies and procedures that Mr. Kelly produced during the  
20 course of this case to me?

21 A       No.

22 Q       There's also a booklet called Emergency Nursing  
23 Pediatric Course; are you familiar with this  
24 document?

25           Have you ever seen that before?

1 A No.

2 Q It is identified as Defendants' C in the request  
3 for production. It is not something that you are familiar  
4 with?

5 A I am not familiar with it.

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

8 A Yes.

9 Q And were you required to follow it in terms of  
10 determining the endotracheal tube size, and in terms of  
11 determining the dosage of medication; were you required  
12 while working in the emergency room to follow the Broselow  
13 method?

14 MR. KELLY: Objection. I  
15 think that your question calls for her to make  
16 decisions on things that a physician would have  
17 clearly made a decision about, things like the  
18 amount of medication, whether or not the patient  
19 is intubated and the medicine.

20 Nurses aren't allowed to do that by Ohio  
21 law.

22 She can answer if she feels  
23 comfortable.

24 MR. MISHKIND: I rather that *you*  
25 pose an objection, not set the stage or answer

1 the question for her.

2 MR. KELLY: I am simply  
3 defending my client the best that I  
4 can.

5 MR. MISHKIND: I would  
6 appreciate it if you wouldn't give speaking  
7 objections or the basis not to answer the  
8 question.

9 MR. KELLY: If question is it  
10 unfair, I will point it out.

11 MR. MISHKIND: You can point it  
12 out. You don't have to testify.

13 MR. KELLY: I will continue  
14 to defend my client.

15 MR. MISHKIND: I understand. I  
16 hope you would do it appropriately.

17 BY MR. MISHKIND:

18 Q You are familiar with the Broselow/Hinkle Pediatric  
19 Emergency System, correct?

20 A Yes.

21 Q What is your understanding of the Broselow  
22 Pediatric Emergency System?

23 MR. KELLY: Objection. From  
24 a nursing perspective?

25 A From a nursing perspective.

1 Q Obviously, because, if I understood correctly  
2 when this deposition started, you told me you were a  
3 nurse.

4 I don't want you to testify as a doctor. You said  
5 you were familiar with it.

6 Tell me from your world, your vantage point, what  
7 that means and how it applied, if at all, to you as a  
8 nurse.

9 A From a nursing standpoint, it is a series of  
10 kits with different sizes of equipment in each one of  
11 them.

12 Q And, to your knowledge, was the emergency room at  
13 Kaiser set up with the Broselow Pediatric Emergency System,  
14 in effect?

15 A No.

16 Q Do you know why it wasn't?

17 A No.

18 Q Do you know, since you worked in the emergency room  
19 at the Cleveland Clinic, whether or not the Cleveland  
20 Clinic was set up with the Broselow Pediatric Emergency  
21 System in effect?

22 MR. KELLY: I am going to  
23 object. Her time at the Clinic was subsequent  
24 to the time at issue in this case.

25 MR. MISHKIND: Fine. Your

1 objection is noted.

2 BY MR. MISHKIND:

3 Q During the time that you worked in the emergency  
4 room, and I well know that based upon your testimony it  
5 was after you worked here, but when you were working  
6 there, did the emergency room of the Cleveland Clinic  
7 follow the Broselow/Hinkle Pediatric Emergency  
8 System?

9 MR. GROEDEL: Objection.

10 MR. KELLY: Same

11 objection.

12 MR. MISHKIND: You can answer  
13 the question.

14 The objection shouldn't influence  
15 your answer. Unless Mr. Kelly tells you not  
16 to, you can answer the question.

17 A Yes, they were available.

18 Q To your knowledge, the Cleveland Clinic Foundation  
19 followed the Broselow Pediatric Emergency System when you  
20 were there?

21 MR. GROEDEL: Objection.

22 MR. KELLY: Objection. You  
23 can answer.

24 A When I was there.

25 Q I take it you don't have any knowledge as to why

1 the Kaiser emergency room at the Cleveland Clinic didn't  
2 follow Broselow Pediatric Emergency System, whereas the  
3 Cleveland Clinic emergency room did follow it, is that  
4 correct?

5 A Correct.

6 Q Did you have anything to do with drafting or  
7 reviewing any of the policies and procedures that were  
8 applied or that were followed in the emergency room at  
9 Kaiser?

10 A No.

11 Q Are there nurses that specialize in pediatric  
12 emergency nursing or that have certification **as** pediatric  
13 emergency nurses?

14 A I don't know.

15 Q If there are such creatures, you are not one of  
16 them?

17 A Yes.

18 Q Fair enough.

19 Is hypoglycemia a neonatal emergency?

20 A Yes.

21 Q What ~~are~~ some of the conditions that place a  
22 neonate at the risk of hypoglycemia?

23 A Starvation.

24 Sepsis.

25 Q **Is** there anything else that you can think

1 of?

2 A No.

3 Q What about hypothermia?

4 A Hypothermia.

5 Q What about respiratory distress?

6 A I don't know.

7 Q In an emergency room setting, how is hypoglycemia  
8 customarily diagnosed?

9 A With a dextrose stick.

10 Q Just so I have an understanding of  
11 your knowledge, what level of glucose is required in order  
12 to meet the criteria to define a child as being  
13 hypoglycemic?

14 What is normal, and what level below that is  
15 abnormal?

16 MR. KELLY: Objection. It  
17 calls for a diagnosis.

18 You can answer.

19 A 60.

20 Q And in an emergency room setting, how does one go  
21 about treating hypoglycemia?

22 A Intravenous dextrose.

23 Q Are there ways in an emergency room setting that  
24 dextrose can be administered in the event that IV access  
25 cannot be obtained?



1 A If a person is conscious and swallowing, they can  
2 get it orally.

3 Q So that we are clear on definitions, a three week  
4 old baby, such as Nikayyla Pearcy falls within the  
5 definition of being a neonate?

6 A Correct.

7 Q What is the outside limit that's typically  
8 applied?

9 A I am not sure.

10 Q Whatever it is, Nikayyla was a neonate?

11 A Yes.

12 Q Did you have any specialized training neonatal  
13 nursing?

14 A No.

15 Q How did you become familiar with the  
16 management of a neonate versus other infants and children  
17 that perhaps present with similar issues in the emergency  
18 room?

19 A Advanced cardiac life support courses.

20 Reading journal textbooks.

21 Q And which journals and textbooks?

22 A I don't remember the name.

23 Q Can you cite to me any you consider  
24 to be reliable sources for information on treating  
25 neonatal emergency issues and how they are **addressed**

1 different than what or how you would address infants and  
2 children?

3 MR. KELLY: Objection.

4 A I can't give you a name.

5 Q Other than taking ACLS courses and doing reading on  
6 your own, that's the extent of the training that you had  
7 before actually working or before actually being exposed  
8 to neonates coming into an emergency room?

9 A Yes.

10 Q Have you ever worked in a pediatric emergency  
11 room?

12 A No.

13 Q In your experience from 1994 to 1997, was the  
14 emergency room at Kaiser located at the Cleveland Clinic  
15 Foundation?

16 You know, when I say Kaiser, I am talking about  
17 that one and only place at the Cleveland Clinic?

18 A Yes.

19 Q Was that emergency room, based on your training and  
20 experience, qualified to handle neonatal pediatric  
21 emergencies?

22 MR. KELLY: Objection. That  
23 is beyond her capabilities.

24 You can answer if you know.

25 MR. GROEDEL: Objection.

1 A I can't make that judgment.

2 MR. KELLY: I am willing to  
3 stipulate everytime you say Kaiser, for purposes  
4 of this depo, that we are talking about that  
5 ER.

6 MR. MISHKIND: Okay.

7 BY MR. MISHKIND:

8 Q You were working the evening of May  
9 29th, along with another nurse in the emergency room,  
10 correct?

11 A Correct.

12 Q Who was that other nurse?

13 A Debra Seaborn.

14 Q Did Debra Seaborn, to your knowledge, have  
15 pediatric advanced life support training?

16 A I don't know.

17 Q Were there any other nurses working in the Kaiser  
18 emergency room that evening?

19 A Several.

20 Q Do you know who they were?

21 A I don't remember.

22 Q Were there other nurses besides you and Nurse  
23 Seaborn that were involved in Nikayyla Percy's  
24 care?

25 A Yes.

1 Q Who else was involved?

2 A David Buhcta.

3 Q Spell David's last name, please.

4 A I believe it is B-u-h-c-t-a, but I am not  
5 sure.

6 Q Did David make entries in the nursing  
7 record?

8 A From 2320 on.

9 Q Did you make entries in the nursing  
10 record?

11 A Until 2300.

12 MR. KELLY: Just so Howard is  
13 clear, she didn't make every entry before  
14 2300.

15 A No.

16 MR. MISHKIND: To my knowledge,  
17 this is the first time that I've heard David's  
18 name referenced.

19 I assumed that he's --

20 MR. KELLY: I will try to  
21 find him for you.

22 MR. MISHKIND: I know that  
23 Gajdowski didn't reference him in his  
24 deposition.

25 - - - - -

1 (A discussion was had off the  
2 record.)

- - - - -

4 MR. MISHKIND: Back on the  
5 record.

6 BY MR. MISHKIND:

7 Q After the note that says 2320, that has the pulse  
8 of 133 and bagged; that is David Buhcta?

9 A David Buhcta's entry?

10 Q Yes.

11 A Yes.

12 Q Then from what you can tell as you continue on  
13 through the nursing notes, through the balance of May  
14 29th, and then past midnight, are all of those additional  
15 enteries David's?

16 A Yes, they are.

17 Let me correct that. I wasn't there. I didn't  
18 see.

19 It looks like his writing.

20 Q Do you know of any other nurses that were involved,  
21 other than yourself, Ms. Seaborn and David Trout on night  
22 shift?

23 Again, while you weren't there, can you see any  
24 entries that you would identify as being David Trout's  
25 entries?

1 A No. I just know he was there. He was helping, but  
2 he wasn't the main nurse.

3 Q David Buhcta, he was the main nurse from 2320  
4 on?

5 A As far as I know.

6 Q Is Nurse Seaborn still working at the Cleveland  
7 Clinic, to your knowledge? ,

8 A Yes, she is.

9 Q Have you had an opportunity to talk with her about  
10 this case?

11 A Months ago.

12 Q Where was that conversation?

13 A I don't know if it was when I was working there or  
14 by telephone, one or the other.

15 Q You don't know whether it was in person or over the  
16 phone?

17 A Right.

18 Q Tell me what the two of you have discussed relative  
19 to Nikayyla.

20 A This is what I remember happening, can you remember  
21 anything different?

22 Q Were you the one that initiated the conversation or  
23 was it **Ms.** Seaborn?

24 A I think it was me.

25 Q Tell me what it was that you said to her.

- 1 A Basically I read from here.
- 2 Q Did you have the record with you?
- 3 A Yes.
- 4 Q What was the purpose of your call to her?
- 5 A I thought perhaps if I talked to her I might
- 6 remember more.
- 7 I don't remember that much.
- 8 Q How long did your conversation last,
- 9 ma'am?
- 10 A Minutes.
- 11 Q Minutes, like in less than five?
- 12 A Less than ten.
- 13 Q Did she remember anything?
- 14 A Nothing other than what was here.
- 15 Q Did she have a copy of the chart when you called
- 16 her, or did you just catch her cold?
- 17 A I caught her cold, I think.
- 18 Q Did she retrieve the chart and then call you
- 19 back?
- 20 A Oh, no, I didn't call her at work, If I called
- 21 her, I don't remember.
- 22 Q Is it fair to say that you had a limited
- 23 recollection?
- 24 A Yes.
- 25 Q And you called her with the purpose of finding out

1 whether she could tell you something that might cause you  
2 to remember more?

3 A Yes.

4 Q And she didn't?

5 A No.

6 Q Do you remember meeting the family?

7 A I remember them being there that night.

8 Q Let's talk about them; who was the "them?"

9 A Father and mother.

10 Q Any other family members throughout the night that  
11 you remember meeting?

12 A No.

13 Q That's not to say that other family members didn't  
14 come, just that you specifically remember meeting mom and  
15 dad, correct?

16 A Yes.

17 Q Were their friends or other people that were with  
18 them that you recall seeing or observing in the waiting  
19 room during the course of this ordeal?

20 A No.

21 Q And are you saying that there weren't any such  
22 people, just mom and dad are the only ones that you have a  
23 recollection of?

24 A The only ones that I have a recollection of are mom  
25 and dad.



1 Q Do you remember a clergyman, a family clergyman,  
2 that came to the emergency room?

3 A I don't remember.

4 Q A man of the cloth?

5 MR. KELLY: This might help  
6 you, she left at some point earlier in the  
7 evening, so it might have been before.

8 MR. MISHKIND: Okay.

9 Q What time was your shift, ma'am?

10 A 3:00 to 11:30.

11 Q Did Nurse Seaborn, when you spoke to her, did she  
12 have less of a recollection than you did?

13 A I don't know.

14 Q Did she have any recollection of the  
15 incident?

16 A She remembered the incident.

17 Q Tell me, to the best of your recollection, what she  
18 said to you.

19 A Just that mother came in with a sick baby and  
20 brought the baby into the emergency division and told the  
21 doctor that the baby was sick.

22 Q Anything more than that?

23 A Not that I remember.

24 Q Again, I want to find out from you as much as you  
25 remember relative to conversations.

1           This is my opportunity to find out what you may or  
2 may not testify to, or what conversations you had with  
3 other people as it relates to this incident.

4           So, if I seem to be beating a dead horse with a  
5 stick, I apologize.

6           I just want to make sure that we have covered  
7 everything relative to conversations that you had with Ms.  
8 Seaborn.

9 A       All right.

10 Q       Is there anything else that you recall?

11 A       Not that I recall.

12 Q       Was there just that one conversation --

13 A       Yes.

14 Q       -- with her?

15 A       Yes. Have you given any statements to anyone,  
16 either in writing or verbally, other than to counsel for  
17 the Cleveland Clinic Foundation?

18                       MR. KELLY:                       What he means is  
19                       anything that you and I talked about you are not  
20                       allowed to talk about, that's privileged.

21                       " He is not allowed to ask.

22 BY MR. MISHKIND:

23 Q       I assume, knowing Mr. Kelly and the  
24 fine lawyer that he is, you talked to him before and  
25 perhaps had discussions with other people from the

1 Cleveland Clinic.

2 Have you given statements to anyone else  
3 that's not affiliated with the Cleveland Clinic, for  
4 example, someone that's affiliated with Kaiser, like Mr.  
5 Groedel is?

6 MR. KELLY: He means, have  
7 you talked to Mr. Groedel at any point?

8 A Once.

9 Q When **was** that?

10 A I don't know when that was.

11 MR. GROEDEL: It was a long  
12 time ago.

13 MR. KELLY: Off the  
14 record.

15 - - - - -  
16 (A discussion was had off the  
17 record.)

18 - - - - -  
19 MR. MISHKIND: Back on the  
20 record.

21 BY MR. MISHKIND:

22 Q You have met Mr. Groedel one time before,  
23 correct?

24 A Yes.

25 Q And did he meet privately with you?

1 A It was here.

2 Q You came down to this office?

3 A ~~Yes.~~

4 Q And it was just you and Mr. Groedel?

5 A ~~Yes.~~

6 Q And did Mr. Groedel interview you as to what you  
7 remembered about that evening?

8 A Yes.

9 Q And did you write anything out for Mr.  
10 Groedel?

11 A No.

12 Q Did Mr. Groedel take notes during your meeting with  
13 him?

14 A I don't remember.

15 Q Did Mr. Groedel tell you what the lawsuit was  
16 about?

17 MR. MISHKIND: You can't look to  
18 Mr. Groedel to answer that.

19 A I don't remember exactly what it involved.

20 Q At that time, was it your understanding that Mr.  
21 Groedel was the attorney that would be representing  
22 you?

23 A Yes.

24 Q And you now know that Mr. Groedel  
25 represents Kaiser and doesn't represent you or the

1 Cleveland Clinic?

2 A Yes.

3 Q You provided him with information relative to  
4 events that took place that evening as you recalled  
5 them?

6 A Yes.

7 Q Is that the one and only time that you talked to  
8 Mr. Groedel?

9 A Yes.

10 Q Have you provided anyone with any  
11 statements, either in an in-person meeting, over the  
12 telephone, or in any type of a recorded fashion, other  
13 than to Mr. Groedel and other than what you may have given  
14 to Mr. Kelly?

15 A No.

16 Q Did you talk to anyone that was  
17 investigating the circumstances surrounding the death of  
18 this baby?

19 MR. KELLY: Objection. It  
20 may call for a peer review or some source of Q  
21 and A.

22 MR. MISHKIND: I am not going to  
23 go into it.

24 BY MR. MISHKIND:

25 Q Were you asked to provide any information to anyone

1 that was investigating the circumstances surrounding the  
2 death, whether it be at the hospital, or perhaps someone  
3 investigating the circumstances of the death outside of  
4 the hospital?

5 A No.

6 Q Were you asked to provide any information to any  
7 committees at the hospital concerning the death of this  
8 baby?

9 MR. KELLY: Objection. You  
10 can answer with a simple yes or no.

11 A No.

12 Q Do you know the formula for determining the correct  
13 size ET tube to use on a baby?

14 A At that time ACLS was measuring the tube against  
15 the baby's little finger.

16 Q Were you aware of other formulas in terms of the  
17 estimating?

18 A No.

19 Q Do you know whether Kaiser had any formulas that  
20 they used in terms of estimating the size of the ET tube  
21 to use on a neonate?

22 A No.

23 Q Do you recall any conversations that  
24 you had with Mr. or Mrs. Percy while your shift was going  
25 on?

1 A I talked to them. I don't remember the  
2 conversations.

3 Q Are you able to, even though you may not remember  
4 specifics, can you tell me who did most of the talking;  
5 for example, was it mom, dad?

6 A Mom.

7 Q Do you remember any of the questions that mom was  
8 asking?

9 A No.

10 Q Was mom in the waiting room or was mom in one of  
11 the examining areas?

12 A Mom was there in the examining area.

13 Q You didn't do the triage on Nikayyla, did  
14 you?

15 A No.

16 Q That would have been Ms. Seaborn?

17 A Yes.

18 Q Do you know what you were doing at the time that  
19 Ms. Seaborn was doing the triage?

20 A No.

21 Q Do you have a recollection, for example, as to what  
22 the patient population was in the emergency room or what  
23 the census was in the emergency room at Kaiser that  
24 evening?

25 A I think it was moderate.

1 Q When you say moderate, I know that there are two  
2 areas in the emergency room at Kaiser, one is the acute  
3 unit and the other, I forget what it is called.

4 A Express care.

5 Q Were there any patients that you were seeing in  
6 express care?

7 A No.

8 Q Were you assigned to the acute unit?

9 A Yes.

10 Q As was Ms. Seaborn?

11 A Yes.

12 Q When you say moderate, you are talking about the  
13 acute unit being moderate?

14 A Yes.

15 Q And again, moderate to me may mean something  
16 entirely different to someone else; was that a busy  
17 evening?

18 Can you give me an idea of how many patients?

19 A I don't know the patient census.

20 Q That's something that is kept, is it not?

21 A Oh, yes.

22 Q When you left at 11:30 --

23 A Yes.

24 Q -- Nikayyla was alive?

25 A Yes.



1 Q Nikayyla was being worked on with Dr. Gajdowski,  
2 and I believe there was another physician that was present  
3 at the time, Dr. Safedi?

4 A Yes.

5 Q Would that have been the extent of the physicians  
6 at that time?

7 A I am not sure just what time I clocked out of the  
8 department. That might be, but when I left, the pediatric  
9 team from the clinic was there.

10 They were just starting to arrive.

11 There were several people there.

12 Q Was Dr. Velez one of the --

13 A I didn't know their names.

14 Q Do you know what their specialty was, other than  
15 pediatrics?

16 A Pediatrics.

17 Q Do you know whether any of them in that group  
18 arriving was an anesthesiologist?

19 A I don't know.

20 Q There is an anesthesiologist whose name is Dr.  
21 Siker; do you know Dr. Siker?

22 A No.

23 Q Did you make any calls to any of the physicians or  
24 summon any of the physicians to come to the emergency  
25 room?

1 A I didn't make the calls.

2 Q Who was it that made those calls?

3 A I don't know.

4 Q For purposes of your testimony today, ma'am, have  
5 you reviewed any statements that you gave, even if they  
6 were to Mr. Kelly?

7 A No.

8 Q So the entirety of what you are telling me is based  
9 upon what you can recall, as well as what you have in  
10 front of you?

11 A Yes.

12 Q Do you know, according to the record, what time it  
13 was that the Percy family arrived in the emergency  
14 department?

15 A It said 2215.

16 Q That's when the vital signs were taken,  
17 correct?

18 A Yes.

19 Q Do you know when it was that they first arrived in  
20 the building itself with the baby, before the vital signs  
21 were assessed?

22 A I don't know.

23 Q Nurse Seaborn was the one that did the vital  
24 signs?

25 A Yes.

1 Q Do you know whose responsibility it was to maintain  
2 the appropriate inventory of ET tubes in the Kaiser  
3 emergency room?

4 A No.

5 Q Were you present when Dr. Gajdowski was intubating  
6 the baby?

7 A Yes.

8 Q Did Dr. Gajdowski request a larger size  
9 endotracheal tube?

10 A I don't remember what he requested.

11 Q Do you know where he obtained the 2.0 French tube  
12 that he used?

13 A There was an intubation kit that was  
14 there that had several sizes.

15 Q Did you know whether a two point or a 2.0 French or  
16 2.0 endotracheal tube was an appropriate size for a  
17 three-week old neonate of the weight and size of Nikayyla  
18 Pearcy?

19 MR. KELLY: Objection. Based  
20 on previous objections, you can answer  
21 that.

22 MR. GROEDEL: Objection.

23 BY MR. MISHKIND:

24 Q You can answer the question.

25 Don't worry about the the objections, unless you

1 are told by Mr. Kelly not to answer.

2 A It was sized, because someone compared the  
3 ~~tube to the baby's~~ little finger. I don't remember who  
4 did that.

5 Q Do you know whether it was sized appropriately or  
6 not?

7 MR. KELLY: Objection.

8 MR. GROEDEL: Objection.

9 MR. KELLY: Same objection as  
10 before. You are not a physician, but you can  
11 answer.

12 A I don't remember seeing it. I just don't  
13 remember.

14 Q So it is fair to say that while you recall someone  
15 doing some sizing based on the baby's finger --

16 A Yes.

17 Q -- you don't know who it was that did that, nor do  
18 you know whether the sizing was appropriate or  
19 inappropriate, correct?

20 A Right.

21 Q You don't from a recollection of Dr. Gajdowski  
22 looking for a larger size endotracheal tube in the process  
23 of his attempted intubation, do you?

24 A I don't remember, no.

25 Q Can you tell me, based on your notes, what time the

1 baby was first successfully intubated?

2 A 2250.

3 Q And at 2250, and at 2252, I believe you  
4 administered some medication, is that correct?

5 A Yes.

6 Q And what medication did you administer?

7 A Epinephrine.

8 Q pursuant to whose instructions?

9 A Dr. Gajdowski's.

10 Q That was the second dose of epinephrine that had  
11 been administered, correct?

12 A Correct.

13 Q And that was subcutaneous?

14 A Yes.

15 Q Do you know at the time that you administered that  
16 second dose, what the reason for the epinephrine  
17 subcutaneously was?

18 A He didn't have IV access.

19 Q And what was the epinephrine used  
20 for?

21 A It is an emergency drug.

22 Q For what purpose?

23 A It stimulates cardiac function. It stimulates the  
24 lungs. He didn't tell me his purpose.

25 Q That's fine.

a A And I don't remember.

2 Q That's fine.

3 You say that at 2252 the epinephrine was given  
4 subcutaneously because he didn't have IV access?

5 A Yes.

6 Q There were attempts or had there been attempts made  
7 to establish IV access prior to 2252?

8 A Yes.

9 Q We will talk about that in a moment.

10 The endotracheal tube was surgically inserted at  
11 2250, and on what basis do you state that?

12 What notes are you referring to that says that's  
13 when the baby was intubated?

14 A I believe at 2250 the child was intubated with the  
15 number two endotracheal tube.

16 Q At 2230 the baby's pulse was 156 and the  
17 respirations were 80?

18 A At 2230, 156, yes.

19 Q That's your handwriting?

20 A Yes.

21 Q The child was very pale, placid?

22 A Yes.

23 Q Is that the extent of your 2230 note, or does it  
24 continue?

25 A That's the extent of the note.

1 Q Then we go to 2250 or 20 minutes later, that's when  
2 you have child intubated with number two endotracheal  
3 tube, and then if you would read the balance of what is  
4 representative of your 2250 note, I would appreciate  
5 it.

6 A Breath sounds heard with bagging. Monitor sinus  
7 tach since admission. Dr. Sefedi is here.

8 Q Then we go now to the 11:00 or 2300,  
9 correct?

10 A Yes.

11 Q You may have answered this, did you know who Dr.  
12 Safedi was?

13 A I knew who he was.

14 Q Can you tell me who he is now or who he  
15 was?

16 A He is a pediatrician.

17 Q Was he a resident?

18 A I am not sure.

19 Q How is it that Dr. Safedi got called into the  
20 case?

21 A Someone called him, but I don't know  
22 who.

23 Q It is my understanding, and correct me if I am  
24 wrong, that once the endotracheal tube is placed into  
25 position, that the standard practice is to have a

1 confirming x-ray to make sure that there's proper  
2 placement?

3 A Yes.

4 MR. KELLY: Objection.

5 Q That's done on the portable, .correct?

6 A Yes.

7 Q And is it your understanding as a nurse that if the  
8 endotracheal tube is in the wrong position, the baby may  
9 not be adequately ventilated?

10 MR. KELLY: Objection. You  
11 can answer.

12 A Yes.

13 Q **So** the purpose of the x-ray is to make sure that  
14 there is proper position of the endotracheal tube so that  
15 adjustments can be made accordingly?

16 MR. KELLY: Objection.

17 A Yes.

18 Q From your review of the records, was a portable  
19 film taken?

20 A It is not written here.

21 Q I think that there is a notation somewhere that a  
22 film was taken, and let's just assume for purposes of our  
23 discussion that the film was taken at or around the time  
24 that you note that the baby was intubated.

25 If the position is found not to be appropriate, is



1 the normal practice to reposition the endotracheal tube at  
2 that point?

3 MR. KELLY: Objection.

4 A Yes.

5 Q Do you know whether the endotracheal tube was  
6 repositioned?

7 A I believe it was.

8 MR. KELLY: Objection.

9 Q And do you know the reason that it was  
10 repositioned?

11 MR. KELLY: Objection.

12 A I believe that it was a little too far down and had  
13 to be withdrawn a little bit.

14 Q Do you have any explanation for why Nikayyla was  
15 not intubated before 10:50?

16 MR. GROEDEL: Objection.

17 MR. KELLY: Objection.

18 A No.

19 Q On the acuity scale, one, two and three, there's a  
20 three circled?

21 A Yes.

22 Q Is that in your handwriting?

23 A No.

24 Q That's Ms. Seaborn's?

25 A Yes.

1 Q Certainly you know what the acuity scales are,  
2 correct?

3 A Yes.

4 Q And to reach an acuity of three, what must be  
5 present?

6 A Severity of the illness.

7 Q In this situation what was it about the severity of  
8 the child's illness, as you understood it, to qualify for  
9 an acuity scale of three?

10 A Her age, vital signs.

11 Q What was it about the vital signs?

12 A Her respiratory rate.

13 Q The respirsatory distress that the child was in,  
14 correct?

15 A Yes.

16 Q And that qualified for an acuity sacle of  
17 three?

18 A Yes.

19 Q Is there anything else that existed at  
20 that time that constituted a basis for an acuity level of  
21 three?

22 A And the fact that she was rather lethargic.

23 Q Lethargy?

24 A Yes.

25 Q The baby's age?

- 1 A Yes.
- 2 Q Anything else?
- 3 A No.
- 4 Q The baby was hypothermic, correct?
- 5 A 96.8 rectal was her temperature.
- 6 Q Yes?
- 7 A Yes.
- 8 Q Do you know what was causing the baby to be
- 9 hypothermic?
- 10 A No.
- 11 Q Did the emergency room have the equipment necessary
- 12 to do a glucose stick on the baby?
- 13 A Yes.
- 14 Q That's not a terribly complicated procedure,
- 15 is it?
- 16 A No.
- 17 Q A nurse is qualified to do so, correct?
- 18 A Yes.
- 19 Q Did you or did Nurse Seaborn or anyone else that
- 20 was around while you were there attempt to ascertain
- 21 whether the 'baby was hypoglycemic?
- 22 A No.
- 23 Q Do you know why?
- 24 A No.
- 25 Q Would you agree that it would have been

1 helpful to have known whether or not the baby was  
2 hypoglycemic?

3 MR. KELLY: Objection. You  
4 can answer if you know.

5 A I don't know.

6 Q Did you attempt IV access?

7 A Yes.

8 Q How many attempts, and where?

9 A Probably two attempts, one in each arm.

10 Q And when you attempted IV access, what  
11 happened?

12 A Nothing.

13 Q Something had to have happened.

14 A No. I mean, the baby cried a little bit. I didn't  
15 get any --

16 Q What difficulty did you encounter?

17 A I just didn't get into the vein.

18 Q Did you have a sense as to why you  
19 were having difficulty obtaining IV access at that  
20 point?

21 A No.

22 Q Were you the first one to try to obtain IV  
23 access?

24 A I don't remember.

25 Q Did you document anywhere your inability to

1 establish IV access?

2 A No.

3 Q Is there a reason that you didn't document  
4 that?

5 A Yes.

6 Q Are you supposed to document that?

7 A Yes.

8 Q According to Dr. Gajdowski, he indicated in his  
9 deposition that Dr. Safedi took control at 11:50.

10 You were already gone, out of the emergency room,  
11 at that point, is that correct?

12 A Well, if I wasn't gone from the emergency division,  
13 I wasn't at the bedside any longer.

14 Q You weren't actively or even inactively involved in  
15 the care of the baby at that point?

16 A No.

17 Q Correct?

18 A No.

19 Q My statement is accurate?

20 A Yes.

21 Q You tell me, based upon the note, when it was that  
22 you can tell me that you were last either actively  
23 involved or at least present enough that you were  
24 participating?

25 A Right. At 2320 there is nothing. It would have

1 stopped before that.

2 Q So, some time between 11:00 and 11:20 is when your  
3 involvement comes to an end?

4 A Yes.

5 Q And the 2320 note then is David's?

6 A Yes.

7 Q I want to ask you, there are some blood gas reports  
8 in the record, and I presume that you have seen the lab  
9 reports.

10 A I looked at it initially. I haven't looked at it  
11 for a long time.

12 Q What I would like you to do, if  
13 you would, is just to turn back to the section with the  
14 labs.

15 A Okay.

16 Q If you would look to the collection note of the lab  
17 report dated May 29th at 11:36, do you see that?

18 A Right.

19 Q Now that, as I understand it, there's a blood gas  
20 drawn at 11:36, correct?

21 A Yes.

22 Q You are already out of the picture at this point,  
23 correct?

24 A Yes.

25 Q **As** a nurse, do you draw blood for blood

1 gases?

2 A No, not on an infant.

3 Q Who would have done that on an infant,  
4 would that be a physician or would a respiratory therapist  
5 do it?

6 A Either.

7 Q Do you see any documentation in the record, again  
8 recognizing that you weren't actively involved, where  
9 respiratory therapy was drawing the blood gases at 11:30  
10 or or after, for that matter?

11 A It just says it was done.

12 Q It doesn't say who did it?

13 A No, it doesn't.

14 Q And the nursing note, again, is David's nursing  
15 note?

16 A Yeah.

17 Q That's a yes?

18 A Yes.

19 Q The lab report that I was just referring to, the  
20 blue copy, I have had some difficulty understanding what  
21 this particular sheet means.

22 It looks like there are results which are  
23 misidentified, and that the top column of blood gases at  
24 11:36 are essentially useless; would you agree with  
25 that?

1 MR. GROEDEL: Objection.

2 MR. KELLY: Objection. You  
3 can answer to the best of your  
4 ability.

5 A According to the paper, it disregards the results  
6 sample as misidentified.

7 Q All of the results of the blood gases are crossed  
8 out, are they not?

9 Do you see there are lines through each one of  
10 them?

11 A Yes.

12 Q Right below that there are no values below each one  
13 that is crossed out, correct?

14 Q Are you reading it the same way that I am?

15 A I think so.

16 Q You have seen these reports before,  
17 correct?

18 A Yes.

19 Q Ever seen one like this before, where it is  
20 misidentified and all of the values are essentially  
21 crossed out?"

22 MR. KELLY: Objection. You  
23 can answer if you know.

24 A No.

25 Q would you agree then that the first blood gas



1 result that appears to have been obtained and then  
2 recorded on this baby is at 12:39?

3 A Yes.

4 Q On May 30th?

5 A Yes.

6 Q Do you have any knowledge as to the circumstances  
7 that led to the blood being drawn for blood gases and the  
8 results being misidentified?

9 MR. KELLY: He is talking  
10 about the top one.

11 Q Right, at 11:36.

12 A No.

13 Q What is the protocol that you are to follow when  
14 you cannot obtain IV access?

15 A Tell the doctor.

16 Q Do you have a recollection of telling the doctor  
17 that you attempted to?

18 A Let me correct that.

19 You can also tell another nurse, who will  
20 try.

21 Q Do you have a recollection of either telling a  
22 doctor or telling Nurse Seaborn that you tried twice and  
23 it didn't happen?

24 A I know Nurse Seaborn as well.

25 Q Did Nurse Seaborn try before you or after

1 you?

2 A I don't remember the sequence.

3 Q Was that part of what you were trying to determine  
4 when you talked to her on the phone or when up talked to  
5 her?

6 A No. It was just in general, do you remember  
7 this?

8 Q So you don't know who was first with their  
9 effort?

10 A No, I don't remember.

11 Q Did Nurse Seaborn tell you how many attempts she  
12 made?

13 A I don't remember.

14 Q Did you have any contact with the Percy family  
15 after you left for that evening?

16 A No.

17 Q **And** up to this present date have you had any  
18 further contact?

19 A No.

20 Q When you left for the evening, where was Mr. and  
21 Mrs. Percy?"

22 A I don't remember.

23 Q Are you able to describe what you perceive to be  
24 their state of mind?

25 What I mean by that is, were they hysterical? Were

1 they subdued? Were they out of control?

2 What can you recall in terms of the mom and  
3 dad?

4 A They were very concerned.

5 Q Were they loud? Were they demanding, or were they  
6 appropriate?

7 A They were appropriate,.

8 Q Do you remember anything else relative to what went  
9 on during the limited time period that you were involved,  
10 other than what you told me?

11 A No.

12 Q If it was determined that the baby was  
13 hypoglycemic, would you have administered dextrose  
14 independently, or would you have done that only pursuant  
15 to an order from the physician?

16 MR. KELLY: Objection. You  
17 can answer if you understand the  
18 hypothetical.

19 A With an order from the physician.

20 Q The baby had a glucose, a blood glucose at  
21 12:23 that was ten, is that normal?

22 A No.

23 Q Do you have any knowledge as to why the baby's  
24 blood glucose was not checked at any time prior to 12:23  
25 a.m.?

1 A No.

2 Q Should the blood glucose have been checked prior to  
3 12:23?

4 MR. GROEDEL: Objection.

5 MR. KELLY: Objection. Those  
6 are standard of care opinions. You can answer  
7 if you know.

8 A I don't know.

9 Q Pardon me?

10 A I don't know.

11 MR. GROEDEL: Objection.

12 Q Before that do you know how many attempts that  
13 you, Debra or anyone else made before IV access was  
14 obtained?

15 A I don't know.

16 MR. MISHKIND: Okay. I have  
17 nothing further.

18 - - - - -

19 EXAMINATION

20 - - - - -

21 BY MR. GROEDEL:

22 Q Do you have a recollection of how this baby looked  
23 when you first saw her?

24 A She was quiet.

25 Q What was your sense as to whether the baby looked

1 ill or not?

2 A It was a very ill baby.

3 Q What was it about the baby that made you think that  
4 it was a very ill baby?

5 A She was lethargic, breathing fast.

6 Q Do you have a recollection as to when Dr. Gajdowski  
7 first called for assistance?.

8 A I don't remember.

9 Q Do you have a recollection of it being relatively  
10 soon after he arrived on the scene?

11 MR. MISHKIND: Objection.

12 A I couldn't give you a time.

13 MR. GROEDEL: That's all that I  
14 have.

15 MR. KELLY: Howard, any  
16 follow-ups?

17 MR. MISHKIND: I have nothing  
18 further.

19 MR. KELLY: You have the  
20 right to read the transcript to make sure that  
21 it was taken accurately.

22 I will recommend that you read the  
23 transcript, just because you are so soft spoken.  
24 I want to make sure Bob got everything that you  
25 said.

1                   No objection to more than seven  
2           days?

3                   MR. MISHKIND:                   30 days.

4                   MR. KELLY:                   You can send me a  
5           copy.

6                                   - - - - -

7                                   (Deposition concluded.)

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

3       I, Robert A. Cangemi, a Notary Public within and for  
4 the State of Ohio, duly commissioned and qualified, do  
5 hereby certify that the within-named-ELIZABETH SVEC, R.N.,  
6 was by me first duly sworn to testify the truth, and  
7 nothing but the truth in the cause aforesaid; that the  
8 testimony then given by him/her was by me reduced to  
9 stenotypy in the presence of said witness, afterwards  
10 transcribed upon a computer, and the foregoing is a true  
11 and correct transcript of the testimony so given by  
12 him/her as aforesaid.

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

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

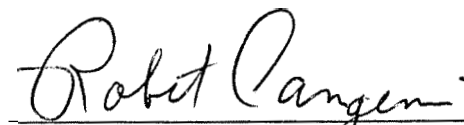
19       IN WITNESS WHEREOF, I have hereunto set my hand and  
20 affixed my seal of office at Cleveland, Ohio on this 12th  
21 day of January, 1999.

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Robert A. Cangemi, Notary Public  
in and for the State of Ohio.  
My Commission expires 3-5-02.