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SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, BERGEN COUNTY

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STEVEN KUMKA, an Infant, by His :
Guardian ad Litem, WALLER XUMKA, :
and DEBRA KUMKA, et al., : Case Number
Plaintiffs, : BER-L-
v. : 000171-93
PEDIATRIC SPECIALISTS, P.A. , :
et al. ,
Defendants.

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DEPOSITION OF RAOUL L. WEINTZEN, JR., M.D.

Washington, D. C.
Friday, June 23, 1995

REPORTED BY:
MARYBETH PETERS

1 Deposition of RAOUL L. WEINTZEN, JR., M.D.,
2 called for examination pursuant to notice of
3 deposition, on Friday, June 23, 1995, in Washington,
4 D. C. at Georgetown University Medical Center, 3800
5 Reservoir Road, N.W., CCC Building, Room 4406, at
6 2:26 p.m. before MARYBETH PETERS, a Notary Public
7 within and for the District of Columbia, when were
8 present on behalf of the respective parties:

9 MITCHELL MACKOWICZ, ESQ.
10 Blume, Vazquez, Goldfaden,
11 Berkowitz and Donnelly
12 Five Commerce Street
13 Newark, New Jersey 07102
14 On behalf of Plaintiffs.

15
16 ROWENA M. DURAN, ESQ.
17 Hurley & Basios
18 636 Morris Turnpike
19 Short Hills, New Jersey 07078
20 On behalf of Defendants Pediatric
21 Specialists, P.A. and
22 Dr. Paul Harlow.

P R O C E E D I N G S

Whereupon,

RAOUL L. WEINTZEN

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

EXAMINATION

BY MS. DURAN:

Q Dr. Weintzen, my name is Rowena Duran. I am an attorney. I represent Dr. Harlow and Pediatric Specialists in a lawsuit that has been brought against them by Mr. and Mrs. Kumka on behalf of their child. You have been identified as an expert on behalf of the Kumkas and I'm here today to explore some of the opinions that you have expressed, Is it your intention to come to New Jersey to testify when this matter is tried?

A If I'm free to do so, yes.

Q Okay. Let me just -- have you ever had your deposition taken before?

A Yes.

Q Just a few ground rules. I'll be asking you a series of questions. If you do not understand

any question that I ask you for any reason, tell me that you don't understand it and I'll rephrase it until you do. Okay?

A Fair enough.

Q Obviously I'm a lay person. I'm not a physician. If any of the questions that I ask don't make sense from a medical point of view, I assure you I have thick skin, tell me that, okay?

A All right.

Q If you don't know the answer, telling me you don't know is perfectly appropriate. Okay?

A Okay.

Q Don't guess at any answer.

A Fair enough.

Q You understand that the testimony that you are giving today is under oath and can be used at the time of trial?

A Right.

Q From time to time there may be an objection to a question I ask and if there is, I would ask that you stop, don't answer the question. We will discuss it on the record, and I'll either rephrase the

1 question or ask you to answer it as phrased.

2 A Okay.

3 Q If you need a question read back, you can
4 certainly do that as well.

5 A Fair enough.

6 (Defendant's Exhibit 1 identified.)

7 BY MS. DURAN:

8 Q Let me give you what has been marked D-1
9 for identification, which has been represented to me
10 to be your curriculum vitae. First of all, is that
11 your curriculum vitae? .

12 A Yes, it is.

13 Q And is it up to date?

14 A No, there are things on here that could be
15 on here, that should be on here that aren't.

16 Q Okay. Do you have a more up-to-date CV?

17 A I don't have a very up-to-date CV. I may
18 have one more up to date than this. I could tell *you*
19 by looking at this a couple of things that would be
20 important that aren't on here, if you want to do
21 that.

22 Q Okay. Why don't you tell me what needs to

1 A are added to that?

2 A All right Specifically licensure I'm
3 now licensure in Virginia and Maryland as well as
4 D C Awards. I received the transfer of the year
5 award again this year, so that would be another
6 award I don't know if it would be awards or -- let
7 me just see what it is boards, in addition to the
8 pediatric boards, I recently became board certified
9 in pediatric infectious diseases

10 Q While we are on that, because that was one
11 of my questions. Did you take the first board
12 examination in November of 1994?

13 A Correct

14 Q Was you passed both? Was it a one - OK
15 two-part exam?

16 A It was a one Fortunately, it was a one
17 part exam.

18 Q Add you passed it on the first time?

19 A Yes. With 98 percent Add the probability
20 that are some articles that are not on this CW that
21 could be Let me just look at a couple of things I
22 wrote a monograph for the American Family Physicians

1 Journal which is basically a general review of
2 infectious diseases in children or some part of
3 infectious diseases in children that I don't see on
4 here.

5 Q Has that been published?

6 A Yes.

7 Q Okay. And what is the title of it?

8 A It is called "Pediatric Infectious Diseases
9 I" and it covers, I believe, congenital infections.
10 I think it covers meningitis and a number of other
11 common infectious disease topics of children.

12 Q Can you -- who was the publisher?

13 A I think the American Family Physicians has
14 its own publisher. It might be Lippencott. I'm not
15 positive. It's probably two years ago or maybe three
16 years ago. I'm not positive. I mean, as it relates
17 today -- there is probably another couple abstracts
18 and another couple articles but nothing that would be
19 germane to this.

20 Q No additional publications that have to do
21 with pneumococcal meningitis?

22 A No, I don't believe so.

1 Q Okay. Are you the sole author of Pediatric
2 Infectious Diseases, the monograph that we were
3 talking about?

4 A Volume I, I am.

5 Q Okay.

6 A My partner did Volume II. And as I sit
7 here, I really don't remember how we divided it up.

8 Q Is there an editor?

9 A I'm sure there is. I can't remember right
10 now.

11 Q Okay. What is your partner's name who
12 wrote the other?

13 A Charlotte Barbey, B-a-r-b-e-y, hyphen,
14 Morel, M-o-r-e-l.

15 Q Okay. Okay. Approximately how many times
16 have you had your deposition taken before?

17 A I would say probably 30 or 40 times.

18 Q Can I just -- before we get off the CV, can
19 you tell me -- and I have another copy if you want to
20 go through that copy. I believe under abstracts, I
21 think it is article number 6 or abstract number 6,
22 was that the first or only abstract that deals with

1 meningitis?

2 A I thing we are looking at -- or at least
3 the one that I am looking at says "Neutrophil
4 Responses" --

5 Q Okay.

6 A -- and Age-dependent Susceptibility of the
7 New Born Infant to Bacterial Infection."

8 Q Does that have anything to do with
9 meningitis?

10 A No. This is not really germane to
11 meningitis.

12 Q Okay. Are any of the abstracts germane to
13 meningitis?

14 A Number 10 would be germane to Hemophilus
15 meningitis and not pneumococcal meningitis.

16 Q Okay.

17 A And I think that is it for the abstracts.

18 Q And what about in the publications?

19 A Publications, number 1 would be of
20 particular relevance to the newborns with meningitis
21 and sepsis.

22 Q And you would consider Steven Kumka to fall

1 outside of the newborn?

2 A Absolutely, yeah.

3 Q Okay. What would you classify his age
4 group, just infants, under one?

5 A Right, and after that, toddler, but he was
6 an infant. And number 11, publications, is germane
7 to the case "Occult Bacteremia in Toxic Appearing
8 Febrile Infants," which deals with children who have
9 positive blood cultures and fever, basically. And I
10 think that is probably it.

11 Q Okay. Of the 30 and 40 time's that you have
12 had your deposition taken, have they always been in
13 the capacity as an expert witness in a malpractice
14 matter?

15 A Yes.

16 Q Okay. And of the 30 or 40 times that
17 you've had your deposition taken, can you give me a
18 breakdown or a percentage in terms of how many times
19 that you've testified on behalf of a plaintiff as
20 opposed to a physician or other health care
21 provider?

22 MR. MAKOWICZ: At a deposition?

1 MS. DURAN: At depositions, yes.

2 THE WITNESS: Probably two-thirds defendant
3 and one-third plaintiff.

4 BY MS. DURAN:

5 Q And how long have you been reviewing
6 malpractice matters?

7 A Probably since 1980 or so.

8 Q And can you tell me -- are they always in
9 the area of pediatric infectious diseases?

10 A Almost always. I am sure I reviewed an
11 occasional general pediatric case,

12 (Discussion off the record.)

13 BY MS. DURAN:

14 Q How many cases approximately per year do
15 you review?

16 A I probably now review a dozen or maybe 15
17 cases some years.

18 Q Okay. And would you say that the breakdown
19 of two-thirds on behalf of defendants and one third
20 on behalf of plaintiff is about the same in terms of
21 your review?

22 A Yes.

1 Q And can you tell me the number of
2 jurisdictions that you have reviewed cases from?

3 A I have tried to name them. I've reviewed
4 one, two cases, three cases in New Jersey total now.
5 I've reviewed cases in Florida, couple of cases in
6 Kansas City, Missouri, some cases from this local
7 area here.

8 Q Washington; Virginia?

9 A Right, and one case in Delaware, I think
10 one case in New York, probably a couple of cases in
11 Pennsylvania, and that's it.

12 Q Okay. Are you affiliated with any
13 associations or organizations that locate doctors
14 on -- for attorneys or insurance companies?

15 A I don't know about affiliated, but there is
16 a company in town that for the last -- probably 10
17 years has sent me an occasional case.

18 Q What is the name of that?

19 A Forensic Medical Advisory Service, F-M-A-S,

20 Q And are they out of Silver Spring,
21 Maryland?

22 A Yes.

1 Q Do you have a contract with them?

2 A No.

3 Q Okay. Other than FMAS, is there any other
4 organization such as that --

5 A No.

6 Q -- that you have reviewed cases for?

7 A Oh, in the past I did review one or two
8 cases for another company, and I can't remember the
9 name of it. And the man wanted to send me a lot of
10 cases and I wasn't interested, so I haven't talked to
11 him in a couple of years.

12 Q Have you testified in court?

13 A Yes.

14 Q And can you tell me what states or
15 jurisdictions that you've testified in?

16 A I've testified in court in D.C., in
17 probably Virginia and Maryland. The local sort of
18 jurisdictions. Florida. And once in Kansas or
19 Missouri, I forget. One of those two cities. Next
20 to next states.

21 Q And what percentage of your professional
22 time is devoted to reviewing and testifying in

1 malpractice cases?

2 A Well, I mean I think all my professional
3 time is devoted to taking care of patients and doing
4 what I do here. If I did a ratio of what I do here
5 versus this work, it is probably 10 percent of what I
6 normally do.

7 Q All right. What do you charge for
8 reviewing matters?

9 A I charge \$300 an hour for record review and
10 \$400 a hour for deposition.

11 Q And what about for trial?

12 A For a day of trial it would be \$3000.

13 Q And for a half day -- or is there a half
14 day charge?

15 A If I could really get done in a half day, I
16 would be happy to do it in a half day.

17 Q Have you ever been sued for malpractice?

18 A No.

19 Q Have you ever had -- you are only
20 associated currently at Georgetown University; is
21 that correct?

22 A I mean, I'm on the full-time faculty, so I

1 can't be on the full-time faculty of two people --
2 two places as far as I know, so yes.

3 Q Okay. Have your privileges to practice
4 medicine ever been curtailed in any way?

5 A No.

6 Q Do you advertise your services as an expert
7 anywhere?

8 A No.

9 Q Okay. Your report has been marked, and I
10 have a copy here, D-2, for identification. I assume
11 you have a copy of that.

12 A Yes, I do.

13 Q It is a four-page report; correct?

14 A Right.

15 Q Is this the only written report that you
16 have authored in this case?

17 A The only formal report. I have handwritten
18 notes from the depositions and from the records, but
19 that's not really a report, I think.

20 Q Okay. We will get to all of that.

21 A All right.

22 Q I see that you have a page of notes. Well,

1 let me just ask you this before we get to that, the
2 only formal, written report is what has been marked
3 **D-2** for identification; correct?

4 A I haven't seen the marking on it but I
5 believe you are right. Yes.

6 Q Okay. Can you tell me what materials you
7 reviewed before you wrote this report?

8 A I think I reviewed everything that is in
9 front of me now which included the outpatient records
10 of Dr. Harlow's office, the inpatient records at the
11 time of the Hackensack Medical Center admission in
12 January '89. The subsequent hospitalization for
13 seizure disorder of December of that year,
14 December '89.

15 Q At Hackensack?

16 A Right. A rambling sort of series of
17 outpatient follow-up records that dealt with the
18 hearing impairment, psychological evaluation,
19 neurologic evaluation after the discharge from
20 Hackensack Hospital initially, the depositions of
21 Mrs. Kumka, Mr. Kumka, Dr. Harlow, Dr. LaSalla. Let
22 me see what else here. A two-page summary of events

1 as submitted **by** Mr. Blume's office, and I'll thumb'
2 through it for anything. I think that is basically
3 it. Oh, the answers to interrogatories of
4 Dr. Harlow, I believe, and I think that is
5 essentially the material that I reviewed.

6 Q Okay. And did you review all of the
7 material that you just listed before you wrote your
8 July 25th, 1994 report?

9 A As best as I can remember, I did. I still
10 have a question in my own mind whether I got the
11 answers to the interrogatories later, but I think I
12 got them at the same time.

13 Q Other than -- this would be Dr. Harlow's
14 answers to interrogatories?

15 A Yes.

16 Q Other than possibly Dr. Harlow's answers to
17 interrogatories, do you recall having received any
18 other information since you wrote your report of July
19 25th?

20 A This morning or this afternoon I believe I
21 did review the reports of two defendant experts,
22 Dr. Rapkin and Dr. --

1 MR. MAKOWICZ: Minnefor?

2 THE WITNESS: -- Minnefor. They may have
3 been sent to me after my report was issued. I don't
4 have them in my pile if they were, and I don't really
5 remember having read them.

6 BY MS. DURAN:

7 Q Okay. So other than reviewing their
8 reports this afternoon, you don't have any
9 recollection of having reviewed them?

10 A That's right.

11 Q Okay. All right. Other than possibly
12 Dr. Harlow's answers to interrogatories and the
13 report of Dr. Rapkin and Dr. Minnefor, have you
14 reviewed any other materials since you wrote your
15 report of July 25th, 1994?

16 A No.

17 Q Okay. Was there anything in the reports of
18 Dr. Rapkin and Dr. Minnefor that in any way changed
19 or influenced your opinions in this case?

20 A No.

21 Q Do you know Dr. Rapkin?

22 A No.

1 Q Do you know Dr. Minnefor?

2 A No.

3 Q Do you know Dr. Harold Raucher?

4 A No.

5 Q Okay. Have you ever reviewed a report from
6 Dr. Harold Raucher?

7 A Not to my recollection and certainly not
8 today.

9 Q Did you ever review a deposition transcript
10 of a Dr. Raucher?

11 A Again, not to my recollection.

12 Q Okay. You indicated -- and I just have to
13 go back to this for a second -- that you have
14 reviewed three cases in New Jersey?

15 A This is the third.

16 Q And are they all behalf of the Blume firm?

17 A No.

18 Q Have you ever reviewed a case for Mr. Blume
19 prior to this?

20 A No.

21 Q Have you ever reviewed a case for anyone in
22 the Blume, Vazquez firm?

1 A No.

2 Q Other than this one?

3 A No.

4 Q Can you tell me the names of the other
5 firms that have retained you in New Jersey?

6 A It's only one other firm, and I think it's
7 Weis Goldstein or Weis Goldman.

8 MR. MAKOWICZ: Wilentz Goldman, Wilentz
9 Goldman?

10 THE WITNESS: I don't think it is Wilentz.
11 I thought it was Weis.

12 BY MS. DURAN:

13 Q Do you know the name of the attorney?

14 A I thought it was Mr. Weis, but it has been
15 a number of years.

16 Q Weisman?

17 A Could be. I don't really remember.

18 Q Okay. Okay. Do you know where they were
19 located, where their office was located?

20 A I don't know. Somewhere in New Jersey.

21 Q Can you tell me, did any of those other
22 cases have anything to do with a meningitis case?

1 A I can recall only one of the two cases as I
2 sit here now, and it was not meningitis. And the
3 other case -- yes, the other case was a TB meningitis
4 case, in fact.

5 Q TB?

6 A Tuberculosis.

7 Q Okay. Have your depositions been taken in
8 any one of those cases?

9 A I believe in the TB meningitis for
10 certain.

11 Q Okay. And do you know who took your
12 deposition in that case?

13 A No.

14 Q Was it taken in Washington?

15 A Yes.

16 Q Do you know if those cases are still
17 pending?

18 A I believe they are both settled. I know
19 the TB meningitis is settled, and I haven't heard
20 anything from anybody in years on the other case.

21 Q Okay. All right. You indicated that you
22 reviewed a two-page summary of facts from Mr. Blume's

1 office. Do you have that with you? I thought it was
2 in that pile.

3 A I had it when I found it before, yeah,
4 right.

5 Q Let me see that.

6 MS. DURAN: Can I have this?

7 (Defendant's Exhibit 3 identified.)

8 BY MS. DURAN:

9 Q Did you rely on any of the information that
10 is contained in D-3 for identification when
11 formulating your opinions in this case?

12 A No, I did not.

13 (Defendant's Exhibit 2 identified.)

14 BY MS. DURAN:

15 Q Okay. Does the document that is marked D-2
16 contain all of your opinions relative to this matter?

17 A Actually there is one juncture that, as I
18 read through this recently, I realize that I didn't
19 address when I was writing this, and that is sort of
20 the juncture of Monday morning 10:00 phone call to
21 Dr. Harlow's office: what would have happened if the
22 baby had come in at that time rather than coming in

at 1:00, three hours later, and would therapy have made any difference at that earlier juncture. And it was not something that I had in my mind when I was writing this report.

Q So you are talking about the January 9th, 1990 -- 1989 telephone call to Dr. Harlow's office?

A Correct.

Q Okay. What time -- what is your understanding of the time that the telephone call was made, that first telephone call?

A I believe around 10:00 in the morning.

Q And do you know whether or not the mother was offered the opportunity to bring her child in immediately at that time?

A Again, two conflicting versions of the story. She says no, the post-dated medical record says come right in, so I don't know which is right.

Q Okay. **All** right. Let me ask you this: Assuming that the mother had brought her child into the office, regardless of whose version of the facts is correct, okay --

A **All** right.

1 Q .. and that she had gotten there sometime
2 after 10:15 a.m., do you have an opinion within a
3 reasonable degree of medical probability as to
4 whether or not Steven's outcome would have been any
5 different?

6 MR. MAKOWICZ: Objection. At what point
7 after 10:15 a.m.?

8 MS. DURAN: **As** soon as the mother could get
9 there, I would assume by, let's say, a reasonable
10 time when she could get there by 11:00 and be seen by
11 a doctor.

12 BY MS. DURAN:

13 Q Do you have an opinion within a reasonable
14 degree of medical probability as to whether or not
15 Steven's outcome would have been any different?

16 A Well, I mean, this presupposes that they
17 make a diagnosis of sepsis at that point or sepsis
18 and maybe meningitis at that point and start
19 therapy. That has to be an issue. In my judgment,
20 if the meningitis was as early as it seems to have
21 been in its evolution when it was finally
22 diagnosed -- I mean at 6:00 at night or 5:30 at night

1 on that same day -- to go back eight hours or so
2 earlier than that, seven hours earlier than that, to
3 start therapy would be a benefit to a patient

4 I can't tell you how -- because of this
5 biologic system that we call the normal human brain,
6 I can't tell you how specifically he would have
7 benefited, but I think that he would have been less
8 injured had therapy been instituted at that juncture

9 Q Do you have an opinion as to when the
10 meningitis began in Stephen Kumka -- within a
11 reasonable degree of medical probability, or course?

12 A My opinion is that the meningitis was
13 probably extant at about the time that he was being
14 is seen in the 1:00 to 2:00 juncture when he finally
15 did come in. Whether it was there an hour or two or
16 four earlier than that is something that I don't have
17 a firm opinion about. I don't think it was there
18 Sunday, but exactly when on Monday it occurred, I
19 don't know.

20 I would agree with -- and this, I believe,
21 is the first time that I heard Dr. Rapkin's report --
22 but I would agree with him in generally saying that

1 the meningitis as it was diagnosed Sunday night --
2 I'm sorry Monday night at 6:00 was not there for a
3 very long period of time. He puts, I think, a couple
4 of hours as his time frame, and he may be right. I
5 think it is also possible that it was six hours.

6 Q Okay. Let me ask you this: Assuming that
7 the mother had been seen in the morning shortly after
8 the telephone call of 10:15 or 10:00 on January 9th,
9 do you have an opinion as to whether or not the
10 meningitis was diagnosable at that time?

11 A Well, A, he may not have had meningitis at
12 the time.

13 Q Okay.

14 A So if it's not there, obviously you can't
15 diagnose it.

16 Q Okay.

17 A If he did have meningitis -- my judgment is
18 this child was probably going to look pretty sick at
19 the time of the 11:00 or 10:30 a.m. visit, so the
20 diagnosis of sepsis or meningitis could have been
21 made, yes.

22 Q Okay. If the meningitis wasn't present at

1 10 00 or 11:00 in the morning, would a diagnosis of
2 viral syndrome have been within keeping of the
3 standard of care?

4 A Again, assuming two other features of the
5 presentation. A, that he looked really very well,
6 was not sick appearing or toxic, and B, that is
7 white count was not elevated then, yes, I can't
8 criticize a physician for making a diagnosis of a
9 viral syndrome in that context

10 Q Okay You indicate that in your report,
11 that you refer to a child 'appearing toxic'; would
12 you tell me what you mean by that?

13 A I think there are a lot of ways in which
14 toxicity can be appreciated with a young baby with
15 fever and sepsis Essentially a toxic child is a
16 sick-appearing child, and the variables that are used
17 to know whether or not a patient is toxic are, in
18 fact some of the variables that Mrs Kumka has
19 brought forth here.

20 One very significant variable is failure to
21 respond to the noxious parts of an office visit such
22 as blood taking, a suprapubic urine aspirate, an

examination of the ears or rectal temperature
taking -- things that make babies mad and angry
because they are painful, should make babies mad and
angry because of the pain. Failure to respond in the
appropriate manner because of the pain is in an
evidence of that this is a pretty sick baby.

Lack of interaction between the observer
and the baby, the baby who has a vacant or blank
stare, a baby who won't respond socially with a smile
or brightening when seen by a stranger or proffered
with a toy, failure to follow lights, failure to
drink -- I mean, there is a whole bunch of things
that tells a physician that this is a pretty sick
baby. They are the commonest ones.

Q Is there anything contained in the office
records of Dr. Harlow to indicate that this was a
toxic-appearing child?

MR. MAKOWICZ: And you are speaking
specifically only of the doctor's notes?

MS. DURAN: I thought my record -- my
question was pretty clear about that.

MR. MAXOWICZ: Well, I just want to make

sure because the doctor knows that there are some disputes. I just want to make sure that I understand the question and the doctor understands that you are speaking only of the doctor's notes.

THE WITNESS: There are a couple of things in here that get around or to the periphery of this issue of toxicity. There is no specific, direct assessment of toxicity in any of the records, but the notation that the baby is sleepy, the added-on note of Dr. Harlow that the baby looked very washed out, and the notation of Dr. Harlow again in the added-on note that the baby was lethargic, are compatible with but not diagnostic of a baby who is toxic.

BY MS. DURAN:

Q Are those symptoms or those observations as contained in Dr. Harlow's office records also compatible with a child who has a viral syndrome?

A I think most of them are. This "very washed out" to me is the one that's -- the furthest reach to say is compatible with a viral syndrome. I don't think he was asked, Dr. Harlow, what he meant by that. I think he would have to explain a little

1 bit more exactly what he meant by that but to say
2 that a baby is "very washed out" is getting very
3 close to saying this is a sick-looking baby.

4 Q Would a child that had had a fever for at
5 least a few days plus vomiting appear to be washed
6 out?

7 A He may.

8 Q Okay. And can that be as a result of a
9 viral syndrome?

10 A Yes, if it's a -- a tough virus, especially
11 if a baby is getting a little dehydrated, yes.

12 Q Okay. Would you agree that a pediatrician
13 has a right to rely on his judgment in evaluating a
14 sick child?

15 A I think, I think that is all we do. We use
16 our experience and our judgment and the laboratory.
17 The issue that really has to be posed is, I mean, was
18 the judgment a reasonable judgment.

19 Q But the judgment is certainly something
20 that every doctor has to bring to bear in evaluating
21 a situation; is that correct?

22 A That is true.

1 Q Okay Would you agree that a bacterial
2 meningitis can develop rapidly?

3 A Yes.

4 Q Would you agree that a child can -- would
5 you agree that a bacterial meningitis can occur --

6 A Maybe I could read your writing.

7 Q No. Actually I'm not reading it That a
8 bacterial meningitis can overwhelm a child or
9 infants sense system?

10 A Yes

11 Q And would you agree that that can happen
12 even in the absence of malpractice on the part of the
13 physician?

14 A Sure.

15 Q What are the clinical manifestations of
16 pneumococcal meningitis?

17 A Specifically let's say in a baby who is
18 like seven months old or eight months old?

19 Q Yes, specifically

20 A The manifestations of pneumococcal
21 meningitis in that age group are rather broad
22 Fever, irritability or lethargy or both, vomiting.

1 poor feeding, general lack of responsiveness and
2 interactivity. Then on physical exam, one searches
3 for various physical findings such as a fontanelle
4 that is full or bulging, a neck that is stiff,
5 presence of a sign called kernigs or Brudzinski sign
6 and really, mostly, globally, a sick looking baby.
7 The younger the infant, the less localized the
8 finding of bacterial meningitis are and the more
9 global the presentation is. And in fact, the average
10 baby with bacterial meningitis at seven or eight
11 months of age just looks sick. And a spinal tap is
12 done, and meningitis is found.

13 Q With a child in the age group of seven to
14 eight months on physical examination the clinical
15 manifestation would be possibly a bulging fontanelle?

16 A Right.

17 Q Correct? Fontanelle? Sorry,

18 A Correct.

19 Q A stiff neck?

20 A Right.

---2 1 --- Q ---Or-nuchal -rigidity?--- ---

22 A Same thing.

1 Q And a kernig or positive kernig or -- what
2 is that?

3 A Brudzinski.

4 Q Brudzinski.

5 A B-r-u-d-z-i-n-s-k-i, I think.

6 Q Okay. Were any of those manifest at the
7 office visit in the early afternoon of January 9th,
8 1989?

9 MR. MAKOWICZ: According to what?

10 MS. DURAN: According to the office
11 records.

12 MR. MAKOWICZ: Okay. According to the
13 records. Okay.

14 THE WITNESS: Let me just look at each
15 record here just to get my mind straight. The
16 contemporaneously written record on the 9th doesn't
17 talk about stiff neck or Brudzinski or kernigs but
18 does mention that the anterior fontanelle was, I
19 think, flat, based on my reading of Dr. Harlow's
20 subsequent dictation on when the baby was admitted to
21 the hospital. The "AFOE" I think means anterior
22 fontanelle open and flat.

1 BY MS. DURAN:

2 Q Where are you looking at?

3 A Dr. LaSalla's note right above "sleepy,
4 AFOF" .

5 Q Okay. Okay.

6 MR. MAKOWICZ: Have you found it?

7 MS. DURAN: Okay.

8 THE WITNESS: Yes. But no Brudzinski, no
9 kernigs, and no nuchal signs and no sense of toxicity
10 noted in the note. The post-dated note of
11 Dr. Harlow, let me just read through it here, talks
12 about the fontanelle being flat and no nuchal
13 rigidity. And in fact, when the baby was admitted to
14 the hospital four hours or five hours later, still it
15 did not have nuchal rigidity or, if I remember
16 correctly, still did not have a bulging fontanelle.

17 Q Okay. When you say "the post-dated note,"
18 you are talking about the note that Dr. Harlow made
19 when he came back from the hospital after having seen
20 this child?

21 A ---Yes, a note that he says in his deposition
22 was written either that night or the same night of

admission on the 9th on the next morning.

Q Okay. We are talking about that?

A Yes.

Q Okay.

A Right.

Q So is there any indication in the record that this child at the office visit in the early afternoon of July -- January 9th had a bulging fontanelle?

10 A No.

11 Q Or stiff neck or nuchal rigidity?

12 A No.

13 Q Or a kernig or Brudzinski sign?

14 A They are not -- they are not mentioned
15 positively or negatively in either of these notes.

16 Q Well, the stiff neck certainly is mentioned
17 in that note?

18 A Yes. A stiff neck is different, however,
19 than a Brudzinski or kernig.

20 Q Okay. Well, then, let me just take them
21 one at a time.

22 A Fine.

1 Q There is no indication in the office record
2 of a bulging fontanelle?

3 A Correct.

4 Q There is no indication of a stiff neck?

5 A Correct.

6 Q Okay. And it's your testimony that there
7 is no indication that nobody -- that there was not a
8 kernig or a Brudzinski sign?

9 MR. MAKOWICZ: Objection to the form. It
10 was a double negative question.

11 THE WITNESS: If I understand your
12 question, I don't see anywhere in the record this
13 word "Brudzinski" or "the kernigs." They may have
14 been done, but it is not noted positively or
15 negatively.

16 BY MS. DURAN:

17 Q From anywhere else in your review, is there
18 any indication of any of the materials that you
19 reviewed in this matter that at the time of the
20 office visit on January 9th that this child had a
21 bulging fontanelle or stiff-neck?

22 A No.

1 Q Would you agree with those are two of the
2 signs that a pediatrician would rely upon in
3 entertaining or reaching a diagnosis of bacterial
4 meningitis?

5 A I think he would rely in part upon those
6 and would be overruled should a baby look sick or
7 toxic. Even in the absence of those features, the
8 baby would be a subject for an evaluation for
9 meningitis.

10 Q Okay. I don't think I asked you that. My
11 question was would you agree that the clinical signs
12 of a bulging fontanelle or the nuchal rigidity are
13 two of the signs upon which a pediatrician would rely
14 in entertaining or making a diagnosis of bacterial
15 meningitis?

16 MR. MAKOWICZ: Objection. I think that was
17 the question that you asked, and I think that the
18 doctor's answer was responsive.

19 MS. DURAN: I disagree.

20 MR. MAKOWICZ: He already answered it, and
21 I think that he answered responsive to it. ---

22 THE WITNESS: Maybe I'll explain it a

1 little bit. I think I used words "rely in part.

2 " BY MS. DURAN:

3 Q Well, okay.

4 A In the sense that -- and you can ask any
5 more questions -- but in the sense that for bacterial
6 meningitis in a young infant, those two signs are not
7 very sensitive or very specific. So, yes, one does
8 rely to some degree on those signs, but the absence
9 of them doesn't rule out meningitis.

10 Q Okay. I didn't -- I don't believe my
11 question, in all fairness, asked you if those were
12 the only two symptoms or signs. My question is are
13 those two signs upon which a physician may rely in
14 entertaining a diagnosis of bacterial meningitis?

15 MR. MAKOWICZ: Same objection. He already
16 answered the question. You are asking him and you
17 are trying to press him into a yes or no answer. I
18 think by the context of the doctor's answer --

19 MR. DURAN: Are you objecting to the form?

20 MR. MAKOWICZ: Yeah, yeah, I am objecting
21 to the form because you've already asked -- well, -- I'm
22 not even objecting to the form. You asked it twice,

1 and he already answered it twice You want to press
2 him into a yes or no By the very context of his
3 answer, he can't give you a yes or no

4 MS WUSAN: I disagree

5 WY MS WUSAN:

6 Q Can you answer my question? You want to
7 have it read back?

8 A I think I remember your question. I can't
9 answer the question yes or no

10 Q Okay

11 A I can only answer they are two of the signs
12 that a physician does, in part, reply on.

13 Q Okay. Would you agree that Steven's
14 presentation at Dr. Karlow's office in the early
15 afternoon of January 9th were basically non-specific
16 physical findings?

17 A Yes Again, with the caveat that there is
18 no direct notation about the level of toxicity of
19 this baby

20 Q Would you agree that the white blood cell
21 count was normal --

22 A Yes

1 Q .. as it was taken in the early afternoon
2 of January 9th?

3 A Are you going to object?

4 MR. MAKOWICZ: No.

5 THE WITNESS: Yes. We can answer that one
E yes or no.

7 BY MS. DURAN:

8 Q Okay. Was the urine culture also -- I
9 think it was a urine culture that was taken, yes; was
10 that normal?

11 A Well, the urine culture wasn't ready that
12 day, but the urinalysis was okay. But the urine
13 culture probably wasn't back until the next day.

14 Q But the urine culture, whenever it came
15 back, was negative; correct?

16 A I believe you are right.

17 Q Your report that has been marked D-2 for
18 identification, would it be fair -- right now I would
19 like to focus just on the events that led up to the
20 office visit on January 9th; namely, the telephone
21 calls between Dr. Harlow's office staff and
22 Mrs. Kumka,

1 A Okay.

2 Q Just restricting it to those telephone
3 calls. Do I understand your report to indicate that
4 if the mother's version of those telephone calls is
5 accurate, then is it your opinion that Dr. Harlow and
6 his office staff deviated from the accepted standards
7 of medical care?

8 A That's correct.

9 Q Do I also take it that if the office
10 staff's recordation of what occurred during those
11 telephone calls is accurate, then your opinion is
12 that there is no deviation from accepted standards of
13 medical care within that time frame?

14 A Certainly for the telephone calls that are
15 noted in the record. You have this one on Sunday
16 that is not noted on the record or might have been
17 one in that is not noted in record.

18 Q Okay. But let s put the Sunday telephone
19 call aside.

20 A Right.

21 Q And I'll get to that in a second. If the
22 recollection of the nurses as recorded in

1 Dr. Harlow's office records is accurate in terms of
2 the conversation between the mom and the nurses, then
3 is it your opinion that there is no deviation from
4 accepted medical standards?

5 A From the standpoint of the phone calls,
6 absolutely it is.

7 Q Now, the mother has testified that she
8 placed a telephone call to the answering service on
9 Sunday the 8th?

10 A Right.

11 Q Okay. And there is no notation of that in
12 the office records?

13 A Correct.

14 Q And you have read Dr. Harlow's deposition?

15 A Right.

16 Q And it is his testimony that he never
17 received any telephone call?

18 A Right.

19 Q Okay. And if in fact Mrs. Kumka called the
20 office, called the answering service, and the
21 answering service for whatever reason never relayed
22 that message to Dr. Harlow or any of the other

1 pediatricians on call, would you have an opinion as
2 to whether or not Pediatric Specialists deviated in
3 that instance?

4 MR. MAKOWICZ: And you are -- let me just
5 make sure for the purposes of the record, you are
6 focusing solely on whether would it have been
7 deviation not to do something if they didn't get the
8 message on Sunday and you are confining it to that
9 particular point; correct?

10 MS. DURAN: I have no idea what you just
11 objected to, in all due respect. Because if they
12 didn't know about the call, how could they do
13 anything?

14 MR. MAKOWICZ: Well, that was your
15 question. Your question is assuming that they didn't
16 get the message, they didn't do anything wrong.
17 That's exactly your question.

18 MS. DURAN: Okay. Let me rephrase the
19 question.

20 MR. MAKOWICZ: Okay.

21 BY MS. DURAN:

22 Q Let me rephrase the question. Okay.

1 Talking about this alleged telephone call to the
2 answering service, if the answering service never
3 relayed that information to either Dr. Harlow or one
4 of the other covering pediatricians, do you have an
5 opinion as to whether they deviated from the accepted
6 standards of care?

7 MR. MAKOWICZ: As to acting upon the Sunday
8 call, as opposed to other deviations the doctor notes
9 in his report.

10 MS. DURAN: I'm just talking about the
11 Sunday telephone call.

12 MR. MAKOWICZ: Okay. That's all I'm
13 doing, I'm making it clear for the record. He notes
14 about five different things in his report --

15 MS. DURAN: I think it is very clear.

16 MR. MAKOWICZ: -- on different days, and
17 now you are talking about the Sunday telephone call
18 only; correct? That's all I want to know.

19 MS. DURAN: I think it is very clear that
20 I'm talking about Sunday only.

21 BY MS. DURAN:

22 Q Do you want the question read back?

1 A No. I heard it three times. I think I
2 know it. The only scenario under which I could see
3 Dr. Harlow's office being somehow responsible for
4 that would be if it were a pattern of repetitive --
5 just use a word that comes to mind -- malpractice on
6 the part of the answering service. If they were
7 repetitively, frequently, chronically not getting
8 messages, then he would need to solve that problem by
9 firing them and getting somebody else or rectifying
10 the problem so that he got his messages. Assuming
11 that wasn't the case, if he didn't get the message,
12 it is not his fault. It is the answering service's
13 fault.

14 Q Okay. And do you have an answering
15 service?

16 A Yes.

17 Q Okay. And has it ever occurred where you
18 have, for some reason, not gotten a message from
19 them?

20 MR. MAKOWICZ: Just note my objection on
21 the relevance.

22 THE WITNESS: I'm sure it has happened.

Absolutely it has happened.

BY MS. DURAN:

Q And from anything that you have reviewed in this case, do you see any evidence that there was a repetitive neglect on the part of the answering service with relaying messages to pediatric specialities?

A I don't recall any line of questioning when Dr. Harlow was deposed that even touched on that subject. It may be there and I just didn't notice it, but I think the record is kind of silent on that issue. So the answer would be no, it has not been explored.

Q Okay. Well, I'm going to ask you to assume that Dr. Harlow -- my recollection is that Dr. Harlow was questioned about it and he indicated that it may have happened on an occasion or two, but it was not a repetitive problem with the answering service.

Assuming that to be true, do you have any criticism of Pediatric Specialists in regard to this Sunday telephone call?

A Then my answer would be no, I have no

1 criticism.

2 Q Did you also see anything in the record to
3 indicate that the mother had made repeated telephone
4 calls on Sunday?

5 A I saw nothing in the record about that.

6 Q Okay. Am I also -- referring now
7 specifically to the office visit of January 9th of
8 1989.

9 A Uh-huh.

10 Q Is it my understanding that the mother's
11 recollection or allegations as to what occurred
12 during that office visit are to be believed, then
13 Dr. Harlow deviated -- it is your opinion that
14 Dr. Harlow deviated from accepted standards?

15 A Right.

16 Q Is it your opinion that anybody else
17 deviated from accepted standards of medical care at
18 Pediatric Specialists?

19 A Well, assuming Dr. LaSalle noted the same
20 things as Dr. Harlow did, then she would have
21 deviated also. Namely, if she was in the environment
22 when this -- the suprapubic tap was done and noted

1 the baby not to wince or cry except just to moan a
2 little bit, or if she was around when the blood was
3 obtained and the baby didn't -- didn't cry, then that
4 would be evidences of a very sick baby and she should
5 have acted on it.

6 Q And so that I also understand your report,
7 assuming that the office records are accurate and the
8 child was fussy or evidenced reaction to the noxious
9 portions of the exam as you indicated, then is it
10 your opinion that there was no deviation during the
11 office visit; is that correct?

12 MR. MAKOWICZ: Just note my objection. I
13 don't think there was anything in the record about
14 that. Maybe you want to ask him; you are asking him
15 to assume something that I don't think is in the
16 record. You haven't established there was anything
17 in the record about fussiness or that he reacted to
18 the noxious --

19 MS. DURAN: Could I have my question read
20 back?

21 MR. MAKOWICZ: Procedure's being performed
22 (The reporter read the record as requested.)

BY MS. DURAN:

Q Okay. Can you answer that question with his objection?

A Again, assuming that the baby was not a toxic-appearing, sick-appearing baby, assuming that the very washed out description that Dr. Harlow has isn't really the description of a toxic baby, and that the sleepiness that is noted in the record isn't part of that description of a toxic baby, then yes, I would say what they did was as much as anybody can do.

Q Okay.

A I just want to put on the record, doctors don't have a crystal ball; they really don't. And there are cases of kids with meningitis who don't look sick enough yet to know that they have meningitis. There are other kids who have meningitis and they look sick enough and they should be subject to an evaluation. And that's what we are trying to determine in this record which doesn't have each and every feature of what we would like to look at to make a judgment one way for sure.

1 Q Would you agree with me that in evaluating
2 the conduct of Dr. Harlow or Pediatric Specialists
3 that you have to look at it prospectively from what
4 the doctor knew or what information he had available
5 to him at the time?

6 A Absolutely.

7 Q Okay.

8 A That's the only way to do it.

9 Q You cannot judge any physician's conduct
10 retrospectively; is that correct?

11 A Correct. Another way to say it is the mere
12 fact that a doctor has missed a diagnosis of
13 meningitis doesn't mean that he deviated from the
14 standard of care.

15 Q Okay. Assuming Steven appeared toxic or
16 the way you've previously described at that office
17 visit of January 9th, in your opinion, what should
18 have been done?

19 A He should have been admitted to hospital
20 for the same evaluation at 10:00 in the morning or
21 1:00 in the-afternoon that he finally had at 6:00 at--
22 night.

1 Q Okay Assuming that at -- I think, I think
2 the testimony is fairly consistent that the office
3 visit that is recorded occurred sometime around 1 00
4 p m.; correct?

5 A Yes

6 Q Okay And assuming that Stoen had been
7 admitted to Hackensack Medical Center right after
8 this office visit at 1:00 p m. or approximately 1:00
9 p m., do you have an opinion within a reasonable
10 degree of medical probability as to whether his
11 neurological outcome would have been any different?

12 A I have no opinion as to whether his
13 neurological -- I can't make any judgment as to
14 whether it would be better or not better. I just
15 don't think there would have been enough time.
16 assuming that meningitis was present, to make a
17 significant difference

18 Q Okay Previously you said I discussed if he
19 had been seen at 11:00 or 10:30 --

20 A Right

21 Q -- in the morning, and I believe you --
22 indicated at that time had he been immediately

hospitalized that -- well, let me ask you again
because I don't remember specifically what you said,

A Right.

Q Had he been hospitalized at around 10:30 or
11:00 or 11:30 in the morning, do you have an opinion
as to whether his neurological outcome would have
been any different?

A Yes.

Q Okay. And what is that opinion?

A I think there would have been some
substantial benefit or would have been some
substantial benefit to his neurologic outcome to have
been treated at that juncture rather than later on in
the afternoon.

Q Okay. Could you quantify the -- can you
quantify in terms of percentage what the difference
in his neurological outcome would have been?

A Well, I think -- no, I don't know that I
can in specific ways quantify it in percentages.
There are two extremes in my judgment. One, he may
not have had meningitis. Dr. Rapkin finds that he
probably didn't have meningitis at 10:00 in the

1 morning, in which case therapy would have aborted his
2 meningitis, and he would have been normal today. I
3 don't have quite as much confidence as Dr. Sapkin
4 that he didn't have meningitis at that juncture, but
5 I do believe that the rapX began at 11:00 for every
6 early meningitis would have given him some, some
7 benefit. I can't -- I wish I could quantify it,
8 but I don't know anybody who can at that point.
9 Q Okay. How would you in terms of
10 percentages. Can you quantify it for me in any way
11 other than percentage?

12 4 No

13 W Okay. Would you agree that Stephen seemed
14 to have -- his defense system seemed to be overwhelmed
15 by this meningitis?

16 MR MAKOWICZ: At what point?

17 BY ME DURN:

18 W During the time that he was hospitalized at
19 ~~Xenokensis~~.

20 A Yes. I think when he got to Xenokensis he
21 had a very aggressive pneumococcal meningitis.

22 W In a child this is later proved to have an

1 aggressive form of pneumococcal meningitis, even in
2 the event of earlier diagnosis or treatment, can the
3 outcome still **be** the same?

4 A It can be, yes.

5 Q Can you give me a minute. I may be just
6 about done.

7 (Pause.)

8 You obviously treat children with
9 meningitis -- or infants with meningitis?

10 A Correct.

11 Q Do you restrict your practice to pediatric
12 infectious diseases?

13 A No, not entirely. Probably 5 percent, or
14 maybe a little more now that my patients have gotten
15 older than the 18 year old cut off that used to be in
16 a way, anyway -- defined to be the limits of
17 pediatrics. So I see teenagers, I see young adults
18 with various problems.

19 Q Okay. Of the children that you have
20 treated in the last five years that have been
21 diagnosed with bacterial meningitis, has the
22 diagnosis already been made at the time that you

1 first see them?

2 A Something -- the majority of the times,
3 yes. There have been cases that I have been asked to
4 see early, and I've made the diagnosis.

5 Q And generally, then, when you are seeing or
6 following a child -- or let's keep it to an infant
7 with bacterial meningitis, you are called in on a
8 consultant basis once the diagnosis has been made?

9 A Generally speaking, that's true.

10 Q Would you agree that seizure was the first
11 clinical manifestation of meningitis in this child?

12 A Again, if we ignore the potential for him
13 having been rather toxic and non-responsive to things
14 that we've already talked about, I would say the
15 seizure was probably the first clear-cut sign of
16 meningitis that we had.

17 Q Okay. We have talked about -- well, let me
18 ask you in a different way. Do all of your opinions
19 regarding deviations from accepted standards of
20 medical care depend upon which version of facts is to
21 be accepted as credible? --

22 MR. MAKOWICZ: Exclusively?

1 MR. DURAN: Yes.

2 MR. MAKOWICZ: Meaning setting up a
3 dichotomy. I mean, that seems to be your question.

4 BY MS. DURAN:

5 Q Well, let me ask you, do you understand my
6 question?

7 A No, I'm really confused, mostly because of
8 the objection. I kind of --

9 Q Okay. You have in your report discussed a
10 number of deviations from accepted standards of
11 medical care, and I think -- I mean, in all fairness,
12 I mean, Y o u) gone out of your way in your report to
13 indicate that it would depend on which version of
14 facts is deemed to be credible; is that correct?

15 A Yes.

16 Q All of the opinions that you have regarding
17 whether or not the standard of care was complied with
18 or deviated from, do they all depend upon whether,
19 whether the mother's version of the facts is deemed
20 to be credible as opposed to the physician's version
21 of the facts? - - - - -

22 MR. MAKOWICZ: My question is each and

every fact the mother says?

MS. DURAN: No, not each and every, just --

MR. MAKOWICZ: As opposed to each and every
one of the physicians'? That's my problem with the
question.

MR. DURAN: Well, I'm not going to sit here
and list each and every other fact, otherwise I'd
have to read the deposition transcript.

MR. MAKOWICZ: I'm not suggesting that you
should, but the way that your question is asked, it
sounds to me like you are saying do all of your
opinions rely upon whether the mother is telling the
truth absolutely down the line, is absolutely
accurate in every single thing that she says and the
doctors are absolutely inaccurate in everything that
they say. That's how the question sounds to me. I
don't know if that is what you mean. If it is, I
just want that to be clear.

BY MS. DURAN:

Q Well, Doctor, in your report of July 25th,
1994, you have gone through and listed basically in
chronological order the events as alleged by the

1 mother and then indicated the events as they are
2 recounted in the medical records by the nurses and by
3 the physicians.

4 A That is true.

5 Q Okay. Taking the facts that you have
6 relied upon in your report and that you have cited in
7 your report, do all of your opinions as to whether or
8 not the standard of care was comported with or
9 deviated from depend on whether the mother's
10 recantation of the facts as you have cited in your
11 report are accurate versus the physicians' and
12 nurses' recantation of the facts?

13 MR. MAKOWICZ: Same objection. You can
14 answer the question if you can.

15 THE WITNESS: As well as I understand your
16 question, the answer is yes. I certainly can't
17 decide between the two sides.

18 BY MS. DURAN:

19 Q Okay.

20 A But you give me the, the facts that are on
21 one side or the other, I can tell you whether what
22 was done was right, medically speaking.

1 Q And you don't see your role here as one to
2 decide who is telling the truth or not; is that
3 correct?

4 A No, absolutely not.

5 MS, DURAN: I have nothing further. Thank
6 you.

7 MR. MAKOWICZ: I just have one question.

8 EXAMINATION

9 BY MR. MAKOWICZ:

10 Q You were asked about the phone call on
11 Sunday and you were given a hypothetical: If the
12 doctor did not receive a message from the answering
13 service, would he have been responsible. And your
14 response to that question was absolutely not. Would
15 that particular question, this Sunday phone call, in
16 any way affect the opinions that you've expressed in
17 your report about any deviations that may have
18 occurred on Saturday or Monday?

19 A No.

20 MR. MAKOWICZ: That's all I have. Thank
21 you.

22 MR. DURAN: That's it.

(Whereupon, at 3:32 p.m., the deposition
was concluded.)

RAOUL L. WEINTZEN

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C O N T E N T S

WITNESS

EXAMINATION

Raouf L. Weintzen, Jr., M.D.

by Ms. Duran

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by Mr. Makowicz

59

E X H I B I T S

WEINTZEN DEPOSITION NUMBER

IDENTIFIED

Exhibit 1 - Curriculum vitae

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Exhibit 3 - Narrative


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Exhibit 2 - 7/25/94 letter

22

CERTIFICATE OF NOTARY PUBLIC & REPORTER

I, MARYBETH PETERS, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn: that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



Notary Public in and for the
District of Columbia

My Commission Expires

Look-See Concordance Report ... UNIQUE WORDS : 926 TOTAL OCCURRENCE 2,898 NOISE WORDS : 385 TOTAL WORDS IN FIL 8,829 ... SINGLE FEE CONCORDANCE ... CASE SENSITIVE ... NOISE WORD LIST(S): NOISE.NOI ... INCLUDES ONLY TEX OF: QUESTIONS ANSWERS COLLOQUY PARENTHETICALS EXHIBITS ... DATES ON ... IGNORES PUG NUMBERS ... POSSESSIVE FORMS ON - DATES - December [2] 16:13, 14 January [1] 16:12 January 9th [8] 26:8; 35:8; 36:20; 39:15; 40:2, 20; 47:7; 50:17 January 9th, 1989 [1] 33:7 January 9th, 1990 [1] 23:5 July [1] 35:8 July 25th, 1994 [4] 17:8, 18; 18:15; 57:20 November of 1994 [1] 6:12 - \$ - \$300 [1] 14:9 \$3000 [1] 14:12 \$400 [1] 14:10 - 1 - 10:00 [6] 22:20; 23:11; 26:8; 27:1; 50:20; 52:22 10:15 [3] 24:2, 7; 26:8	10:30 [3] 26:19; 51:19; 52:4 11:00 [6] 24:10; 26:19; 27:1; 51:19; 52:5; 53:5 11:30 [1] 52s 1:00 [6] 23:1; 25:14; 50:21; 51:3, 8 - 2 - 25th [4] 17:8, 19; 18:15; 57:2 2:00 [1] 25:14 - 3 - 3:32 [1] 60:1 - 5 - 5:30 [1] 24:22 - 6 - 6:00 [3] 24:22; 26:2; 50:21 - 8 - 8th [1] 42:9 - 9 - 9th [12] 23:5; 26:8; 33:7,16; 35:1, 8; 36:20; 39:15; 40:2, 20; 47:7; 50:17 - A - a.m. [3] 24:2, 7; 26:19 aborted [1] 53:1 absence [3] 31:12; 37:7; 38:8 Absolutely [3] 10:2; 46:1; 50:6 absolutely [6] 42:6; 57:13, 15; 59:4, 14 abstract [2] 8:21, 22 abstracts [4] 7:17; 8:20; 9:12, 17 accepted [9] 41:6, 12; 42:4; 44:5; 47:14, 17; 55:19, 21; 56:10 According [3] 33:9, 10, 12 accurate [6] 41:5, 11; 42:1; 48:7; 57:14; 58:11 acted [1] 48:5 acting [1]	44:7 added [1] 6:1 added-on [2] 29:9, 11 addition [1] 6:7 additional [1] 7:20 address [1] 22:19 admission [2] 16:11; 35:1 admitted [4] 33:20; 34:13; 50:19; 51:7 adults [1] 54:17 advertise [1] 15:6 Advisory [1] 12:19 affect [1] 59:16 affiliated [2] 12:12, 15 AFOF [2] 33:21; 34:4 afternoon [8] 17:20; 18:8; 33:7; 35:8; 39:15; 40:1; 50:21; 52:14 age [4] 10:3; 31:21; 32:11, 13 Age-dependent [1] 9:6 aggressive [2] 53:21; 54:1 agree [14] 25:20, 22; 30:12; 31:1, 4, 5, 11; 37:1, 11; 39:13, 20; 50:1; 53:13; 55:10 allegations [1] 47:11 alleged [2] 44:1; 57:22 American [2] 6:22; 7:13 angry [2] 28:2, 4 answer [17] 4:10, 13, 21; 5:1; 37:18; 38:17, 18; 39:3, 6, 9, 11; 40:5; 46:12, 22; 49:2; 58:14, 16 answered [4] 37:20, 21; 38:16; 39:1 answering [11] 42:8, 20, 21; 44:2; 45:6, 12, 14; 46:5, 18; 59:12 answers [5] 17:3, 11, 14, 16; 18:12 anterior [2] 33:18, 21 anybody [4] 21:20; 47:16; 49:10; 53:8	anyway [1] 54:16 anywhere [3] 15:7; 36:12, 17 appear [1] 30:5 appeared [1] 50:15 Appearing [1] 10:7 appearing [2] 27:6, 11 appreciated [1] 27:14 appropriate [2] 4:11; 28:5 Approximately [1] 8:15 approximately [2] 11:14; 51:8 area [2] 11:9; 12:7 aren't [2] 5:15, 20 article [1] 8:21 articles [2] 6:20; 7:18 aside [1] 41:19 asking [3] 3:21; 38:16; 48:14 aspirate [1] 27:22 assessment [1] 29:8 associated [1] 14:20 associations [1] 12:13 assume [4] 15:10; 24:9; 46:14; 48:15 Assuming [6] 23:19; 26:6; 45:10; 46:19; 50:15; 51:1 assuming [8] 27:4; 43:15; 47:19; 48:7; 49:4, 5; 51:6, 16 assure [1] 4:7 attorney [2] 3:9; 20:13 attorneys [1] 12:14 author [1] 8:1 authored [1] 15:16 available [1] 50:4 average [1] 32:9 award [2] 6:5, 6 Awards [1] 6:4 awards [1] 6:6	- B - B-a-r-b-e-y [1] 8:13 B-r-u-d-z-i-ns-k-i [1] 33:5 babies [2] 28:2, 3 baby [29] 22:22; 27:14; 28:6, 8, 9, 14; 29:9, 10, 12, 13; 30:2, 3, 11; 31:17; 32:6, 10; 33:20; 34:13; 37:6, 8; 39:19; 48:1, 3, 4; 49:4, 5, 7, 9 Bacteremia [1] 10:7 Bacterial [1] 9:7 bacterial [11] 31:1, 5, 8; 32:8, 10; 37:3, 14; 38:5, 14; 54:21; 55:7 ball [1] 49:14 Barbey [1] 8:13 based [1] 33:19 basically [5] 7:1; 10:9; 17:2; 39:15; 57:21 basis [1] 55:8 bear [1] 30:20 begun [1] 53:5 behalf [6] 3:11, 13; 10:19; 11:19, 20; 19:16 believe [14] 7:9, 22; 8:20; 16:5; 17:4, 20; 21:9, 18; 23:11; 25:20; 38:10; 40:16; 51:21; 53:5 believed [1] 47:12 benefit [4] 25:3; 52:11, 12; 53:7 benefited [1] 25:7 biologic [1] 25:5 bit [3] 30:1; 38:1; 48:2 bunk [1] 28:8 blood [4] 10:9; 27:22; 39:20; 48:2 Blume [3] 19:16, 18, 22 Blume's [2] 17:1; 21:22 board [2] 6:8, 11 Boards [1] 6:7 boards [1]
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