

1 IN THE COURT OF COMMON PLEAS

2 LORAIN COUNTY, OHIO

3 JAMES J. ARMSTRONG, etc.,

4 Plaintiff,

5 -vs-

JUDGE ZALESKI

CASE NO. 00 CV 126180

6 EMH REGIONAL HEALTHCARE
7 SYSTEM, dba, AMHERST
8 HOSPITAL, et al.,

8 Defendants.

9 - - - -

10 Deposition of RICHARD WATTS, M.D., taken as
11 if upon cross-examination before Pamela S.
12 Greenfield, a Registered Diplomate Reporter,
13 Certified Realtime Reporter and Notary Public
14 within and for the State of Ohio, at the offices
15 of West Side Cardiology Associates, 3885 Rocky
16 River Drive, Cleveland, Ohio, at 9:00 a.m., on
17 Saturday, June 1, 2002, pursuant to notice and/or
18 stipulations of counsel, on behalf of the
19 Plaintiff in this cause,

20 - - - -

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On behalf of the Defendants
Paul Bartulica, M.D., et al.

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1 RICHARD WATTS, M.D., of lawful age,
2 called by the Plaintiff for the purpose of
3 cross-examination, as provided by the Rules of
4 Civil Procedure, being by me first duly sworn, as
5 hereinafter certified, deposed and said as
6 follows:

7 CROSS-EXAMINATION OF RICHARD WATTS, M.D.

8 BY MS. TAYLOR-KOLIS:

9 Q. Good morning, doctor. For the record, could you
10 please state your name and your professional
11 address?

12 A. I'm Richard Ward Watts, M.D. 3885 Rocky River
13 Drive, Cleveland, Ohio, 44111.

14 Q. Dr. Watts, my name is Donna Taylor-Kolis. I
15 along with Tom Conway represent the estate of
16 Nancy Armstrong.

17 As you know, because you've done this for a
18 while, my purpose today is to discuss the expert
19 report that you have filed in this matter and
20 find out the opinions that you hold, what you
21 will be testifying to at trial and the factual or
22 medical basis for supporting your opinions.

23 My best guesstimate is that you've given at
24 least 100 depositions in your life, so you
25 probably don't need me to tell you this but I'll

1 do it anyway for the record. Of course you know,
2 doctor, you have to answer each and every
3 question orally, correct?

4 A. Correct.

5 Q. And you know that you're under oath this morning
6 just as if you were in a court of law, correct?

7 A. I understand that.

8 Q. Doctor, I'm not a physician, so sometimes I ask
9 questions that don't make sense and I understand
10 and accept that; however, what I'd like for you
11 to do today is if I ask you a question and you
12 have absolutely no idea what I'm asking you,
13 would you state that for the record, in other
14 words, seek clarification if you're not sure.
15 Can I secure that agreement with you?

16 A. Yes.

17 Q. On occasion and more occasions that I care to
18 remember in this case people object to questions
19 that I ask. You should probably wait to answer
20 the question until we've resolved our differences
21 over the objection or the court reporter
22 instructs you to answer a question.

23 Understood?

24 A. Yes

25 Q. Doctor, I'm not really going to go through your

1 CV in any great detail. I've seen it before,
2 sometime about nine years ago, but if we could
3 just have that marked.

4 - - - -

5 (Thereupon, Plaintiff's Exhibit A,
6 Watts CV was marked for purposes of
7 identification.)

8 - - - -

9 Q. Dr. Watts, may I inquire as of today's date, and
10 I don't even know, today's June 1st. June 1st,
11 2002, can you generally tell me what amount of
12 time each week you spend actively practicing
13 cardiology?

14 A. At least 40.

15 Q. So you're still out and about, of course?

16 A. I have already seen my first patient at 7:00 this
17 morning.

18 Q. So that hasn't changed in the last nine years,
19 you're still actively involved in the clinical
20 practice of medicine, of course?

21 A. Right.

22 Q. You currently have admitting privileges at what
23 hospitals?

24 A. Lakewood and Fairview.

25 Q. And if my recollection is correct, the majority

1 of your patients are at Fairview?

2 A. Yes.

3 Q. That's still true today?

4 A. Yes.

5 Q. Do you consider yourself to have any subspecialty
6 within the subspecialty of cardiology? In other
7 words, is there an area of cardiology that you
8 are more interested in or that you seek patients
9 for treatment of?

10 A. Well, it would be clinical cardiology. I don't
11 do cardiac cath.

12 Q. So none of that's changed either?

13 A. No.

14 MS. TAYLOR-KOLIS: Why don't we
15 just move right on to the case at hand, if
16 I may inquire of Mr. Conway.

17 Mr. Conway, are there any notes or
18 markings in any of these documents that you
19 were able to discern?

20 MR. CONWAY: No.

21 Q. Fine. Good enough.

22 Doctor, you authored a report in this matter
23 on August 26th, 2001; is that correct?

24 A. It is.

25 Q. And that would be the report that Mr. Wilt is so

1 kindly copying for you, correct?

2 A. Yes, correct.

3 Q. We'll ask you about it as soon as you have a
4 copy.

5 The letter that I received, and initially you
6 were retained by Mr. Farchione, correct?

7 A. Correct.

8 Q. Had you worked with Joe before?

9 A. No.

10 Q. You had worked with a number of attorneys at
11 Reminger on other occasions, correct?

12 A. Yes.

13 Q. As a matter of fact, you actually were involved
14 in a case with my associate, Mr. Conway, for
15 Reminger; is that right?

16 A. If I recall.

17 Q. That was just a couple years ago, wasn't it?

18 A. Yes.

19 Q. In the past 12 months, how many times have you
20 testified on behalf of a patient, whether in a
21 medical/legal context or you as their treating
22 physician?

23 A. Several times. I can't give you an exact number.
24 I have testified for patients, but I don't know
25 how many times in the past 12 months.

1 Q. Any case come to recollection that there is a
2 currently pending plaintiffs case in which you've
3 already given a deposition against a physician?

4 A. No. There are several pending but they haven't
5 taken place yet.

6 I was prepared to testify in South Carolina
7 for a patient; however, the case was settled
8 before my testimony was heard in court. I had
9 been deposed in that. That was over a year ago.
10 That was April of last year and I testified,
11 well, in fact, Mr. Rispo called me to testify in
12 defense of a physician. I was testifying about
13 the patient, not taking a stand on a
14 medical/legal issue; but that, I think that was
15 over a year ago also.

16 Q. It's been a while and I have several of your
17 depositions at my office but didn't have the time
18 to review them.

19 What would you guesstimate, and I know it's
20 strictly a guesstimate, to be the percentage
21 breakdown within the past five years of testimony
22 that you offer for patients and for doctors?

23 A. Well, that question has come up very often and I,
24 it's around two-thirds or three-quarters,
25 one-third, one-quarter and the majority are

1 defense.

2 Q. That's what I assumed.

3 So suffice it to say, have you done some work
4 for Weston Hurd also?

5 A. Yes.

6 Q. And Buckingham Doolittle in the past, also?

7 A. Yes.

8 Q. Probably every firm that represents physicians, I
9 would guess? Does that seem about right to you?

10 A. Yes, I think so.

11 Q. Okay. Good enough. We won't belabor that.

12 Doctor, what are you billing me today for
13 your deposition time?

14 A. \$400 an hour.

15 Q. And you can feel free to send that bill directly
16 to me with a cc to Mr. Wilt if that's more
17 convenient for you, okay?

18 A. It will be and I will.

19 Q. Good enough. My understanding is that you have
20 reviewed a number of records and it would appear
21 that that's what's sitting there and here is your
22 report, right? You've got one?

23 A. Yes.

24 MS. TAYLOR-KOLIS: I'll just mark
25 that as Plaintiff's Exhibit B.

1

- - - -

2

(Thereupon, Plaintiff's Exhibit B,

3

8/26/01 Watts letter to Farchione was marked for

4

purposes of identification.)

5

- - - -

6

Q. Before we get into the substance of your report,

7

I want to ask two I guess general questions.

8

Assuming that you are called to testify live

9

in this trial, doctor, are you going to be

10

offering any opinions regarding the standard of

11

care of any of the physicians involved in the

12

care and treatment of Mrs. Armstrong?

13

MR. WILT: Just let me object. I

14

think that's identified in his report.

15

MS. TAYLOR-KOLIS: Well, I just

16

want to see if it's expanded because

17

these --

18

MR. WILT: So other than

19

Dr. Bartulica.

20

Q. Right. You're going to be offering an opinion as

21

to the standard of care for the OB/GYN

22

Dr. Bartulica, correct?

23

A. Correct.

24

Q. Are you going to be offering any testimony that

25

anyone has deviated from the standard of care in

1 this matter?

2 MR. WILT: Objection

3 A. Besides Dr. Bartulica?

4 Q. Well, that's an affirmative. You're going to say
5 he's complied with?

6 A. Yes.

7 Q. And so my question is, and I'm sorry I have to
8 ask this but unfortunately people are testifying
9 to things that aren't in their report, so I need
10 to get this out right up front so my question
11 this morning is will you be rendering any
12 criticism against a physician for deviating from
13 the standard of care?

14 A. At this point I don't think I would on anybody
15 else who's involved in the case.

16 Q. Do you feel that you have reviewed a sufficient
17 number of records and depositions so that you can
18 accurately answer that question; based upon all
19 the information available to you as of this
20 morning, you have no criticisms of any other
21 physician?

22 A. That's correct.

23 Q. And of course you're going to be offering an
24 opinion on proximate causation in this matter?

25 A. Yes.

1 Q. And life expectancy?

2 A. Yes.

3 Q. Okay. Good, now I know what I'm looking for.
4 We'll make it nice and simple.

5 Doctor, as of the date that you authored this
6 report, and I just want to recite it for the
7 record, I have reason to believe that you have
8 reviewed the following documents in writing this
9 report and let's just go through it. The office
10 records of Dr. Bartulica, correct?

11 A. Correct.

12 Q. In anticipation of today's deposition have you
13 recently rereviewed those records?

14 A. I have why.

15 Q. The Elyria Memorial Hospital August 7th, 1999.
16 Is that what it says?

17 A. It does and I have reviewed it then and again
18 recently.

19 Q. May I inquire, you didn't simply look at the day
20 of the surgery, did you? Did you look at her
21 complete, her preadmission testing record of
22 August 5th through the surgery?

23 A. Yes.

24 Q. So the way it's written is in error, correct, you
25 didn't just confine your review to that specific

1 day?

2 A. Correct.

3 Q. Just wanted to be clear. Autopsy report on Nancy
4 Armstrong?

5 A. Correct.

6 Q. Did you review that recently also?

7 A. I did.

8 Q. And that autopsy report is the autopsy report of
9 Dr. Paul Matus; is that correct?

10 A. It is.

11 Q. Have you of course -- I shouldn't say have you of
12 course. I gather looking at your report that you
13 either learned or have read of the analysis of
14 Dr. Geoffrey Mendelsohn who is a pathologist?

15 A. Yes. I didn't have that in writing when I wrote
16 this report, but Mr. Farchione had told me what
17 it said, and so I wrote the report based on that
18 oral communication.

19 Q. But subsequent to that time have you had the
20 opportunity to look at Dr. Mendelsohn's report?

21 A. Yes.

22 Q. Okay. West Shore Primary Care records, reviewed
23 those?

24 A. Yes.

25 Q. North Ohio Heart Center reports, and which

1 reports are you referring to?

2 A. I think that was the cardiac catheterization and
3 the stress test in 1996. I think that's the only
4 contact she had with North Ohio Heart.

5 Q. And those were 1996 reports, correct?

6 A. Correct.

7 Q. Dr. Curtis Lockhart, you reviewed his records?

8 A. I did.

9 Q. Can you tell me who Dr. Curtis Lockhart is and
10 what involvement he had in Nancy's care?

11 A. He's a vascular surgeon, a very competent
12 vascular surgeon who performed a four-hour
13 operation in April of 1999 because she had an
14 occlusion of the right femoral artery and so he
15 did extensive angioplasties besides removing the
16 thrombus and as I said before, she was under
17 anesthesia for four hours at that time.

18 Q. Doctor, you reviewed the records of Dr. S.
19 Richardson, correct?

20 A. I did.

21 Q. Now, at the time can you tell me what, do you
22 have those in this stack?

23 A. Yes.

24 Q. Did you receive a second submission of records
25 from Dr. Richardson after the original?

1 A. Well, I'm not sure I can answer that question.

2 What you have in front of Mr. Conway is
3 everything that was sent by Buckingham,
4 Doolittle & Burroughs. I didn't keep the file
5 because my understanding was that the case was --

6 Q. Going to settle?

7 A. Yes, was going to settle and so when I called at
8 the end of last year to find out the status of
9 it, I was told that I didn't have to keep the
10 records, so I'm not sure that what I had then and
11 what I have now are the same thing.

12 Q. All right. What I'm looking at here, these
13 nicely bound records, spiral bound, and indexed
14 and tabbed, those were provided to you presently
15 by Buckingham?

16 A. Yes. And maybe I should show you this letter
17 which is the cover letter that I've received,
18 this came in just a week ago. My involvement has
19 been very recent in this case and now everything
20 that's checked there are things that I reviewed
21 since May 24th of this year.

22 Q. That was courteous of you to do that. That helps
23 me a lot.

24 So what they did is they sort of
25 reconstructed and delivered to you things you had

1 previously reviewed and then given you additional
2 material to look at?

3 A. Yes. I had no notes. I had none of the previous
4 material.

5 Q. Okay. Fair enough. We'll just go through it
6 because whatever's in here will be in there in
7 some form. You looked at the Saint John West
8 Shore Hospital records?

9 A. I have.

10 Q. And then you looked at two expert reports from my
11 experts, Dr. London and Dr. Smithson, correct?

12 A. I did then. I haven't reread them.

13 Q. That's okay, but that's what you had in front of
14 you at the time you drew your conclusions,
15 correct?

16 A. Correct.

17 Q. I'd really like to make today's deposition
18 simple, which is never possible, but subsequent
19 to that report and today, you now have seen
20 additional material and that is the deposition of
21 Dr. Bartulica, correct?

22 A. Correct.

23 Q. You did not have that when you authored your
24 expert report?

25 A. No.

1 Q. The deposition of Dr. Celerio, you did not have
2 that when you authored your report?

3 A. Correct.

4 Q. I guess the easy way, to encompass this, you had
5 no one's deposition when you wrote your expert's
6 report?

7 A. I think they hadn't been done yet as I recall but
8 anyway, I didn't have them.

9 Q. And you were given additional medical records
10 recently; is that correct?

11 A. Yes.

12 Q. And the checkmarks are the ones that you --

13 A. They're the ones I looked at.

14 Q. Previously?

15 A. No. No. The ones I looked at this time.

16 Q. Richardson, Cunningham. Can you identify who
17 Dr. Cunningham is?

18 A. A very competent oncologist/hematologist who is
19 now in Seattle.

20 Q. Just for, you'd agree you've reviewed his records
21 since May 24th, I take it?

22 A. Oh, yes.

23 Q. From your recent review can you state for the
24 record what Dr. Cunningham's involvement was with
25 Mrs. Armstrong, in other words, what issues was

1 he evaluating on her behalf?

2 A. The monoclonal gammopathy.

3 Q. And that was on a referral from Dr. Richardson,
4 correct?

5 A. Correct.

6 Q. In other words Dr. Richardson saw an issue, a
7 medical issue that he couldn't handle and he sent
8 her to a specialist, didn't he?

9 A. Yes, he did.

10 Q. Okay. Thank you very much for that. Dr. --

11 A. Palaparty.

12 Q. Thank you for the pronunciation. Who is
13 Dr. Palaparty?

14 A. He also was a hematologist/oncologist who used to
15 have an office right here where we are.

16 Q. His involvement?

17 A. Same thing as Dr. Cunningham.

18 Q. And Dr. Eltomey of course you know?

19 A. Yes. He's a neurosurgeon.

20 Q. And it looks like you reviewed additional, once
21 again additional records, Elyria Memorial
22 Hospital?

23 A. Yes.

24 Q. And I take it then this is nice and fresh in your
25 mind, the events of August 5th through August

1 7th, 1999?

2 A. Yes.

3 Q. And that was from Mr. Wilt's paralegal, Marie,
4 correct?

5 A. Correct.

6 Q. Okay. We'll leave that there and I don't even
7 need to mark it.

8 Doctor, now that you've had an opportunity to
9 read all the depositions and relook at medical
10 records, has that added to, amended, deleted,
11 changed any opinion that you wrote in your
12 original report?

13 MR. WILT: Well, clearly it gives
14 him initial bases because he's got
15 additional material.

16 MS. TAYLOR-KOLIS: No, I'm not
17 asking him his bases. That's fine. I just
18 want to know if there's a change in
19 anything that's in there.

20 A. No, I wouldn't change any of the opinions.

21 Q. I'm sorry?

22 A. No. I wouldn't change any of my opinions.

23 MS. TAYLOR-KOLIS: Before we get
24 into this, let's mark this.

25 - - - -

1 (Thereupon, Plaintiff's Exhibit C,
2 Dr. Bartulica's office records was marked for
3 purposes of identification.)

4 - - - -

5 Q. Doctor, let me ask you a question.

6 Now, this yellow sticky note, it says
7 Dr. Bartulica's office record. Whose handwriting
8 is that?

9 A. I don't know. It's not mine.

10 Q. It's not yours?

11 A. Somebody at Buckingham, Doolittle & Burroughs, I
12 assume. That's how it came.

13 Q. And this came to you recently?

14 A. A week ago today, I think.

15 Q. I'm going to ask that Pam, I promise you this is
16 the only one, could you give me a copy of that as
17 it was submitted?

18 A. You can copy it on this machine.

19 - - - -

20 (Thereupon, a discussion was had off
21 the record.)

22 - - - -

23 Q. Before we get into the substance of your
24 opinions, I'm going to ask you a couple of
25 general questions, I suppose.

1 Doctor, you've had an extensive career as a
2 cardiologist?

3 A. Yes.

4 Q. I'm curious as to whether or not you have ever
5 had to care and/or treat for a patient who has
6 amyloid disease?

7 A. I have never, ever seen a case of amyloid of the
8 heart.

9 Q. So you don't have any personal, hands-on
10 experience working with a person who has amyloid
11 disease. Is that a fair statement?

12 A. It is.

13 Q. Your knowledge, then, and the basis of the
14 opinions that you hold about amyloid disease is
15 derived from the body of medical literature?
16 Would that be a fair way to state it?

17 A. It would.

18 Q. And in point of fact, you cited to Braunwald's in
19 your expert report; is that correct?

20 A. It is.

21 Q. We'll deal with that issue right away and then
22 we'll talk a little bit about these.

23 Unfortunately, my medical library only had
24 Braunwald's Heart Disease fourth edition,
25 however, I know, I need to update.

1 A. It might be the same.

2 Q. It is. I was able to confirm that.

3 Because right in the middle of your report,
4 you say treatment, my source of information is
5 Braunwald's Heart Disease fifth edition, Pages
6 1428 through 9 in which it is stated treatment is
7 generally unsatisfactory and ineffective and
8 transplant survival is 39 percent at four years,
9 transplantation, dot dot dot transplantation is
10 not recommended.

11 If I show you this, it's highlighted right
12 here, you can see this is Braunwald's. That's
13 the sentence you were referring to about
14 treatment being ineffective, correct?

15 A. Yes.

16 Q. Now, obviously when textbooks are put together
17 such as Braunwald's they're relying upon
18 published articles, correct?

19 A. Correct.

20 Q. Did you take it upon yourself to read the
21 citation that indicated that treatment's
22 generally unsatisfactory and ineffective?

23 A. No.

24 Q. Would you accept, and you may certainly look up
25 at a later time but just for the record, the

1 authors of that article were Drs. Kyle and Gertz
2 of the Mayo Clinic. Does that refresh your
3 memory as to who wrote the article furnishing the
4 basis for that?

5 A. No.

6 Q. Since you chose to cite it in your report, I
7 gather that you would have considered that to be
8 an accurate statement or an authoritative
9 statement of medicine?

10 A. I rely on Dr. Braunwald.

11 Q. For his ability to correctly include good medical
12 information, correct?

13 A. Correct.

14 Q. Are you aware that Drs. Kyle and Gertz in 1998
15 published an extensive book called amyloidosis?

16 A. No.

17 Q. And you've not obviously then had the opportunity
18 to read it?

19 A. Correct.

20 Q. Would you suspect that if they were the
21 investigators and the two physicians that are
22 sort of carrying the ball as it were in
23 amyloidosis that information contained in that
24 textbook would probably be accurate in terms of
25 current survival rates and treatment modalities?

1 A. In their experience, it would be.

2 Q. And you would gather, I guess, when you say in
3 their experience, that these two gentlemen who
4 are at the Mayo Clinic are the people who are
5 actually treating a lot of amyloid disease. Is
6 that an assumption that you would make?

7 A. Well --

8 MR. WILT: Objection. He hasn't
9 reviewed the book.

10 MS. TAYLOR-KOLIS: I'm just asking
11 his opinion.

12 A. First of all, I think it's well known in
13 everybody at this table that amyloid is a very
14 rare disease.

15 Q. Correct.

16 A. What percent of amyloid patients of North America
17 go to the Mayo Clinic, I have no idea. I think
18 as I said before, they really are, I've never
19 even heard of the book. I can only guess that
20 they're relying on their own experience for most
21 of the content of the book. They may be
22 referring to some other people.

23 Q. Fair enough.

24 So we've already established that you
25 yourself have not personally treated somebody

1 with amyloid disease and that the basis of your
2 testimony regarding amyloid disease is dependent
3 upon what is published in that regard?

4 A. That's so.

5 Q. In your report, you opine that Dr. Bartulica met
6 the standard of care for Mrs. Armstrong?

7 A. I did.

8 Q. Second to last sentence of your report.

9 Please tell me, doctor, in what way you feel
10 that Dr. Bartulica met the standard of care for
11 Nancy Armstrong?

12 A. He communicated with the primary care physician,
13 Dr. Richardson, whom he knew was treating
14 Mrs. Armstrong and had her on an oral
15 anticoagulant and Dr. Richardson told him how to
16 handle the problem of anticoagulation given the
17 planned surgical intervention.

18 Dr. Bartulica had of course examined her from
19 the gynecologic standpoint and planned to relieve
20 her of her severe pelvic pain by doing a
21 hysterectomy.

22 He, I believe, knew that she had had the
23 previous surgery in April of 1999 and I, these
24 things I'm stating in, as I recall, but I don't
25 have specific notes on it, that he knew about her

1 previous cardiac workup and he also knew that
2 Dr. Richardson knew about her previous cardiac
3 workup from April of 1999 and I think he
4 therefore relied upon Dr. Richardson who knew the
5 patient from the cardiac standpoint far better
6 than Dr. Bartulica would that she would be
7 capable of undergoing the surgery that
8 Dr. Richardson knew was being planned.

9 Q. Okay. Let's dissect that a little bit just to
10 see where you get your understanding from.

11 You obviously now have had the opportunity to
12 read the depositions of both Dr. Bartulica and
13 Dr. Richardson, correct?

14 A. Correct.

15 Q. Do you understand that Dr. Richardson disputes
16 that he cleared, medically cleared Nancy for
17 surgery?

18 A. I understand that.

19 Q. Do you understand from your -- well, I don't like
20 the word understand.

21 Did you find any indication whatsoever in the
22 written records of Dr. Richardson that, A, he was
23 aware that she was going to undergo a total
24 abdominal hysterectomy?

25 A. I'd have to take a look at his records to give a

1 good answer to that.

2 Q. That would be fine.

3 MR. WILT: Are we just referring
4 to his records or you said any records?

5 MS. TAYLOR-KOLIS: No. I asked
6 him if he found any evidence in
7 Dr. Richardson's chart that he was aware
8 that she was to undergo a total abdominal
9 hysterectomy.

10 MR. WILT: All right.

11 Q. Doctor, are these notes you took of the case?

12 A. They are and they're copies I made for you.

13 Q. Thank you so much. Is one set for me and one set
14 for you?

15 A. No. This is mine and those are copies for
16 whoever needs them.

17 MS. TAYLOR-KOLIS: Okay. Ron,
18 would you like a copy of the doctor's
19 notes?

20 MR. RISPO: Is there an extra?

21 MS. TAYLOR-KOLIS: Yes.

22 - - - -

23 (Thereupon, Plaintiff's Exhibit D,
24 handwritten notes was marked for purposes of
25 identification.)

1

- - - -

2 A. Okay. And your question was?

3 Q. If you in your review of Dr. Richardson's notes
4 saw anything that indicated that Dr. Richardson
5 in writing was made aware that Nancy was going to
6 undergo a total abdominal hysterectomy?

7 MR. WILT: In Dr. Richardson's
8 notes, I'd be willing to stipulate there's
9 nothing in his notes that says that, if you
10 want to spare us all a little time.

11 MS. TAYLOR-KOLIS: I don't mind.
12 I'm so used to paying people \$400 an hour
13 it's becoming a pastime, so --

14 MR. WILT: Okay.

15 MS. TAYLOR-KOLIS: I'm not testing
16 your knowledge. I'm testing his.

17 A. No, I don't see any written record where he
18 refers to the telephone call from Dr. Bartulica.

19 Q. And you've gone through Dr. Bartulica's chart
20 rather carefully I would assume?

21 A. Yes.

22 Q. And in that chart, do you see any written request
23 from Dr. Bartulica to Dr. Richardson indicating
24 that he needs to obtain medical clearance for
25 Nancy for a surgery?

1 A. It was one of the bound ones that had the sticker
2 on the top.

3 MR. WILT: Yes. You took it.

4 Q. Yes, here it is. It's the only one that's not
5 bound or tabbed.

6 A. Well, there's a note here under the date of July
7 22nd, 1999, "Patient will see Dr. Richardson
8 about surgery."

9 Q. But my question is this: I asked you if there
10 was a written request from Dr. Bartulica to
11 Dr. Richardson saying I need to have this patient
12 worked up for medical clearance for this
13 particular surgery?

14 MR. WILT: Objection. I don't
15 think that's what your prior question was;
16 but if that's your question now, then
17 that's fine.

18 MS. TAYLOR-KOLIS: I think it was.

19 A. Well, I have a note here, not what you're looking
20 for, but this is August 5th, 1999, "Continued
21 severe pain-pelvic. Dr. Richardson okay for
22 surgery per patient. Stop Coumadin, heparin," I
23 guess that is. Yes, it is heparin.

24 Oh, "Stop Coumadin and then heparin," I
25 guess "5,000 units every 12 hours." And then I

1 don't know what HHN stands for, but the next line
2 is TAH, which is total abdominal
3 hysterectomy-BSO, which is bilateral
4 salpingo-oophorectomy, "Monday LCH, change to
5 Amherst on Saturday," and then on the other side
6 of this page, this is still August 5th, 1999,
7 "called to Dr. Richardson. Lovenox, milligram
8 per kilogram every hour subcutaneously for
9 an" -- I'm putting in a word -- "INR over 2. 012
10 hours prior." I can't read it but I would think
11 it's before the, prior to the operation.

12 "Cleared for surgery with above."

13 Q. Thanks for reading that but --

14 A. And your question was?

15 Q. Okay. There's no written request from
16 Dr. Bartulica asking Dr. Richardson to clear her
17 medically for surgery?

18 A. No. I see a note here -- oh, this is, is this
19 somebody else's?

20 MR. WILT: Yes. That's

21 Dr. Boye-Doe's records.

22 A. In answer to your question, I don't see one.

23 Q. I'm going to take this back. Let me ask you a
24 question which is sort of off the track but maybe
25 not.

1 You just read from the August 5th note and
2 you didn't have any difficulty reading it, I
3 gather, and Dr. Bartulica in that --

4 MR. WILT: Can you keep that up
5 here.

6 Q. Sure. In case he needs it, don't let it
7 disappear.

8 -- that indicated that planned surgery for
9 Monday is being changed LCH to Amherst, am I
10 stating that correctly?

11 A. I think it is.

12 Q. Did you see anyplace in the chart where he had
13 made a note about the surgery that was scheduled
14 for that Monday other than there?

15 A. No. I don't know where I would have seen it.

16 Q. In his chart, I guess is what I'm asking you.

17 In other words, it's very clear from that
18 August 5th note that at some point prior to
19 August 5th but after July 22nd, Dr. Bartulica
20 decided to perform a surgery. Is that your
21 interpretation of those notes?

22 A. I have no idea when he planned the surgery.

23 Q. Well, what I'm saying is there's no written
24 documentation in that chart indicating the day
25 upon which he made a decision for her to

1 originally have had surgery on Monday, August
2 9th, is there?

3 A. I don't think so. I didn't look at the chart
4 with that in mind.

5 Q. Okay. Well, I know you didn't but I'm just
6 asking you because obviously you look at a lot of
7 medical charts but we know from that August 5th
8 note that somewhere at some point in time, he had
9 originally planned a surgery for Monday August
10 9th but moved it up, right?

11 A. Yes. That's right.

12 Q. Okay. Fair enough.

13 Going back here:, the Dr. Richardson issue and
14 let's just sort of get this on the table from
15 your point of view. It's clear to you, is it
16 not, that Dr. Richardson is indicating by his
17 testimony that the first notification he had of a
18 potential surgery was when he received a phone
19 call from Dr. Bartulica regarding what to do with
20 her anticoagulation medication. Is that what you
21 gathered from reading Dr. Richardson's --

22 A. It is.

23 Q. Doctor:, you've been involved, have you been
24 involved in clearing patients from a cardiology
25 standpoint for surgery?

1 A. Of course.

2 Q. Okay. Well, I knew it would be of course but,
3 you know, sometimes when I say I presume, they go
4 you presume wrong.

5 As a standard in medical practice, would you
6 agree with me that the surgeon has an independent
7 duty to clear a patient for surgery?

8 A. Well, he has an independent duty to clear her for
9 surgery based on his knowledge, training,
10 experience and the objective of his surgery, yes,
11 but he also has a right to rely upon the primary
12 care physician to give him advice about, first of
13 all, obviously, the anticoagulant which was why
14 he made the phone call.

15 But anything that would be the concern of the
16 primary care physician about the planned surgery
17 that has been discussed in terms of what to do
18 about anticoagulants.

19 Q. Are you asked by primary care physicians in some
20 circumstances to do a cardiology workup to clear
21 their patients for surgery?

22 A. All the time.

23 Q. In this particular case, you've had an ample
24 opportunity to read a lot of records, did you see
25 anywhere where Mrs. Armstrong, prior to August of

1 1999 had a complete cardiology workup for
2 clearance for surgery?

3 A. Oh, yes.

4 Q. And those occurred when?

5 A. April.

6 Q. Is it, given that you know what her disease
7 process is now, we both agree it's primary
8 amyloidosis, correct?

9 A. Right.

10 Q. That's actually stipulated amongst the parties.

11 Could Mrs. Armstrong's cardiac condition have
12 changed in its nature and/or quality, is a good
13 way to put it, between April and August?

14 A. Yes.

15 Q. Is it highly likely that it would have, given
16 that it was amyloidosis?

17 A. Well, I don't know the answer to that question.

18 Q. Okay. Fair enough. Have you seen the chest
19 films from January, April and August of 1999?

20 A. This morning I saw the one from August. I've
21 never seen the others.

22 Q. So you as you sit here have not seen the other
23 two films and cannot discuss with me in any
24 fashion, since obviously you don't have those,
25 the change in her cardiac silhouette from January

1 to August, could you?

2 A. No.

3 Q. Since you're just now telling me you saw the
4 x-ray, thanks for bringing that up, what's your
5 opinion of that chest x-ray from a cardiology
6 standpoint? When you look at it, what do you
7 see?

8 A. A huge heart.

9 Q. Would you, would your expectation of surgeons who
10 you work with -- do you work with gynecologists?

11 A. Not often but occasionally. Most of my patients
12 are beyond the age where gynecologists are
13 needed.

14 Q. Do you primarily service the geriatric
15 population?

16 A. I sure do.

17 Q. Would you have any anticipation that a surgeon
18 would be able to look at that chest film and know
19 that that was a large heart?

20 MR. WILT: Objection. We're
21 strictly talking about gynecological
22 surgeons here?

23 MS. TAYLOR-KOLIS: Yes.

24 MR. WILT: Okay.

25 A. Well, I don't deal with gynecologic surgeons

1 enough to know whether they look at chest x-rays
2 and if they did look at chest x-rays, what their
3 response to that x-ray would be. I look at
4 x-rays every day and I was very impressed by the
5 size of the heart but on the other hand, I don't
6 know anything about gynecologic surgery so they
7 might be impressed by something there that I
8 would totally ignore.

9 Q. As a cardiologist, you were impressed with the
10 size of that heart, correct?

11 A. Very.

12 Q. Do you know what Mrs. Armstrong's symptoms were
13 in the days of August 5th, 6th and 7th? Are you
14 familiar with what her medical symptomatology was
15 at that time? You don't have to look -- go
16 ahead. I was going to say you don't have to look
17 it up.

18 A. No. No.

19 Q. We'll retract the question.

20 Would you agree with me from your review of
21 the records that in the time period between
22 August 5th and August 7th that Mrs. Armstrong was
23 experiencing by report some shortness of breath?

24 A. May I see the admission --

25 Q. I knew you were going to do that to me.

1 Yes, of course.

2 A. I've got it right here.

3 She had a review of systems and a physical
4 examination in preparation for her surgery.

5 MR. WILT: If you've got a record
6 you want to show to him, that will speed
7 this up.

8 MS. TAYLOR-KOLIS: I just thought
9 he'd know where everything was.

10 MR. RISPO: You want to stipulate
11 to that?

12 A. Well, here's her present illness. 46-year old
13 white female with severe pelvic pain, adenomas
14 scheduled for TAH/BSO states that she had varying
15 amounts of pelvic pain over the years but the
16 last four or five months have been constant,
17 severe pain with bloating in the abdomen. The
18 last menstrual period April 11th was normal.
19 She's G-1, P-2, A-0. History of endometriosis.
20 That's her history of the present illness.

21 Now, under medical history, I'll skip the
22 surgical history. I think that may not be as
23 relevant. Under medical history, she only
24 checked two things -- she checked one thing and
25 that was vascular. And of course that was the

1 operation she had had in April. She had a review
2 of systems and under general, weak, fatigue.
3 Under skin, fatty deposits around the eyes.
4 Under mouth neck and throat, hoarse voice.
5 Respiratory, short of breath on occasion dash
6 anxiety. There's a circle around palpitation
7 under cardiac and a circle around diarrhea under
8 gastrointestinal and musculoskeletal there's a
9 circle around fracture and right wrist and
10 psychological, anxious.

11 Q. Doctor, my question was were you aware between
12 August 5th and August 7th that the patient was
13 short of breath. I'm not asking you to read the
14 entire record. I'm asking you, you've indicated
15 you recently reviewed all these things.

16 Are you aware that she was short of breath?

17 A. Between August 5th and August 7th?

18 Q. Yes.

19 A. I haven't read the nurses' notes. Maybe that's
20 where it is.

21 Q. So you didn't review the chart sufficiently
22 enough to know whether or not that was a symptom.

23 Do you have a recollection --

24 MR. WILT: Objection.

25 MS. TAYLOR-KOLIS: Well, that's

1 what he's saying.

2 MR. WILT: No, he's not. You
3 haven't shown him it's there. You just
4 implied he didn't read it sufficiently
5 enough to find this; so if it's there, show
6 him.

7 Q. I think that's his job to be prepared for the
8 deposition.

9 Are you aware that there were decreased
10 breath sounds continuing the morning of the
11 surgery?

12 A. I saw a note about decreased breath sounds. I
13 think that was in the physical examination. You
14 were asking about symptoms before, so I skipped
15 over that part.

16 No. Here we are. Physical examination,
17 thorax and lungs is checked. Decreased breath
18 sounds right midlung to base. Auscultation,
19 percussion, A/P is auscultation percussion, at
20 least in my handwriting. Otherwise all clear.

21 Yes, I was aware of that.

22 Q. So she has an enlarged heart. She has decreased
23 breath sounds.

24 First of all from your own looking at the
25 chest x-ray this morning, were you able to see

1 pleural effusions?

2 A. I thought there was one on the right. I couldn't
3 see one on the left.

4 Q. So you thought there was one on the right?

5 A. Yes.

6 Q. Are you aware of the x-ray interpretation in this
7 matter?

8 A. Yes, I've seen that.

9 Q. As a matter of fact, you wrote something in your
10 notes about Dr. Bartulica, I think, looking at
11 Plaintiff's Exhibit D, is that your handwriting,
12 x-ray 8/5/99 cardiomegaly right lower lobe
13 consolidation with pleural effusion question mark
14 pneumonia. Is that in your handwriting?

15 A. Yes. Everything on that is in my handwriting.

16 Q. And you took this out of Dr. Bartulica's chart.
17 Is that where you read that?

18 A. I did.

19 Q. So from a cardiology standpoint, let's just limit
20 it to those -- oh, were you aware that she had
21 edema in her feet?

22 A. Well, let's go back to the physical examination
23 again.

24 Under extremities, it's checked, varicosities
25 bilaterally, legs cool, feet cool, superficial

1 varicosities. I don't know what the next word is.
2 Feet puffy but no pitting edema. And then
3 there's, oh, that's a neurological.

4 Q. All right. Because in your report you mark it as
5 swollen legs, correct?

6 A. Correct.

7 Q. And you took that somewhere from the record?

8 A. Yes, I did.

9 Q. And you thought that was relevant to her heart
10 condition, I'm assuming, the way you wrote it?

11 A. Yes.

12 Q. And palpitations were also noted in your report?

13 A. Yes. I've just quoted here.

14 Q. And you took that also.

15 From a cardiology standpoint given that that
16 was the constellation of symptoms and looking at
17 that chest film alone, had you been called in
18 that day, would you have ordered further testing?
19 What would you have needed to know to decide
20 whether or not this patient should go forward in
21 surgery?

22 A. Well, looking at the chest x-ray, I would have
23 been very concerned about her having the
24 operation, of course.

25 Q. And why is that, doctor?

1 A. Because of the enlarged heart.

2 Q. What additional information -- well, okay, you
3 said you would have been concerned.

4 Based solely upon the chest x-ray and the
5 symptoms that you were aware of on the day of
6 surgery, let's say we're putting you there, would
7 you have cancelled the surgery at that point?

8 A. I would.

9 Q. Why would you have cancelled the surgery?

10 A. Because I wouldn't understand why her heart was
11 so large.

12 Q. And that presumed or guessed what my next
13 question would be.

14 Would it be fair to say that it would be
15 necessary to determine why the heart was enlarged
16 before you proceeded with surgery?

17 A. Yes.

18 Q. What would have been the first logical step in a
19 cardiology workup of this patient in terms of an
20 examination to determine the nature of the
21 disease?

22 A. Echocardiogram.

23 Q. Can you succinctly tell me what an echocardiogram
24 is capable of showing us in terms of diagnostics?

25 A. Well, she had had two previous echocardiograms

1 and so let's go back to the one that was done in
2 April and let's go back to my notes in that case.

3 Q. That's fine. You can borrow that.

4 A. What happened to my original?

5 Q. I don't know.

6 A. Oh, I have something that's easier to use.

7 Q. Okay.

8 A. The April 15th echocardiogram, left ventricle
9 wall thickness is mild to moderately increased in
10 a concentric manner. Global left ventricular
11 function appears to be at the lower limits of
12 normal perhaps slightly impaired. Right atrium
13 and right ventricle appear to be somewhat
14 prominent in size if not mildly dilated. Right
15 ventricle systolic function also appears to be at
16 lower limits of normal perhaps mildly impaired.
17 That was Dr. Dubrovich's report of April 15th.

18 Q. Now, once again we're just going to put you there
19 as the cardiology consult on April 7th.

20 A. August 7th.

21 Q. August 7th, excuse me. I get my Aprils and
22 Augusts confused. If you had become aware
23 because you made phone calls to the other medical
24 facilities that there were previous
25 echocardiograms done and learned of the readings,

1 would you still have ordered a new
2 echocardiogram?

3 A. Of course.

4 Q. And why is that, doctor?

5 A. Things change.

6 Q. Because things do change, correct?

7 A. Correct.

8 Q. In addition to which, and you've already said
9 based solely upon that chest x-ray, if you had
10 seen it, you would have said no surgery, let's
11 order an echo.

12 What if anything do the results of the EKG
13 that was taken on August 5th add or subtract to
14 the further evaluation of this patient?

15 A. Nothing.

16 Q. So the chest film alone would have been enough to
17 tell you we won't go forward, we'll do some
18 further testing?

19 A. Right.

20 Q. It is possible to diagnose amyloidosis, isn't it,
21 doctor?

22 It's very difficult. It's possible but it's very
23 difficult.

24 Q. Well, in this particular instance, would you, I
25 didn't even intend to ask this question, I'm

1 going to ask it anyway.

2 The April results, the April echocardiogram
3 coupled with the chest film of August 7th, do
4 those two things standing in and of themselves
5 without any additional knowledge tend to start
6 making you think it's a restrictive
7 cardiomyopathy of some sort?

8 A. I'm not sure it would. Restrictive
9 cardiomyopathy is a very rare case. Of the 2,000
10 pages in Braunwald's operation there are only
11 three pages on amyloid. So we're talking about a
12 really rare thing. As I've said before, I've
13 never seen a case in 56 years as a doctor, so I
14 don't think amyloid would be anywhere near the
15 top of my list.

16 The other thing that to me is very puzzling
17 is one of the things that's characteristic about
18 the myocardium on echocardiography is a very
19 bright appearance of the myocardium in amyloid
20 deposition. Dr. Dubrovich, who is a very
21 experienced fellow reading echos, does not say a
22 word about it, so I can only assume he didn't see
23 anything like that, so the one echocardiographic
24 hallmark of amyloid was not present at least in
25 April.

1 Q. And you're stating that that is the
2 echocardiographic hallmark once again based upon
3 a review of literature, correct?

4 A. Yes.

5 Q. And, well, you would not know the answer to that,
6 I was going to say because you have not read all
7 the literature. It's not always present in every
8 echo though?

9 A. Evidently.

10 Q. All right. Fair enough. Let us, then, I guess,
11 proceed a different way at this point.

12 You would have stopped the surgery, we've
13 already established that.

14 Doctor, the question's been bandied about,
15 and I want to get your impression on it, do you
16 believe that Nancy Armstrong would have died on
17 August 7th had she not gone to surgery?

18 A. I have no idea.

19 Q. Do you have an opinion, doctor, to a reasonable
20 degree of probability as to whether or not the
21 reason she died on August 7th is because she
22 underwent general anesthesia?

23 A. Well, I think it's more probable than not. It
24 would be hard to say that that had nothing to do
25 with her death because that's certainly not in

1 the usual range of people's activities.

2 Q. You are opining, I want to make sure you still
3 believe this because people keep changing things,
4 you're indicating in your report that you believe
5 that Nancy's life expectancy was less than one
6 year even if the pelvic operation had not been
7 necessary, correct?

8 A. Correct.

9 Q. Tell me how you came up with your one year
10 number.

11 A. I think reading Braunwald.

12 Q. So you base your one year strictly based on
13 Braunwald; is that correct?

14 A. Yes.

15 Q. Is there any other article -- have you done any
16 Internet research in this?

17 A. No. I'm not much for Internet.

18 Q. Well, I wasn't either until about four months
19 ago, so you haven't made yourself aware of the
20 more current articles on life expectancy in this
21 regard?

22 A. I have.

23 Q. You have? What have you recently reviewed, if
24 you could share that with me?

25 A. The medical knowledge self-assessment program,

1 which is abbreviated MKSAP, Number 11, I reviewed
2 that as recently as 6:00 this morning about
3 monoclonal gammopathy and amyloid and the life
4 expectancy of amyloid heart disease.

5 Q. And the medical knowledge self-assessment test,
6 this is --

7 A. American College of Physicians.

8 Q. Right. I was going to say did you take it for
9 credit? I'm kidding you.

10 A. I have, oh, yes.

11 Q. I was going to say that's what a lot of
12 physicians do now.

13 A. Well, I've done the same. MKSAP 1 in 1968.

14 Q. And what did you discover this morning at 6:00
15 a.m. in taking the self-assessment Number 11?

16 A. Life expectancy in cardiac involvement of amyloid
17 is, maybe I should get it instead of quoting.
18 It's around a year -- it's less than a year if
19 the ejection fraction is 40 percent. 15 months
20 if the ejection fraction is above 40 percent.

21 Q. Do you recall what Nancy -- do we know -- do you
22 know Nancy's ejection fraction?

23 A. I know that it was 47 percent in, when she had
24 her adenosine. Yes, here it is. April 17th, it
25 was 47 percent.

1 Q. And in looking at those numbers, those numbers
2 are not hard and fast. Those are an average of
3 all case studies. Would you agree with that?

4 A. I'm going to assume so, yes.

5 Q. Do you know what the number of patients were that
6 were included to arrive at those average, I'm
7 going to call them average markers but --

8 A. Of course not.

9 Q. So you don't know which study furnished the basis
10 for those particular numbers in this
11 self-assessment test?

12 A. No.

13 Q. And you are placing Nancy in the less than one
14 year even if that surgery had not occurred for
15 what reason?

16 A. I just gave it.

17 Q. Then could you restate it because I was probably
18 not paying attention.

19 A. Well, the, as I've just said, the information
20 that I've just quoted to you said that if the
21 ejection fraction is less than 40 percent, the
22 survival is three months, something like that --
23 anyway, it's less than a year.

24 If the ejection fraction is over 40 percent,
25 it's 15 months.

1 Q. All right. And the only ejection fraction that
2 we know is the one from April; is that right?

3 A. That's right.

4 Q. Did you write this summary?

5 A. Yes, I did. You want a copy?

6 MS. TAYLOR-KOLIS: Yes. We'll
7 just mark that E.

8 - - - -

9 (Thereupon, Plaintiff's Exhibit E,
10 "Cardiac Findings on Nancy Armstrong" was marked
11 for purposes of identification.)

12 - - - -

13 Q. While Mr. Rispo is copying that, now I understand
14 the basis of your opinion.

15 Another cardiologist in this case has
16 testified that her life expectancy could have
17 been two to three years.

18 Do you have a dispute with that?

19 A. Of course.

20 Q. And you're going to remain firm in your position,
21 I gather, on that?

22 A. Of course.

23 Q. Doctor, do you know what the treatment is for
24 cardiac amyloidosis, the current treatment
25 modalities?

1 A. I don't think there's anything that works very
2 well. You've already heard that Braunwald's
3 write-up was that transplant was not recommended.

4 Q. And I would agree with that. That's not my
5 question.

6 That article that he's relying on, that was
7 written in 1989, I'm just going to let you know
8 that, and you can go back and verify it.

9 Are you aware of what has been done for
10 cardiac patients since 1989?

11 A. I presume Braunwald is. I'm not.

12 Q. Okay. So as we sit here today, you are telling
13 me that you have not looked at what treatments
14 are available to prolong the lives of persons
15 with cardiac amyloid?

16 A. I am.

17 MS. TAYLOR-KOLIS: I'm going to
18 step out in the hallway with Mr. Conway for
19 a minute.

20 - - - -

21 (Thereupon, a recess was had.)

22 - - - -

23 Q. Doctor, I just have a couple more questions for
24 you on the record.

25 Doctor, you of course by your CV are licensed

1 to practice medicine in the State of Ohio,
2 correct?

3 A. I am.

4 Q. And today every opinion that you've given me has
5 been to a reasonable degree of medical
6 probability, correct?

7 A. Correct.

8 Q. Doctor, the only last thing I would like to do is
9 pull any and all correspondence that you have and
10 get it marked for the record.

11 Can we do that?

12 A. Do what?

13 Q. Pull the correspondence between yourself and the
14 attorneys?

15 A. Oh, I haven't written any letters to the --

16 Q. Well, I know you haven't written any to them
17 but --

18 A. You mean them to me?

19 Q. Yes.

20 A. I think you saw the only one. There's one or two
21 where they said enclosed.

22 MR. WILT: You can have that.

23 A. This is the only other things I received.

24 Q. Can I just take a look to make sure I haven't
25 missed any?

1 A. Yes. What you saw before was the letter from the
2 paralegal sending all the things.

3 Q. And that was it?

4 A. Yes.

5 Q. No letter from Mr. Farchione?

6 MR. WILT: No. He threw all that
7 away.

8 MS. TAYLOR-KOLLS: I'm sorry, you
9 did testify to that. I'm sorry.

10 MR. WILT: Just trying to keep
11 you moving, Donna.

12 MS. TAYLOR-KOLIS: We're done
13 unless Mr. Rispo has some questions he
14 wants to ask.

15 MR. RISPO: Yes, I do

16 - - - -

17 CROSS-EXAMINATION OF RICHARD WATTS, M.D.

18 BY MR. RISPO:

19 Q. Doctor, if you had not exactly reviewed the
20 original x-ray film of August 5th, '99 and had
21 only the benefit of the wet read, which I believe
22 indicated infiltrates in the right lower lobe,
23 would you have cleared this patient for surgery?

24 A. I would have.

25 MR. RISPO: Thank you.

1 MS. TAYLOR-KOLIS: Then I'm going
2 to ask a follow-up.

3 - - - -

4 .CONTINUED CROSS-EXAMINATION OF

5 RICHARD WATTS, M.D.

6 BY MS. TAYLOR-KOLIS:

7 Q. Doctor, doesn't a physician who's involved in the
8 process of clearing a patient for surgery have an
9 obligation to know what the final read is and/or
10 in the face of a reading that says perhaps
11 effusions, look at the film if they are capable
12 of reading one to ensure themselves of what's
13 actually on that film?

14 MR. WILT: Objection. That's a
15 pretty confusing question.

16 A. That's why I'm not answering

17 MS. TAYLOR-KOLIS: Will you let
18 him say it's confusing?

19 MR. WILT: No. If it's confusing
20 to me, you got a problem.

21 Q. Okay. First of all, when you look at the Elyria
22 Memorial chart, there is no wet read in that
23 chart, is there?

24 A. I thought I saw one.

25 Q. You saw one in Dr. Bartulica's chart, correct?

1 A. I saw an official interpretation in his chart. I
2 thought the wet read was in the hospital chart.
3 The wet read was what people were relying upon.

4 Q. You've been a cardiologist how many years,
5 doctor?

6 A. Let's see. 52, 51, something like that.

7 Q. And everybody uses this different but wet read
8 means it was a preliminary reading, correct?

9 A. Yes. They had a handwritten report from the
10 radiologist, not the typed report which hadn't
11 been typed yet, I assume, but they had a
12 handwritten report.

13 Q. Do you know when the final report was typed?

14 A. August 6th.

15 Q. Do you have reason to believe it might have been
16 in the chart on August 7th?

17 A. I have no idea.

18 Q. If you -- well, you can't do that because you
19 wouldn't be called in until later so I'm not even
20 going to ask you that question. I'll withdraw
21 that, and that's all the questions.

22 MR. CONWAY: Wait. Can we --

23 Q. Wait. I know what you want me to ask and I'll
24 try to ask it.

25 When you're preparing to take a person to

1 surgery, now, you don't take people to surgery,
2 right, because you're a clinical cardiologist?

3 A. Exactly.

4 Q. But based upon your involvement in cases where
5 people are being taken to surgery, if there is a
6 report that there is something going on in the
7 lungs, that needs to be evaluated, doesn't it?

8 A. Well, should we take a look at the wet read of
9 the report?

10 Q. Sure.

11 A. Well, there are several different handwritings
12 here, but this is from --

13 MR. WILT: We can all agree that
14 the top one is what the radiologist wrote.

15 A. Yeah. Right lower lobe A-T-A, A-T-E-L, I'm sure
16 that means atelectasis, infiltrate with small
17 right effusion. Follow-up for resolution.

18 Q. You get that. What does that mean to you?

19 A. Just what it says.

20 Q. Of what clinical significance is it in making a
21 determination whether or not the patient's
22 suitable or amenable for surgery based upon that
23 wet read?

24 A. Based on this data alone, I would have no problem
25 about the patient going to surgery.

1 Q. Well, what additional data would you need?

2 MR. WILT: Objection.

3 A. I wouldn't need any additional. This is a
4 handwritten report by the radiologist for the
5 purpose of the patient going to surgery before
6 the official report could be typed and put on the
7 chart, so I have no reason -- first of all,
8 there's not a word about the heart. H-E-A-R-T is
9 not on this handwritten report.

10 Q. I don't disagree with that but that's not my
11 question.

12 A. Okay.

13 Q. This is in Dr. Bartulica's chart, correct?

14 MR. WILT: That is

15 Dr. Bartulica's chart you're looking at.

16 A. Okay.

17 Q. Can you verify for me --

18 A. Well, this apparently came to his, this was faxed
19 to his office, I assume. There is a fax.

20 Q. Correct.

21 A. And the date on the fax is August 6th.

22 Q. Right.

23 A. So at 9:40 in the morning or 8:54 in the morning,
24 whatever it is, this is the handwritten report
25 from the radiologist.

1 Q. Okay. But that report does not appear in the
2 hospital chart. What's in the hospital chart is
3 the final report that's transcribed on August
4 6th. Would you agree with that?

5 A. Yes. I already have.

6 MS. TAYLOR-KOLIS: Okay. That's
7 all I have for you, doctor.

8 - - - -

9 CONTINUED CROSS-EXAMINATION OF
10 RICHARD WATTS, M.D.

11 BY MR. RISPO:

12 Q. Doctor, is it reasonable for an anesthesiologist
13 to rely upon a wet read?

14 A. Of course.

15 MR. RISPO: Thank you.

16 MR. WILT: Anything else?

17 MS. TAYLOR-KOLIS: No.

18 MR. WILT: I've got some
19 questions.

20 - - - -

21 REDIRECT EXAMINATION OF RICHARD WATTS, M.D.

22 BY MR. WILT:

23 Q. Doctor, I'm going to talk a little bit about the
24 significance of the workup in April of 1999 as
25 far as your opinions in this case.

1 First, given your review of -- well, let me
2 just ask you: Do you consider that, the workup
3 in April of 1999 to have been a complete, if you
4 will, cardiac workup for preoperative clearance
5 for a patient?

6 A. Yes, indeed. And it was followed by the
7 operation.

8 Q. And in that situation, the patient did have some
9 abnormalities but was still cleared for surgery,
10 wasn't she?

11 MR. CONWAY: Objection to form.

12 MR. WILT: Wait a minute. One
13 person is going to speak. She's the person
14 taking the deposition. She has an
15 objection, she'll object. That's it. One
16 person is representing them at this
17 deposition.

18 MS. TAYLOR-KOLIS: Let me state
19 for the record there is absolutely no case
20 law that I'm aware of that would prevent
21 either one of us from asking questions or
22 objecting.

23 MR. WILT: We'll stop the
24 deposition. You guys can take breaks,
25 talk, whatever you want. One person

1 objects, one person asks questions and I
2 think any judge would uphold me on that.

3 MR. CONWAY: I've never heard of
4 a rule like that, Ron.

5 MR. RISPO: That's the way we
6 proceed at trial.

7 MR. WILT: Absolutely.
8 Depositions proceed the same way. So if
9 Donna has an objection, she can object
10 That's fine.

11 Q. Doctor, do you remember the question?

12 A. No.

13 MS. TAYLOR-KOLIS: Neither do I.

14 MR. WILT: Could you read back the
15 question?

16 - - - -

17 (Thereupon, the requested portion of
18 the record was read by the Notary.)

19 - - - -

20 Q. Let me reask the question.

21 Doctor, in April of 1999 was the patient
22 found to have some cardiac abnormalities?

23 A. She was.

24 Q. And at that time was she cleared for surgery?

25 A. She was.

1 Q. And how long was the patient under an anesthesia
2 for that surgery?

3 A. Four hours.

4 Q. Did she appear to have survived that surgery
5 without any difficulty?

6 A. She did.

7 Q. And in between April of 1999 and the time of this
8 surgery in August or prior to August 7th of 1999,
9 was this patient seen by Dr. Richardson?

10 A. She was.

11 Q. Did Dr. Richardson in his evaluation of the
12 patient believe the patient had worsened
13 clinically from what you can tell from his notes?

14 A. He did not.

15 Q. And, doctor, if Dr. Richardson had considered
16 this patient to have been a risk for a surgery by
17 a gynecologist, is that something you would
18 expect him to have told Dr. Bartulica when they
19 discussed changing the patient's anticoagulants?

20 MS. TAYLOR-KOLIS: Objection.

21 Q. You can answer.

22 A. Let me hear it again because I was looking at
23 something here in anticipation of a question.

24 Q. It gets confusing.

25 Doctor, if Dr. Richardson thought this

1 patient was at risk for gynecological surgery,
2 given his knowledge of her, would you expect him
3 to tell Dr. Bartulica those concerns when they
4 discussed changing the patient's anticoagulants?

5 MS. TAYLOR-KOLIS: Objection.
6 Foundation, but go ahead and answer the
7 question.

8 A. Yes, I would.

9 Q. Why?

10 A. Well, certainly he knew the patient better
11 overall than Dr. Bartulica or probably anybody
12 else at that time and if he had any concern about
13 the surgery, knowing that there was going to be
14 surgery that he would have, certainly had an
15 obligation to say so.

16 The information we have is that most of the
17 conversation focused not on her safety for
18 the surgery but on how to handle the question of
19 anticoagulation.

20 Q. Doctor, given the fact that Dr. Richardson by his
21 own testimony and by Dr. Bartulica's testimony,
22 assuming that they've both testified accurately
23 and honestly, did not raise any concerns, is it
24 fair to assume that he did not have any?

25 MS. TAYLOR-KOLIS: I'm going to

1 object again, but go ahead.

2 Q. You can answer.

3 A. It's fair to assume that.

4 MR. WILT: Thank you.

5 MR. RISPO: Pam, could you read
6 back the last question and answer?

7 - - - -

8 (Thereupon, the requested portion of
9 the record was read by the Notary.)

10 - - - -

11 MR. RISPO: He being Richardson?

12 MR. WILT: Yes.

13 Q. Doctor, you talked about, in response to Ms.
14 Kolis' questioning, that it was your opinion that
15 this patient's life expectancy, I think you put
16 this in your report, would have been less than a
17 year.

18 Doctor, in review of this case, in review of
19 the autopsy findings, does it appear that
20 Mrs. Armstrong's condition, cardiac condition or
21 amyloidosis rapidly progressed between April and
22 August?

23 MS. TAYLOR-KOLIS: Objection.

24 Q. You can answer.

25 A. Well, I think it must have because we know about

1 a four-hour operation on April 24th and we know
2 about the sudden death with induction of
3 anesthesia on August 7th, so I think it certainly
4 had progressed drastically to change the outcome
5 of those two operative adventures.

6 Q. And the fact that this disease process had
7 progressed, does that support your opinion that
8 her life expectancy in August of 1999 would have
9 been less than a year?

10 MS. TAYLOR-KOLIS: Objection.

11 Foundation.

12 A. Yes.

13 Q. The next question is why does it support that?

14 A. Well, I think almost the facts speak for
15 themselves. A four-hour operation under general
16 anesthesia is a considerable stress to the body
17 and is a much greater stress than just the
18 induction of anesthesia less than four months
19 later, so I think that just on the basis of that
20 alone, her cardiac condition must have progressed
21 substantially during that period of time.

22 Q. And, doctor, retrospectively as we sit here
23 today, is it fair to assume that in August of
24 1999, that Mrs. Armstrong was beginning to suffer
25 congestive heart failure as a result of her

1 amyloidosis?

2 A. It is.

3 Q. Okay. And, doctor, does a patient with primary
4 amyloidosis who is beginning to suffer congestive
5 heart failure, do those patients have a very long
6 life expectancy?

7 MS. TAYLOR-KOLIS: Objection.

8 Foundation, but go ahead.

9 A. No.

10 Q. And, doctor, what would you expect somebody like
11 Mrs. Armstrong's life expectancy to be given the
12 fact that she had, she was suffering from
13 congestive heart failure from the amyloidosis?

14 A. Well, even without the operation, I would think
15 it would be only a few months.

16 MS. TAYLOR-KOLIS: Objection.

17 Move to strike that answer since he's
18 already answered in the first part of the
19 deposition today that it was at least a
20 year.

21 MR. WILT: I don't think that's
22 what he said.

23 MS. TAYLOR-KOLIS: I think it is
24 what he said, but, fine.

25 A. Less than one year.

1 Q. Doctor, in your experience as a cardiologist, do
2 you clear patients for surgery who are not in
3 perfect health?

4 A. Oh, yes, all the time.

5 Q. Can you explain, just give me a little
6 background, how that happens so the ladies and
7 gentlemen of the jury understand it?

8 A. Well, first of all, all of my patients have heart
9 disease, so they're certainly not in perfect
10 health, but that doesn't mean that they have to
11 suffer from things that surgeons or gynecologists
12 can be helpful in treating them, so I think what
13 we have to do is to weigh the risks against the
14 benefits and we do preoperative testing right
15 across the hall all the time on people who are,
16 first of all, up in years, second of all, have
17 heart disease, third of all, probably have other
18 co-morbid features, hypertension, diabetes, renal
19 disease and anemia and so on; but if they can
20 pass the adenosine stress, nuclear test that we
21 do across the hall, then they're a reasonable
22 candidate for surgery.

23 Q. And just so we're clear, in this case, given the
24 information Dr. Bartulica was given on the wet
25 read of the x-ray and the other information

1 available to him at that time, do you believe it
2 was appropriate for him to clear this patient
3 from surgery from a gynecological standpoint?

4 A. Yes.

5 MR. WILT: That's all I have,
6 doctor.

7 - - - -

8 RECROSS-EXAMINATION OF RICHARD WATTS, M.D.

9 BY MS. TAYLOR-KOLIS:

10 Q. Doctor, you do intend to testify live at trial,
11 don't you?

12 A. I hope to. I like to testify at trial.

13 MS. TAYLOR-KOLIS: Okay. Thanks.

14 MR. WILT: Okay.

15

16

RICHARD WATTS, M.D.

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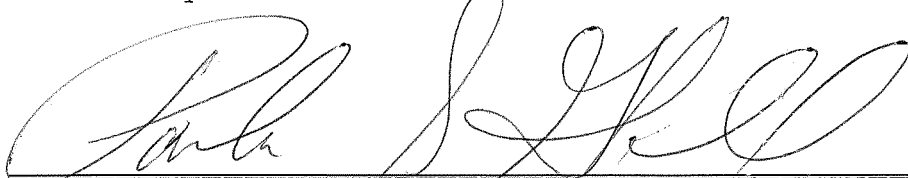
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C E R T I F I C A T E

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

I, Pamela S. Greenfield, a Notary Public within and for the State of Ohio, authorized to administer oaths and to take and certify depositions, do hereby certify that the above-named witness was by me, before the giving of their deposition, first duly sworn to testify the truth, the whole truth, and nothing but the truth; that the deposition as above-set forth was reduced to writing by me by means of stenotypy, and was later transcribed into typewriting under my direction; that this is a true record of the testimony given by the witness; that said deposition was taken at the aforementioned time, date and place, pursuant to notice or stipulation of counsel; and that I am not a relative or employee or attorney of any of the parties, or a relative or employee of such attorney, or financially interested in this action; that I am not, nor is the court reporting firm with which I am affiliated, under a contract as defined in Civil Rule 28(D).

IN WITNESS WHEREOF, I have hereunto set my hand and seal of office, at Cleveland, Ohio, this 10th day of June A.D. 2000.



Pamela Greenfield, Notary Public, State of Ohio
1750 Midland Building, Cleveland, Ohio 44115
My commission expires June 30, 2003

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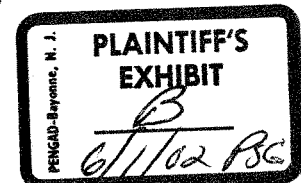
Re: Armstrong v. Bartulica, M.D.,
 Lorain County Court of Common Pleas Case # OO CV 126180 .
 Your File # 3321-02-44153-00

Dear Mr. Farchione,

At your invitation I have reviewed the following documents in this case:

Office records of Dr. Bartulica
Elyria Memorial Hospital August 7, 1999
Autopsy report on Nancy Armstrong
West Shore Primary Care records
North Ohio Heart Center reports
Records of Dr. Curtis Lockhart
Records of Dr. S. Richardson
St. John West Shore Hospital records
Letter of Andrew M. London of May 29, 2001
Letter of Kenneth Smithson, D.O., Ph.D. of May 31, 2001
Your letters of August 21, 2001

Nancy Armstrong was 46 years old when she was seen by Dr. Bartulica for severe pelvic pain on July 23, 1999. She had a past history of hypertension and hypothyroidism as well as a femoral femoral artery bypass for occlusive arterial disease by Dr/ Lockhart in April of 1999. She also had had electrocardiograms, echocardiogram and cardiac catheterization in the recent past.



PRACTICE LIMITED TO CARDIOVASCULAR DISEASES

<input checked="" type="checkbox"/> 3885 Rocky River Drive Cleveland, OH 44111 Tel: (216) 941-7616 Fax: (216) 941-4090	<input type="checkbox"/> 29099 Health Campus Drive, # 270 Westlake, OH 44145 Tel: (216) 252-3369 (Dr. Lyons) Fax: (440) 835-6168 (Dr. Haghighi)	<input type="checkbox"/> 7225 Old Oak Blvd., # 302 Middleburg Hts., OH 44130 Tel: (216) 252-3369	<input type="checkbox"/> 14701 Detroit Avenue, # 475 Lakewood, OH 44107 Tel: (216) 226-5850 Fax: (216) 226-5851	<input type="checkbox"/> 18099 Lorain Avenue, #404 Cleveland, OH 44111 Tel: (216) 252-8700 (Dr. Nukta) Tel: (216) 671-1061 (Dr. Haghighi) Fax: (216) 671-7820
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☐ RADIOLOGY
☐ EMERGENCY ROOM
☐ MED EXPRESS

☐ PHYSICIAN NOTIFIED
☐ PHYSICIAN NOT NOTIFIED

PROVISIONAL READING
FINAL READING TO FOLLOW

NAME Armstrong, Nancy ROOM 5A TIME 8/5/99
PROVISIONAL READING: PHYSICIAN FAT - ASAP

FAT -
Bartulica

RLL atel/infiltrate
- small @ effusion

flw to resolution

RLL ATEL / infiltrate
- small Right effusion
follow-up for resolution

8/6/99 - Return call to PAT.
- if ok @ anteria will go with surgery.
and follow-up @ CXR after surgery/monitor.

DO NOT WRITE BELOW THIS LINE



DO NOT WRITE BELOW THIS LINE

DO NOT REMOVE FROM CHART

RADIOLOGIST JH

99

90/6

ARMSTRONG

ARE

TO BE ABLE TO HELP YOU WE NEED THIS FORM FILLED OUT LEGIBLY IN FULL NAMES, ADDRESSES, BIRTHDAYS, INSURANCES ETC.

PATIENT REGISTRATION FORM

Patient's Name Nancy J Armstrong Home Ph# (440) 949-2966 Referred by _____
 Address 4085 Colorado Ave. City Sheffield State OH Zip 44054
 Marital Status S@W D Birth Date 6/5/53 Age 44 SS# 277-48-411
 Reason for the visit Pregnancy _____ Other ☒ (check one) LAST MENSTRUAL PERIOD 12-14-97

HEALTH PLAN INFORMATION - Patient's Coverage

Insurance Company _____ Policy No. _____
 Address _____ City _____ State _____ Zip _____ Group# _____
 Employer _____ Tel. No. Pre-Cert & 2nd Opinion# () - _____
 Address _____ City _____ State _____ Zip _____ Tel. No. () - _____

HEALTH PLAN INFORMATION - Through Spouse or some other family member

Name of the Insured James L. Armstrong Relationship Spouse
 Insurance Company _____ Policy No. _____
 Address _____ City _____ State _____ Zip _____ Group# _____
 SS# 540-60-0723 Birth Date 12/19/49 Employer USS/KOBE
 Employers Address _____ City Lorain State OH Zip 44052

AUTHORIZATION TO RELEASE INFORMATION AND ASSIGNMENT OF BENEFITS

I Nancy J. Armstrong authorize the release of any medical information necessary to process the medical claims. I permit a copy of this authorization to be used in place of the original.

Date 1/6/98 Signature Nancy J. Armstrong

I Nancy J. Armstrong authorize Dr. Paul B. Bartulica to apply for benefits on my behalf for services rendered by him, or by his order. I Request that payment from my insurance company be made directly to Dr. Paul B. Bartulica

I certify that the information I have reported with regard to my insurance coverage is correct. I permit a copy of this authorization to be used in place of the original. This authorization may be revoked by either me or my insurance at any time in writing.

Date 1/6/98 Signature Nancy J. Armstrong

PLEASE MAKE SURE THAT THIS FORM IS COMPLETED AND SIGNED & ALL THE NECESSARY INFORMATION FILLED OUT FOR THE RESPONSIBLE PARTY AND THE PATIENT.