

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

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IN THE COURT OF COMMON PLEAS

**Figure 1**

Doc. 464

Dewey Glen Jones, et al., )  
 )  
 Plaintiffs, )  
 )  
 vs. ) Case No. 306012  
 ) Judge Lillian Greene  
 Meridia Huron Hospital, et al., )  
 )  
 Defendants. )

■ ■ ■

DEPOSITION OF JOHN ZELIS, M.D.

Deposition of JOHN ZELIS, M.D., called by the  
Plaintiffs for examination pursuant to the Ohio Rules of  
Civil Procedure, taken before Phyllis L. Englehart, RMR  
and Notary Public in and for the State of Ohio, at  
Meridia Hillcrest Hospital, 6780 Mayfield Rd., Mayfield  
Heights, Ohio, on Friday, March 28, 1997 commencing at  
12:30 p.m.

10888 • J. Neurosci., July 26, 2006 • 26(30):10883–10890



<p>1 INDEX</p> <p>2 <u>Witness</u> <u>Cross</u></p> <p>3 John Zelis, M.D. 4</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9 EXHIBITS</p> <p>0 <u>Plaintiffs'</u> <u>Marked</u></p> <p>1 1 18</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>0</p> <p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p>	<p>Page 5</p> <p>1 work your way through med school.</p> <p>2 A Okay. I attended Youngstown State University</p> <p>3 undergraduate school and --</p> <p>4 Q Graduated what year?</p> <p>5 A 1991. And I also graduated in 1991 from</p> <p>6 Northeastern Ohio University's College of Medicine.</p> <p>7 It was a combined B.S.-M.D. program.</p> <p>8 Q Is that a seven-year program?</p> <p>9 A It's a six-year curriculum.</p> <p>10 Q Okay. And where did you go from there?</p> <p>11 A I began residency training in general surgery as a</p> <p>12 categorical resident at Meridia Huron Hospital in</p> <p>13 East Cleveland.</p> <p>14 Q Okay. You graduated with what degrees?</p> <p>15 A A B.S. and M.D.</p> <p>16 Q Okay. You went right to work at Huron, and in what</p> <p>17 area of specialty?</p> <p>18 A General surgery.</p> <p>19 Q Okay. You proceeded with your residency program at</p> <p>20 Meridia Huron?</p> <p>21 A That's correct.</p> <p>22 Q Okay. And what year did you start there?</p> <p>23 A July 1st, 1991.</p> <p>24 Q Have you completed that residency?</p> <p>25 A Yes.</p>
<p>1 APPEARANCES:</p> <p>2 On Behalf of the Plaintiffs:</p> <p>3 Jack Landskroner</p> <p>4 Paul Grieco</p> <p>5 The Landskroner Law Firm</p> <p>6 55 Public Square, 10th Floor</p> <p>7 Cleveland, Ohio 44113</p> <p>8 On Behalf of Defendant Meridia Huron Hospital:</p> <p>9 James S. Casey</p> <p>10 James L. Malohe</p> <p>11 Reminger &amp; Reminger</p> <p>12 The 113 St. Clair Building</p> <p>13 Cleveland, Ohio 44114</p> <p>14 On Behalf of Defendant Peter Adamek:</p> <p>15 Dale Awarctany</p> <p>16 Jacobson, Maynard, Tuschman &amp; Kalur</p> <p>17 1001 Lakeside Ave, Suite 1600</p> <p>18 Cleveland, Ohio 44114</p> <p>19 On Behalf of Defendant Winston Ho, M.D.:</p> <p>20 Stephen E. Walters</p> <p>21 Reminger &amp; Reminger</p> <p>22 The 113 St. Clair Building</p> <p>23 Cleveland, Ohio 44114</p> <p>24 Also Present:</p> <p>25 Doreen E. Baka, Claims and Litigation Coordinator,</p> <p>Meridia Health System</p> <p>Keith E. McGregor, Videographer</p> <p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p>	<p>Page 6</p> <p>1 Q And when did you complete the residency?</p> <p>2 A June 30th, 1996.</p> <p>3 Q Okay. Are you board eligible?</p> <p>4 A Yes, but as far as I know, that's not a term that's</p> <p>5 generally used by the board. That's a term used by</p> <p>6 the lay people.</p> <p>7 Q Okay.</p> <p>8 A It's not an official term.</p> <p>9 Q Have you sat for your board examinations?</p> <p>10 A I've sat for the qualifying exam, which is the</p> <p>11 written part of a two-part certification exam. I</p> <p>12 sat for that in October of 1996.</p> <p>13 Q Okay. And did you pass that?</p> <p>14 A Yes.</p> <p>15 Q And are you scheduled to take your -- is there an</p> <p>16 oral section?</p> <p>17 A That's correct. I will -- I'm expecting to be</p> <p>18 invited to take that in November in Washington, D.C.</p> <p>19 Q Okay. Have you ever taken that section before?</p> <p>20 A No.</p> <p>21 Q What are the qualifications that enable you to sit</p> <p>22 for the board examinations?</p> <p>23 A Obviously a five-year general surgery training.</p> <p>24 Also, I need permission from the department</p> <p>25 chairman, that's a prerequisite, and review by the,</p>
<p>Page 4</p> <p>1 JOHN ZELIS, M.D.</p> <p>2 having been first duly sworn, as hereinafter certified,</p> <p>3 was examined and testified as follows:</p> <p>4 CROSS-EXAMINATION</p> <p>5 By Mr. Landskroner:</p> <p>6 Q Doctor, my name is Jack Landskroner, and I'm one of</p> <p>7 the attorneys who represents Mr. Jones in this</p> <p>8 matter.</p> <p>9 We're going to take your deposition today.</p> <p>10 I'm going to ask you some questions. I'd ask you</p> <p>11 make your responses verbal so the court reporter can</p> <p>12 take everything down and that you try and speak up</p> <p>13 so Mr. Kwartany down there can hear you as well.</p> <p>14 If there's a question I ask you and you</p> <p>15 don't understand it, please stop me. Ask me to</p> <p>16 rephrase the question. I don't want you to answer</p> <p>17 any questions that you don't understand. And if I</p> <p>18 go too quickly or I'm asking you a question that's</p> <p>19 multiple parts, stop me, I'm sure counsel will, and</p> <p>20 I'll be glad to rephrase it and break it down for</p> <p>21 you. Do you understand those instructions?</p> <p>22 A Yes.</p> <p>23 Q Okay. If you can, since we don't have a copy of</p> <p>24 your CV, will you tell me about your educational</p> <p>25 background beginning with undergraduate and then</p>	<p>Page 7</p> <p>1 I believe it's the Residency Review Committee in the</p> <p>2 American Board of Surgery. They review the</p> <p>3 curriculum.</p> <p>4 Q Chairman of which program? Chairman of the</p> <p>5 department?</p> <p>6 A Meridia Huron Hospital.</p> <p>7 Q So where you did your residency?</p> <p>8 A Uh-huh, that's correct.</p> <p>9 Q Okay. Where are you presently employed?</p> <p>10 A I am presently employed by Physician Staffing,</p> <p>11 Incorporated here in Cleveland.</p> <p>12 Q And what is that? Is that a doctors group?</p> <p>13 A It's a staffing company, and what I -- what my</p> <p>14 position is there is I will basically -- I guess I</p> <p>15 basically do house officer work at area hospitals</p> <p>16 around here, but almost a hundred percent of the</p> <p>17 work I do is here at this hospital as a trauma</p> <p>18 surgeon.</p> <p>19 Q And that is at Meridia Hillcrest Hospital?</p> <p>20 A Yes.</p> <p>21 Q How long have you been working with Meridia</p> <p>22 Hillcrest Hospital?</p> <p>23 A I'm not sure-what --</p> <p>24 Q When did you start here?</p> <p>25 A In which capacity?</p>

<p style="text-align: right;">Page 8</p> <p>1 Q Well, as a trauma surgeon.  2 A <b>I began July 1996.</b>  3 Q Okay. Where else around town have you worked?  4 A <b>I've worked only one other place, and that was</b>  5 <b>Marymount Hospital, and that was for one day last</b>  6 <b>month.</b>  7 Q Do you have a set time frame that you're scheduled  8 to be here at this hospital?  9 A <b>Generally yes.</b>  10 Q And how does that work? I mean do you have --  11 A <b>12-hour shifts.</b>  12 Q Okay. And not so much specifically the times that  13 you're here and the day, but in terms of the  14 duration of your employment through this physicians  15 group, placement group, with Meridia Hillcrest.  16 A <b>I don't have any particular contract. I work on a</b>  17 <b>monthly basis, and I go month by month.</b>  18 Q How do you find out where you're going to be?  19 A <b>I put in a request to work here at this hospital,</b>  20 <b>and because I have worked here in the past, I</b>  21 <b>generally get preference over anybody else who might</b>  22 <b>want to work at this hospital in that capacity.</b>  23 Q Do you work with any other groups, any other urgent  24 care centers or anything like that?  25 A <b>No.</b></p>	<p style="text-align: right;">Page 11</p> <p>1 Q Whose deposition transcripts?  2 A <b>Dr. Badri and Dr. Adamek's deposition.</b>  3 Q Okay. In reviewing the medical chart, were there  4 <b>any inaccuracies that you saw in the chart, that</b>  5 <b>reflect differently than what your recollection of</b>  6 <b>Mr. Jones's care was?</b>  7 A <b>In the chart?</b>  8 Q Yeah.  9 A <b>No, nothing really stands out in my mind.</b>  10 Q Okay. Having read the deposition of Dr. Badri, is  11 there anything that stands out in your memory from  12 his deposition which is different than your  13 recollection of the care that <b>Mr. Jones</b> received?  14 A <b>No. I was referred to at one point as chief</b>  15 <b>resident, which wasn't quite accurate.</b>  16 Q Okay. Anything else you can think of?  17 A <b>No.</b>  18 Q How about the deposition of Dr. Adamek?  19 A <b>I didn't see anything out of the ordinary.</b>  20 Q Okay. Did you review the reports of any experts?  21 A <b>Yes.</b>  22 Q Okay. Have you talked to any of the other  23 physicians that were involved in the treatment and  24 care of <b>Mr. Jones</b> related to this case that was  25 filed?</p>
<p style="text-align: right;">Page 9</p> <p>1 Q And have you at any point worked with any groups  2 likethat?  3 A <b>No.</b>  4 Q Have you done any writing in the areas of  5 gallbladder surgery?  6 A <b>No, I have not.</b>  7 Q Okay. Have you written anything for publication?  8 A <b>In concert with another resident and the chairman of</b>  9 <b>my program, there was an article published in a what</b>  10 <b>we would consider, quote-unquote, throwaway journal.</b>  11 Q What was the subject matter of that article?  12 A <b>It was regarding ascites and the draining of ascites</b>  13 <b>in patients with liver disease.</b>  14 Q Are you a member of any societies or organizations  15 that are professional?  16 A <b>Yes.</b>  17 Q And what are those?  18 A <b>I am an associate fellow in the American College of</b>  19 <b>Surgeons, I'm a candidate in the American Society of</b>  20 <b>Colon and Rectal Surgery, I belong to the AMA, the</b>  21 <b>Ohio State Medical Association and the Cleveland</b>  22 <b>Academy of Medicine.</b>  23 Q Doctor, have you ever been a plaintiff or a  24 defendant in any lawsuit?  25 MR. CASEY: Other than this one.</p>	<p style="text-align: right;">Page 12</p> <p>1 MR. CASEY: Outside of my presence.  2 A <b>No.</b>  3 Q For purposes of the record, did any discussion you  4 <b>had with any other people involved in the treatment</b>  5 <b>occur in counsel's presence?</b>  6 A <b>I'm sorry, could you repeat that.</b>  7 Q Did you have any discussions with any other  8 physicians -- any physicians involved in <b>Mr. Jones's</b>  9 care that were in the presence of counsel?  10 MR. CASEY: Don't answer that  11 question.  12 Q Unless -- other than doctors -- other than residents  13 that were involved in <b>Mr. Jones's</b> care.  14 MR. CASEY: Still don't answer that  15 question.  16 MR. LANDSKRONER: On what basis?  17 MR. CASEY: It's privileged  18 information. What he talks with with me is  19 privileged.  20 MR. LANDSKRONER: But if there's another  21 doctor there that's a defendant in this case, he can  22 answer that. The privilege is waived.  23 MR. CASEY: No.  24 MR. LANDSKRONER: Certainly. Unless it's  25 another resident, it's waived.</p>
<p style="text-align: right;">Page 10</p> <p>1 A <b>Not that I'm aware of. I was dropped from or</b>  2 <b>dismissed from a case, and I don't know the exact</b>  3 <b>dates of that, but I was never involved in</b>  4 <b>deposition or anything like that, anything formal.</b>  5 Q Okay. Was that a case involved with your work at  6 Meridia Huron?  7 A <b>It was actually a case I was involved with during</b>  8 <b>part of my residency training at this hospital.</b>  9 Q My next question was, have you ever been deposed  10 before?  11 A <b>No.</b>  12 Q Okay. Have you ever testified in court before?  13 A <b>No.</b>  14 Q I'm running through my background questions.  15 MR. CASEY: I like to see you keep  16 turning those pages. That's a good thing.  17 Q In preparation for your deposition today, did you  18 review any materials?  19 A <b>Not for this case specifically. I am currently</b>  20 <b>reviewing all of general surgery in order to prepare</b>  21 <b>for my oral boards</b>  22 Q Did you review the medical records of <b>Mr. Jones</b>?  23 A <b>I looked them over briefly, yes.</b>  24 Q Okay. Did you read any deposition transcripts?  25 A <b>Yes, I did.</b></p>	<p style="text-align: right;">Page 13</p> <p>1 MR. CASEY: No, it's not. I'm not  2 letting him answer the question.  3 MR. LANDSKRONER: All right. Certify the  4 question.  5 O Doctor, have you ever been treated for substance  6 abuse or alcohol abuse at any time?  7 A <b>No.</b>  8 Q Have you ever had your privileges, whether it be as  9 a resident at any hospital you've worked at, revoked  10 or diminished in any way, suspended?  11 A <b>No.</b>  12 Q Okay. Do you have a recollection of <b>Mr. Jones</b>,  13 besides what you -- anything in addition to what you  14 reviewed in the medical chart?  15 A <b>No, I don't.</b>  16 Q Okay. Did you ever meet with <b>Mr. Jones</b> prior to the  17 surgery that was performed on the 20th of October,  18 1994?  19 A <b>I don't have any recollection of meeting with him.</b>  20 Q Okay. Did you ever speak with any of his family  21 members?  22 A <b>I don't think so.</b>  23 Q When you were employed at Meridia Huron Hospital and  24 you saw <b>Mr. Jones</b>, you were in what year of your  25 residency?</p>

1 A **Myfourthyear.**  
 2 Q And what was your position at that hospital?  
 3 A **I was a senior level resident at that hospital.**  
 4 Q Okay. You mentioned that Dr. Badri referred to you  
 5 as the chief resident.  
 6 A **Yes.**  
 7 Q Was there someone else who was chief resident at  
 8 that time?  
 9 A **Generally, that's a designation that's given to a**  
 10 **person in surgical training that's at the top of any**  
 11 **particular level of training, such as in general**  
 12 **surgery, that would be a PG5 resident, and other**  
 13 **surgeries, which are varying lengths, that would be**  
 14 **the person at the last year of training in that**  
 15 **particular field.**  
 16 Q Okay. And you had one more year?  
 17 A **That's correct.**  
 18 Q At any point in time, were you eventually the chief  
 19 resident at that hospital?  
 20 A **Oh, yes, uh-huh.**  
 21 Q Do you recall -- and again, if you need to refer to  
 22 the charts, please do.  
 23 A **Okay.**  
 24 Q When your first exposure, or when did you first see  
 25 Mr. Jones?

1 MR. CASEY: Which one is it? Is  
 2 that the one that says op note?  
 3 MR. LANDSKRONER It says op note and the  
 4 next --  
 5 MR. CASEY Then preop diagnosis  
 6 and --  
 7 MR. LANDSKRONER Right.  
 8 MR. CASEY: Then postop diagnosis?  
 9 Q Says procedure cholecystectomy intraop, and then it  
 10 goes down to say surgeon Badn and assistant  
 11 Dr. Zelis.  
 12 A **Yes, I see that.**  
 13 Q Do you have any recollection of being consulted  
 14 prior to the procedure being undertaken prior to the  
 15 day of surgery about this case?  
 16 A **No.**  
 17 Q Do you have a recollection of reviewing the charts  
 18 prior to undertaking Mr. Jones's record before the  
 19 surgery started?  
 20 A **No.**  
 21 Q What was your understanding of your role in this  
 22 procedure?  
 23 A **Yes, I was to be the first assistant on the case.**  
 24 Q Okay. And what does that mean in terms of a  
 25 cholecystectomy?

1 A **As I can best recall, the first -- my first**  
 2 **interaction with him was in the OR**  
 3 Q Okay. And you have no recollection at any point  
 4 prior to that of seeing him in his room or during  
 5 the hospitalization, the three day hospital, two and  
 6 a half day hospitalization he had before?  
 7 A **I have no recollection of it. It's very likely,**  
 8 **however, that as a group of residents we round and**  
 9 **we pass the room, we sometimes will examine**  
 10 **en masse, but I don't recall any particular**  
 11 **interaction with him.**  
 12 Q If you had seen Mr. Jones and provided any form of  
 13 care, would you have charted it?  
 14 A **Yes.**  
 15 Q Okay. In your review of the charts, did you see  
 16 anything in the charts that indicated that you  
 17 provided any care prior to that time?  
 18 A **No.**  
 19 Q What was your understanding of the procedure that  
 20 was being undertaken for Mr. Jones?  
 21 MR. CASEY When?  
 22 Q When you first saw him, which was in the operating  
 23 room.  
 24 A **I -- can you repeat the question again.**  
 25 Q Sure. The question is, when you first saw Mr. Jones

1 A **It's difficult for me to say exactly what that**  
 2 **means. It could mean many different things, but**  
 3 **basically, it's assisting the attending surgeon in**  
 4 **the case.**  
 5 Q Okay. And if you want to turn to the operative  
 6 note.  
 7 A **Yes.**  
 8 MR. LANDSKRONER In fact, why don't we  
 9 mark that.  
 10 MR. CASEY: Do you want the written  
 11 one or the typed one?  
 12 MR. LANDSKRONER: The typed one.  
 13 (Plaintiffs Exhibit 1  
 marked for  
 identification)  
 14 Q Having looked at the -- can you identify what's in  
 15 front of you please, Doctor?  
 16 A **Yes. This is the operative note of the Dewey Jones**  
 17 **case that I dictated.**  
 18 Q Okay. You authored this note?  
 19 A **Yes.**  
 20 Q And did Dr. Badri sign off on your note?  
 21 A **That appears to be his signature.**  
 22 Q Okay. Having looked -- take a chance to review it  
 23 if you'd like to, but can you tell me what your role  
 24 was beyond just first assistant in terms of treating  
 25

1 in the operating room you stated -- what was your  
 2 understanding of what was going to be done for him?  
 3 What was the procedure that was being undertaken?  
 4 A **Well, in reviewing the record, because I don't -- I**  
 5 **cannot say that I remember walking into the room and**  
 6 **going over what the case was going to be, but in**  
 7 **reviewing the chart, what was initially planned was**  
 8 **and what I believe was initially planned was a**  
 9 **laparoscopic cholecystectomy.**  
 10 Q Okay. When did you first find out that you were  
 11 going to be involved in the care of Mr. Jones?  
 12 A **I don't remember.**  
 13 Q There is, the reason I asked, there is a reference  
 14 at least in the notes somewhere that said that the  
 15 day before -- let's see if I can find it for you.  
 16 MR. CASEY: A progress note?  
 17 MR. LANDSKRONER: Yeah, I think it's a --  
 18 it's either a progress note or a -- I've got it  
 19 marked off here somewhere.  
 20 MR. CASEY 10-19, 10-18?  
 21 MR. GRIECO: 10-19.  
 22 MR. LANDSKRONER Yeah, 10-19.  
 23 Q The 10-19 progress note, there's a notation that  
 24 there's a procedure that's going to be untaken by  
 25 Dr. Badri, the surgeon --

1 Mr. Jones?  
 2 A **I didn't have a role beyond first assistant in the**  
 3 **case.**  
 4 Q Okay. What did you do in the case?  
 5 A **I --**  
 6 MR. CASEY: Wait. Let's go Off the  
 7 record and let him read it.  
 8 MR. LANDSKRONER Yeah, go ahead.  
 9 MR. CASEY: And I'll let him answer  
 10 that question.  
 11 MR. MCGREGOR: Off the record,  
 12 (Discussion off the record)  
 13 MR. MCGREGOR: We're on the record.  
 14 Q Again, if you can just -- the question is, can you  
 15 tell me what you did in terms of this procedure  
 16 based on the operative note?  
 17 A **I am not able to tell you exactly the steps that I**  
 18 **did versus what was done by my attending staff.**  
 19 Q And why is that?  
 20 A **It was a shared, a shared procedure.**  
 21 Q Is there anywhere in the chart that you can look to  
 22 tell me what you did in terms of this procedure as  
 23 opposed to Dr. Badri?  
 24 MR. CASEY: He means other than  
 25 this note, because you can't tell him based on this

<p style="text-align: right;">Page 20</p> <p>1 note.  2 A Right. No.  3 Q And as we sit here today, do you have any  4 independent recollection aside from the chart as to  5 what you did in this procedure?  6 A No.  7 Q Doctor, did you review any echocardiograms before  8 this procedure was undertaken?  9 A No,? did not.  10 Q You mentioned you did not review the medical records  11 prior to this procedure being undertaken?  12 A Not that I can recall.  13 Q Were you aware of the history of Mr. Jones before  14 the procedure was undertaken?  15 A I can't recall my specific knowledge at that time of  16 his preoperative history.  17 Q Had you treated patients at this time who had  18 necessitated a surgical procedure for cholelithiasis --  19 what's the correct pronunciation, cholelithiasis?  20 A Cholecystitis and cholelithiasis.  21 Q Lithiasis, thank you. Have you treated patients  22 prior to this time with surgical remedy for those  23 conditions?  24 A Yes, under the direction of attending surgeons.  25 Q Okay. In this case you were under the direction of</p>	<p style="text-align: right;">Page 23</p> <p>1 A Yes.  2 Q Are you aware as to whether or not Mr. Jones had  3 sleep apnea syndrome?  4 MR. CASEY Is he aware now or was  5 he aware then?  6 Q At the time, were you aware then?  7 A I Can't recall if I was aware then.  8 Q What are the risks, the surgical risks of a patient  9 who has sleep apnea syndrome?  10 MR. CASEY: Doctor, his question is  11 sleep apnea alone, nothing else.  12 A You're talking about surgical risks?  13 Q Risks that can occur during surgery for a patient  14 who has sleep apnea syndrome.  15 A I think that question, I would have to be asked a  16 more specific question, because surgery can be done  17 many ways and there are ways, certain ways that  18 would be -- that would have less risk; other ways  19 would have more risk.  20 Q Okay. In an open procedure for a cholecystectomy --  21 A Yes.  22 Q -- does sleep apnea syndrome, history of sleep apnea  23 syndrome raise any red flags for you in a patient  24 presenting as Mr. Jones presented?  25 MR. CASEY: As Mr. Jones presented</p>
<p style="text-align: right;">Page 21</p> <p>1 Dr. Badri?  2 A That's correct.  3 Q Can you tell me -- I think you mentioned that this  4 procedure was scheduled as a laparoscopic procedure.  5 Can you tell me what procedure was undertaken?  6 A That procedure was not undertaken. What we referred  7 to as a, quote-unquote, open cholecystectomy was  8 performed.  9 Q And why was that procedure performed rather than the  10 laparoscopic procedure?  11 A That was based on the decision of the attending  12 physician, the attending surgeon.  13 Q Okay. Did you at any point participate in making  14 that decision?  15 A I don't have any particular recollection, but  16 generally, if a resident has a particular idea they  17 may mention that to the attending surgeon, but  18 ultimately the decisions are made by the attending  19 surgeon, not by the residents.  20 Q Okay. Do you know or do you have a recollection of  21 having a conversation with Dr. Badri about  22 performing this procedure?  23 A No, I don't.  24 Q As you sit here today as a surgeon --  25 A Yes.</p>	<p style="text-align: right;">Page 24</p> <p>1 being his entire picture. I mean he's now --  2 A certainly that's taken into consideration in the  3 overall evaluation.  4 Q Okay. How would it change the evaluation of the  5 patient if you were aware that he had sleep apnea  6 syndrome, in Mr. Jones's case, prior to surgery?  7 A Are you asking me as a resident or now or -- I'm  8 not -- can you repeat the question again.  9 Q Sure. As we sit here now --  10 A Yes.  11 Q -- would your treatment in terms of a surgeon change  12 if you were aware that a patient had sleep apnea  13 syndrome in addition to the conditions that are  14 listed here that Mr. Jones had?  15 A No.  16 Q Okay. There would be no changes in the surgical  17 procedure that was performed, no other precautions  18 that would be taken?  19 A Versus what other --  20 Q Versus a patient who did not have sleep apnea  21 syndrome.  22 MR. CASEY: He wants you to assume  23 that there was a number 5 on this that said sleep  24 apnea.  25 THE WITNESS: Yes, Okay.</p>
<p style="text-align: right;">Page 22</p> <p>1 Q -- why is it, why do you believe that the open  2 procedure was done rather than the laparoscopic?  3 A Okay. In reviewing the records, it's my  4 understanding that decision was based primarily on  5 the fact that this gentleman was obese and that  6 doing a laparoscopic procedure would be technically  7 difficult, and it would be, in order to perform the  8 cholecystectomy in an expeditious fashion, it would  9 be best to do an open procedure.  10 Q Have you ever done a laparoscopic procedure on a  11 morbidly obese patient?  12 A You're referring to my training and residency or at  13 any particular --  14 Q At any time.  15 A At any time?  16 Q Yeah.  17 A Yes. I can't remember specifics, but yes.  18 Q I think, just based on the operative report, we can  19 agree that Mr. Jones was morbidly obese on  20 October 20th, 1994?  21 A Yes.  22 Q Is that a fair statement? That he had hypertension,  23 fair statement?  24 A That's correct.  25 Q History of cardiomegaly?</p>	<p style="text-align: right;">Page 25</p> <p>1 MR. CASEY: Does that change  2 anything with the procedure that was done?  3 THE WITNESS: No.  4 Q Do you know if Dr. Badri was aware that Mr. Jones  5 had sleep apnea syndrome at the time of the  6 procedure?  7 A At the of the procedure, I don't recall.  8 Q Is sleep apnea syndrome -- strike that. Is  9 respiratory complications a risk of a patient  10 postoperatively who has sleep apnea syndrome?  11 A I would think they would be more at risk for  12 respiratory complications.  13 Q Do you know how to confirm or rule out whether a  14 patient has sleep apnea syndrome?  15 A No, I do not.  16 Q Do you know if Mr. Jones had a cardiac consult prior  17 to this procedure?  18 A After having reviewed the record, it's my  19 understanding he did not have a cardiology consult.  20 Q Given his condition, would you have expected that he  21 would have had a cardiac consult?  22 MR. CASEY: Jack, you keep  23 confusing him. At the time he was a fourth year  24 resident. Now he's a house officer. You've got to  25 clarify when you're asking.</p>

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<p>1 Q As you sit here now --</p> <p>2 A Yes</p> <p>3 Q -- were you surprised to see that there was no</p> <p>4 cardiac consult done on this patient?</p> <p>5 A No.</p> <p>6 Q Okay. Why not?</p> <p>7 A From reviewing the record, a medical consultant was</p> <p>8 obtained, and we were given clearance for surgery by</p> <p>9 the medical consultant.</p> <p>10 Q Do you know what area of specialty that medical</p> <p>11 consultant was in?</p> <p>12 A It's my understanding internal medicine.</p> <p>13 Q Back in 1994, were you aware that Mr. Jones the</p> <p>14 morning of surgery had shortness of breath?</p> <p>15 A No.</p> <p>16 Q Were you aware the morning of surgery that</p> <p>17 Mr. Jones's oxygen levels, saturation levels, fell</p> <p>18 to 87 percent the night before?</p> <p>19 A No.</p> <p>20 Q Were you aware that Mr. Jones had had oxygen therapy</p> <p>21 at 8:30 a.m. the morning of the surgery?</p> <p>22 A I'm not sure what you mean by oxygen therapy, but</p> <p>23 I'm not aware of -- I can't recall any of the</p> <p>24 preoperative therapeutic interventions that went on.</p> <p>25 Q Okay. This is information that you didn't have any</p>	<p>1 sorry.</p> <p>2 MR. CASEY: There's a difference</p> <p>3 between the two.</p> <p>4 THE WITNESS: The gallbladder, yeah,</p> <p>5 right.</p> <p>6 MR. LANDSKRONER: Sorry, another case.</p> <p>7 A Well, I have to refer back to my operative note,</p> <p>8 because at this point in time I cannot specifically</p> <p>9 recall.</p> <p>10 Q Okay.</p> <p>11 A And what I have under findings on the first page of</p> <p>12 the operative report is a mildly inflamed friable</p> <p>13 gallbladder with multiple gallstones.</p> <p>14 Q Okay. Mildly inflamed means what?</p> <p>15 A Well, that's -- I base that on my understanding and</p> <p>16 my past experiences with having seen gallbladders</p> <p>17 intraoperatively.</p> <p>18 Q Mildly inflamed just meaning slightly -- I mean can</p> <p>19 you draw a distinction? I don't know if you can.</p> <p>20 Maybe that's the defining term</p> <p>21 A The inflammation of a gallbladder is a spectrum.</p> <p>22 It's not just it's there or it's not. It can be</p> <p>23 described many ways, and it can go from what I refer</p> <p>24 to as mildly inflamed all the way to perforated,</p> <p>25 where the wall breaks down.</p>
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<p>1 knowledge of; you just came to the operating room to</p> <p>2 participate as the first assistant. Is that a fair</p> <p>3 statement?</p> <p>4 A I do not recall any of the therapy that went on</p> <p>5 during his preoperative stay at the hospital.</p> <p>6 Q Is that information you would have wanted to have</p> <p>7 back then as the first assistant in this surgical</p> <p>8 procedure?</p> <p>9 A No.</p> <p>10 Q Looking at your operative note, the preoperative</p> <p>11 diagnosis cholelithiasis--</p> <p>12 A Yes.</p> <p>13 Q -- and cholecystitis were confirmed postoperatively,</p> <p>14 correct?</p> <p>15 A It's my understanding.</p> <p>16 Q Okay. Did you review the pathology report?</p> <p>17 A At which time?</p> <p>18 Q At any time.</p> <p>19 A Yes, I've looked it over.</p> <p>20 Q The pathology report does not indicate</p> <p>21 cholecystitis; is that a fair statement?</p> <p>22 A No, it's not a fair statement.</p> <p>23 Q Okay. What does the pathology report indicate about</p> <p>24 the condition of Mr. Jones's bladder and whether or</p> <p>25 not he presented with cholecystitis?</p>	<p>1 Q Okay. Mildly inflamed being at the low end,</p> <p>2 perforation being at the high end?</p> <p>3 A That's correct.</p> <p>4 Q This was an elective procedure, correct?</p> <p>5 A As far as I can recall, and that would be how I</p> <p>6 would refer to it, as an elective case.</p> <p>7 Q Did you review the cholangiogram?</p> <p>8 A I'd have to read if we did -- okay, we did a</p> <p>9 cholangiogram.</p> <p>10 Q The op note says you did a cholangiogram.</p> <p>11 A Okay. Could I please look at -- read my note?</p> <p>12 Q Sure.</p> <p>13 A Yes.</p> <p>14 Q What were the findings of the cholangiogram?</p> <p>15 A These are the findings that I have on my operative</p> <p>16 note. "The cholangiocatheter--" till read the</p> <p>17 sentence if you don't mind.</p> <p>18 Q Please.</p> <p>19 A "The cholangiocatheter was inserted, and under</p> <p>20 fluoroscopy it was noted that the contrast material</p> <p>21 flowed freely into the right and left hepatic ducts</p> <p>22 and through the common bile duct into the duodenum."</p> <p>23 Q So that's a negative finding on the cholangiogram?</p> <p>24 A That's a finding of a normal.</p> <p>25 Q Normal, okay. Do you know who made the incision on</p>
Page 28	Page 31
<p>1 A Could you please repeat the question.</p> <p>2 Q Sure. Where in the pathology report does it</p> <p>3 indicate that Mr. Jones had cholecystitis?</p> <p>4 A On the second sentence under the first comment under</p> <p>5 diagnosis.</p> <p>6 Q Okay. And what does it say about that?</p> <p>7 A I'll read the sentence.</p> <p>8 Q Please.</p> <p>9 A "Findings may represent an early," quote-unquote,</p> <p>10 "or developing acute cholecystitis.</p> <p>11 Q Was -- I'm sorry, go ahead.</p> <p>12 A "Although little or no acute inflammation was</p> <p>13 observed."</p> <p>14 MR. CASEY Keep going, Doctor.</p> <p>15 A "Mild to moderate chronic inflammation was noted."</p> <p>16 Q Okay. Cholecystitis is inflammation of the bladder,</p> <p>17 of the gallbladder?</p> <p>18 A That's correct.</p> <p>19 Q And there was little to no inflammation observed?</p> <p>20 A By the -- that's the pathologist's report.</p> <p>21 Q Okay. Can you tell me what the bladder looked like</p> <p>22 at the time that it was removed?</p> <p>23 MR. CASEY: Be more specific. You</p> <p>24 want to know what the gallbladder --</p> <p>25 MR. LANDSKRONER The gallbladder, I'm</p>	<p>1 Mr. Jones?</p> <p>2 A I don't recall.</p> <p>3 Q It could have been you or Dr. Badri?</p> <p>4 A Sure.</p> <p>5 Q Anybody else from the surgery service that was in</p> <p>6 the operating room?</p> <p>7 A Not that I can remember.</p> <p>8 Q And do you have any recollection of who closed in</p> <p>9 the procedure?</p> <p>10 A Not after -- in reviewing my note, that would be a</p> <p>11 responsibility that's usually given to the senior</p> <p>12 resident, but I don't recall specifically placing</p> <p>13 the sutures and closing.</p> <p>14 Q Okay. There's no notation in the chart anywhere</p> <p>15 that says you did or you didn't that you saw?</p> <p>16 A No. That's generally not done on these particular</p> <p>17 dictations.</p> <p>18 Q Okay. And again, the same question as to the actual</p> <p>19 removal of the gallbladder, any recollection of who</p> <p>20 did that?</p> <p>21 A No. That's generally a shared responsibility</p> <p>22 between the surgeon and the first assistant.</p> <p>23 Q Do you know if at any time Dr. Badri left the</p> <p>24 operating suite during this procedure?</p> <p>25 A My only -- I don't have any particular recollection</p>

<p style="text-align: right;">Page 32</p> <p>1 of it, I know that he did from reading what he had 2 <b>stakd in</b> his deposition. 3 Q Any reason to disagree with that? 4 A No. 5 Q Doctor, at any point in time during your involvement 6 with Mr. Jones, was it ever discussed that there 7 might be an alternative to a surgical procedure in 8 treating Mr. Jones's gallstones? 9 A Not that I can recall. 10 Q As we sit here today, was Mr. Jones a candidate for 11 blasting, what's the -- 12 MR. CASEY: Lithotripsy? 13 MR. LANDSKRONER: Lithotripsy, thanks. 14 A I'm not sure -- 15 MR. CASEY: He wants to know after 16 you've reviewed this record, do you think he was a 17 candidate for lithotripsy. 18 THE WITNESS: A candidate meaning? 19 MR. CASEY: I don't know. I mean 20 you ask him. He asked the question. 21 A Do you mean eligible? 22 Q Sure. 23 A Would <b>be</b> eligible or should be done in this 24 patient's case? 25 Q Would be eligible.</p>	<p style="text-align: right;">Page 35</p> <p>1 A Certainly he was at increased <b>risk</b> because of the 2 morbid conditions. 3 Q Do you know what caused pulmonary <b>edema</b>? 4 A No. 5 Q When -- strike that. Were you in the room for the 6 entire operative procedure? 7 A Yes. 8 Q Who else was in the room with you, aside from 9 Dr. Badri, that you're aware of? 10 A I can't recall specific people. I know who was in 11 there now because I've reviewed the records. 12 Q Okay. 13 A But I do not -- I couldn't recall <b>prior</b> to reviewing 14 the record who else would have <b>been</b> in there. I 15 would know that an anesthesiologist and most likely 16 an anesthesia resident or CRNA would be in the room 17 along with the circulating <b>nurse</b> and the assistant 18 <b>nurse and possibly</b> another assistant surgeon. 19 Q Your recollection of these events as we sit here 20 today is based solely on the medical records and 21 nothing else? You don't have any other recollection 22 of what occurred through this procedure? 23 A No, I do have a very <b>hazy</b> recollection of that day. 24 Q Okay. Tell me what you recall. 25 A Yes. My recollection begins at the end of the case.</p>
<p style="text-align: right;">Page 33</p> <p>1 A I suppose -- see, I'm getting a little bit confused 2 here as to the wording of the question. That would 3 not be a consideration of mine to treat him that 4 way. 5 Q Today it would not be a consideration of yours or 6 back then because you were the resident? 7 MR. CASEY: Today -- 8 Q My question is <b>as</b> of today -- 9 MR. CASEY: We know the outcome. 10 Q -- as we sit here <b>today</b>, you would not treat him 11 that way? That would not be an option for his 12 treatment? 13 A Well, knowing what I know now and knowing the 14 outcome, I don't <b>think</b> that I would have <b>taken</b> him 15 to <b>surgery if I</b> were the surgeon. 16 Q Okay. Why not? 17 A For the fact that I know the outcome. 18 Q In terms of -- what about the outcome outside of the 19 fact that Mr. -- strike that. 20 Can you explain that in more detail? What 21 about the outcome would prevent you from taking him 22 to surgery? 23 MR. CASEY: Do you understand? 24 THE WITNESS: Not really. 25 MR. CASEY: He's asking you if you</p>	<p style="text-align: right;">Page 36</p> <p>1 I was seated facing away from the OR table writing 2 my postoperative orders. The next thing I can 3 recall was being <b>on</b> the patient's <b>left side and</b> 4 possibly <b>doing</b> chest compressions. 5 I <b>remember</b> distinctly seeing a frothy 6 material in the endotracheal <b>tube</b>, and I remember 7 the code <b>being</b> called. And what was <b>unusual</b> and 8 what is <b>usually</b> unusual is having the main door of 9 the OR open and other ancillary personnel coming 10 into the room at that time. 11 Q You had already closed at that time? 12 A Oh, yes. 13 Q The patient was on his side, you mentioned. 14 A I'm <b>sorry</b>, no. 15 Q Oh, okay. I thought that's what you said. What was 16 the patient's condition when you closed? 17 A The patient's condition, it is my understanding he 18 was still under a general anesthesia. 19 Q Do you have any recollection of them bringing him 20 out of the anesthesia? 21 A No, I don't. 22 Q Do you have any recollection of whether the 23 endotracheal tube was removed in the process of 24 bringing him out of the procedure? 25 A No, I do not believe the endotracheal was removed.</p>
<p style="text-align: right;">Page 34</p> <p>1 knew the guy was going to become brain dead, would 2 you have taken him -- 3 THE WITNESS: <b>NO</b>. 4 MR. LANDSKRONER: You don't know that 5 he's brain dead. 6 MR. CASEY: Close. 7 Q I guess the question, why did Mr. Jones arrest? 8 A I <b>don't know</b>. 9 Q Do you have any idea whatsoever what caused him to 10 go into arrest? 11 A I <b>was concerned about</b> pulmonary <b>edema</b> and <b>certainly</b>, 12 <b>having been there at the time that that occurred,</b> 13 <b>that was my hypothesis at the time, but that's -- I</b> 14 <b>didn't -- I would just say a pulmonary edema.</b> I can 15 <b>hypothesize about a lot of things.</b> 16 Q What about Mr. Jones's condition made you concerned 17 about -- would make you concerned about pulmonary 18 edema? 19 A My concern with his pulmonary <b>edema was at the end</b> 20 <b>of the procedure when I was writing my note and I</b> 21 <b>was -- I went to his left side and saw frothy fluid</b> 22 <b>in his endotracheal tube.</b> 23 Q Did you have any concerns prior to doing the 24 procedure about a risk of Mr. Jones having pulmonary 25 edema?</p>	<p style="text-align: right;">Page 37</p> <p>1 Q Okay. After the arrest and the people came into the 2 room -- 3 A Yes. 4 Q -- what is your involvement in the care of 5 Mr. Jones, what was your involvement? 6 A My involvement at that particular time was, because 7 I <b>am trained in</b> cardiac life support, I initiated -- 8 I believe I initiated the chest compressions when a 9 pulse was not obtained. I cannot recall if I was 10 told there was no pulse or if I checked for it 11 myself, but that was my care at that particular time 12 until the remainder of the code team arrived. 13 Q When the code team arrived, what did you then do? 14 A I don't recall. 15 Q Any recollection of any other care that you provided 16 after that time? 17 A We generally escort the patient to either the 18 postoperative recovery area or to the intensive care 19 unit. 20 Q Okay. We know Mr. Jones was taken up to the ICU. 21 Do you have any recollection of that process? 22 A No. 23 Q Do you have any recollection of any conversations 24 with Dr. Badri or anybody else in the operating room 25 about what happened?</p>



1 A No.  
 2 Q Doctor, as a surgery resident at Meridia Huron at  
 3 that time, was there any protocols or guidelines  
 4 that governed your conduct at the hospital as far as  
 5 what you could do and what you couldn't do?  
 6 A Yes, I believe there is a code in place as far as  
 7 our responsibility.  
 8 Q Okay. Is there a name for that code?  
 9 A Not that I know of.  
 10 Q Is it just a protocol as to residents?  
 11 A I don't know of any particular name given to this.  
 12 It's, my understanding is it's similar to all  
 13 residency training programs.  
 14 Q Is there a written document that covers that?  
 15 A I believe so, yes.  
 16 MR. LANDSKRONER: Again sane request for  
 17 those documents.  
 18 MR CASEY: I've told you you guys  
 19 can come over and we'll sit down and we'll go  
 20 through everything we have, and you can pick out  
 21 what you want.  
 22 MR. LANDSKRONER okay.  
 23 Q Doctor, you have a recollection of having reviewed  
 24 the medical records of what your involvement was  
 25 with Mr. Jones after the arrest?

1 A Yes.  
 2 Q Okay. What is that?  
 3 A What I did was, I was responsible for the progress  
 4 notes on him during his stay. It's a responsibility  
 5 delegated generally by the -- well, at the time,  
 6 from what I can remember, if you scrubbed on the  
 7 case, you wrote the note on the patient. That's  
 8 what the chief resident had in place, and it was his  
 9 discretion at that time, exactly the responsibility  
 10 given to the resident.  
 11 Q Okay. Your note on 10-21 --  
 12 A I don't see a note from me on 10-21.  
 13 MR. CASEY: Where are you at?  
 14 MR. LANDSKRONER: I have a Bates stamp  
 15 196, but let me just ask, because this may not be  
 16 your --  
 17 MR. CASEY: Says "sedated,  
 18 paralyzed"?  
 19 MR. LANDSKRONER Yeah.  
 20 Q Is that your note?  
 21 MR CASEY Is that your note?  
 22 A No, that's not my note.  
 23 Q Okay. Do you know whose signature that is?  
 24 A I believe that's Ravi Chari's signature.  
 25 Q How many residents were on the surgical center

1 service at this time?  
 2 A I don't remember. Also there's a possibility that  
 3 a surgical resident may have been what we call  
 4 rotating through the intensive care unit, and if  
 5 that were the case, that may explain why Dr. Ravi  
 6 Chari wrote postoperative day number one.  
 7 There's a lot of different factors  
 8 involved, but the residents as a group will see all  
 9 postoperative patients.  
 10 Q Here is a note, and I'm now on the X-rays, from  
 11 10-20-94, 3:15 p.m.  
 12 MR CASEY: Let me get there. On  
 13 what date?  
 14 MR. LANDSKRONER: 10-20-94  
 15 MR. CASEY Cholangiogram?  
 16 MR. LANDSKRONER: That is the --  
 17 MR CASEY: Is that what you want,  
 18 or ultrasound?  
 19 MR. LANDSKRONER Looks like a portable  
 20 chest --  
 21 MR CASEY X-ray portable chest,  
 22 one view.  
 23 MR. LANDSKRONER Right, that's it.  
 24 MR CASEY Reason, possible  
 25 pulmonary edema?

1 MR. LANDSKRONER Right.  
 2 Q Doctor, these were -- this is an order, I guess,  
 3 that you entered?  
 4 A That's correct.  
 5 Q Okay. And that was for portable chest X-rays?  
 6 A That's correct.  
 7 Q The indication is that Mr. Jones's heart was  
 8 enlarged, there was diffuse pulmonary edema,  
 9 correct?  
 10 A That's what the report says.  
 11 Q Okay. Why did you order this procedure, these  
 12 tests?  
 13 A That is a routine postoperative order. And because  
 14 he remained intubated and because he was  
 15 transported, it's imperative you do a chest X-ray  
 16 and look at the positioning of the endotracheal  
 17 tube. Also -- I'm sorry.  
 18 Q Sure.  
 19 A Also, this can be correlated to my postoperative  
 20 orders here. I believe that also a catheter was  
 21 placed, and that's also another reason that this  
 22 chest X-ray was obtained.  
 23 Q Do you have a recollection of whether there was a  
 24 request for a Swan-Ganz catheter to be utilized  
 25 during the procedure, surgical procedure?

1 A No.  
 2 Q Is a Swan-Ganz catheter useful for you as a surgeon  
 3 in the course of a procedure such as this?  
 4 A During the surgery itself, the surgeon is concerned  
 5 with the anatomy and generally isn't looking at  
 6 those, at the monitors.  
 7 Q Who orders -- who would order a Swan-Ganz catheter,  
 8 which service?  
 9 A It could be any service, but in this particular case  
 10 I would expect, and again it depends if we're  
 11 talking pre, post or intraoperatively, but I don't  
 12 believe it would be the general surgery service.  
 13 Q Okay. How about intraoperatively?  
 14 A Intraoperatively?  
 15 Q Yeah.  
 16 A It would not be the general surgery service.  
 17 Q What service would request that, if you know?  
 18 A I don't -- I mean I can't speak for the other  
 19 people, but I --  
 20 MR CASEY: I don't want you to  
 21 guess.  
 22 A Right. What I'm trying to say is that general  
 23 surgeons generally don't order preoperative  
 24 Swan-Ganz catheters, and it's been my experience  
 25 unless there's other services involved, I would say

1 it would be very rare for a general surgeon to order  
 2 that on his own without there being a team effort  
 3 involved in the care of a patient.  
 4 Q Let's turn to the discharge summary.  
 5 MR. CASEY: All right, we're there.  
 6 Q Okay. Doctor, who authored the discharge summary?  
 7 A I did.  
 8 Q And Dr. Badri signed off on it?  
 9 A That appears to be his signature.  
 10 Q Okay. At the bottom of the first page --  
 11 A Yes.  
 12 Q -- it says, "Mr. Jones was eventually diagnosed with  
 13 anoxic encephalopathy." What is that?  
 14 A That is a relatively generic term for brain damage.  
 15 Q All right. What caused Mr. Jones's brain damage?  
 16 A I'm not sure specifically. The reason I used that  
 17 particular terminology is that's how it was being  
 18 conveyed by the other physicians in the care of this  
 19 patient.  
 20 Q Okay. And you had no input in that diagnosis?  
 21 A Generally, no.  
 22 Q The discharge summary was dictated and typed on  
 23 February 3rd, 1995, correct?  
 24 A That's what these dates here show. That's what that  
 25 would say, yes.

1 Q Mr. Jones was discharged on November 21st, 1994,  
2 according to this report.  
3 A Okay.  
4 Q Correct? Why did it take two months to author *this*  
5 discharge *summary*?  
6 A Oh, it can be numerous reasons. **This** one in  
7 particular, I don't recall.  
8 Q Okay. You read Dr. Badri's deposition?  
9 A Yes.  
10 Q You saw that Dr. Badri was critical of the fact that  
11 you took two months to author this report, correct?  
12 A I'm not aware if he was particularly critical. I'm  
13 not sure. I don't remember the specifics of what he  
14 said about this discharge *summary* being dictated  
15 late.  
16 Q Is there a protocol as to how long it should take  
17 before a discharge *summary* is dictated and put into  
18 the chart?  
19 A No, there's no particular protocol.  
20 Q So if six months down the line you finished up the  
21 report, you would just insert it into the chart?  
22 That would be okay?  
23 A Generally, my experience in dictating discharge  
24 summaries in my five years as a resident at Meridia  
25 Huron Hospital was a weekly or biweekly visit to the

1 medical records department whereupon any records  
2 that become available for dictations are placed in  
3 our, ~~quote-unquote~~, pile. And I can't say  
4 specifically why there was a lapse and how many  
5 specific days, but to me **this is** not unusual.  
6 Q Was there any evidence of sepsis in Mr. Jones on the  
7 20th of October, 1994?  
8 MR. CASEY: Hold on.  
9 MR. LANDSKRONER: Sorry, got you jumping  
10 around.  
11 MR. CASEY: Not going to answer  
12 that one without looking at the records.  
13 A At which time?  
14 Q At the time of the surgical procedure.  
15 A No.  
16 Q Do you have any recollection of whether Mr. Jones at  
17 any point in time was awake coming out of the  
18 anesthesia?  
19 A I don't recall.  
20 Q Have you ever had a patient who went in for a  
21 cholecystectomy and had a result that Mr. Jones had?  
22 A I'm not sure what you mean by the result.  
23 Q I mean is in the condition that Mr. Jones is after  
24 the procedure.  
25 A If you're referring to his comatose state?

1 Q Yeah.  
2 A Not that I can recall.  
3 Q Have you ever had a patient die from a  
4 cholecystectomy, as a result of the surgical  
5 procedure from a cholecystectomy?  
6 A I've never been a participant in a case like that,  
7 no.  
8 Q How about cholecystitis, have you ever been involved  
9 in the care of a patient who died from  
10 cholecystitis?  
11 A I can't specifically recall, but as general surgeons  
12 at a teaching hospital, certainly there are patients  
13 who have had other procedures done, ultimately have  
14 cholecystitis and die.  
15 Q From the cholecystitis?  
16 A That may be an etiologic factor.  
17 Q Okay. One of the factors?  
18 A That's correct.  
19 Q Do you talk to Dr. Badri on any occasion now?  
20 A The last time I spoke with him was a brief encounter  
21 here at this hospital.  
22 Q Any discussions about this case?  
23 A No, not at all.  
24 Q Have you ever socialized with Dr. Badri?  
25 A No.

1 Q Have you ever socialized with any of the doctors  
2 involved in the care of Mr. Jones?  
3 A I suppose it means -- it depends what you mean by  
4 socializing. There are occasions where we meet  
5 outside of the hospital, but they're generally  
6 functions that are geared more towards surgical  
7 education, such as a visiting professor and we'll go  
8 out to dinner and things like that nature, but  
9 that's the extent of my social interaction with  
10 Dr. Badri.  
11 Q Any other physicians involved in Mr. Jones's care?  
12 A I've played tennis with Dr. Senchysyak on occasion.  
13 We live in the same apartment complex.  
14 Q Anyone else?  
15 MR. CASEY: Why don't you give him  
16 a list.  
17 Q Dr. Chari?  
18 A I see Ravi at the hospital occasionally here. He's  
19 a resident rotating here, so I will see him on  
20 occasion.  
21 MR. LANDSKRONER: Is anybody else going  
22 to have any questions? Okay, give me a minute or  
23 two, and we'll run through a few others. Let's go  
24 off the record for a second.  
25 (Brief recess)

1 MR. MCGREGOR: We're back on the  
2 record.  
3 By Mr. Landskroner:  
4 Q Okay, Doctor, moving right along, do you have a  
5 recollection of whether a laparoscopic procedure was  
6 started on Dewey Jones?  
7 A In reviewing my note, that was never undertaken, a  
8 laparoscopic procedure.  
9 Q I think you indicated you hadn't met the family so  
10 you were not present when Dr. Badri had a conference  
11 with the family members of Mr. Jones?  
12 A That's correct.  
13 Q The day of the surgery, the surgery was moved up  
14 from 11 or 12:00 to a morning slot. Do you know why  
15 this procedure was moved up?  
16 A No.  
17 Q In the course of the surgical procedure, is it fair  
18 to say you were relying on the anesthesiologist to  
19 monitor the patient intraoperatively?  
20 A Yes.  
21 Q Okay. Is it fair to say that you relied on the  
22 internist who cleared Mr. Jones for surgery to I  
23 guess address his ability to get through surgery  
24 appropriately?  
25 MR. CASEY: Jack, I mean you're

1 assuming that he's the doctor. He wasn't the  
2 doctor.  
3 MR. LANDSKRONER: I know.  
4 MR. CASEY: Wasn't making those  
5 decisions.  
6 Q Just in terms of your involvement with the care.  
7 A As a resident at that time, yes, I was relying on  
8 the expertise of those consultants that we had  
9 obtained.  
10 Q Do you have any recollection of why this procedure  
11 was done on the 20th as an elective procedure as  
12 opposed to later on or earlier?  
13 A I will tell you now, speaking as somebody who's  
14 finished surgical training, that that's routine for  
15 anybody who's been diagnosed with acute  
16 cholecystitis.  
17 Q To do the procedure. But in view of Mr. Jones's  
18 conditions and his heart condition, the timing of  
19 this was appropriate in your estimation?  
20 A Yes.  
21 Q And having read Dr. Badri's deposition with his  
22 discussion about Mr. Jones's bilirubin being  
23 increased, was that -- at that time were you aware  
24 of that as a reason for doing the procedure when it  
25 was done?

1 A At the time I entered the OR, I cannot recall  
 2 knowing the exact laboratory values on this  
 3 gentleman.  
 4 MR. LANDSKRONER: Okav. Thanks, Doctor.  
 5 That's all I have.  
 6 MR. CASEY: We'll read the  
 7 transcript. Doctor, when this is typed up, I'll  
 8 send you a copy. You'll look at it, you'll make any  
 9 corrections you think she took down wrong, and  
 10 you'll send it back to me.  
 11 THE WITNESS: Okay.  
 12 (Deposition concluded at 1:45 p.m.)  
 13 (Signature not waived)  
 14 ---  
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1 I have read the foregoing transcript from page  
 2 1 through 50 and note the following  
 3 corrections:  
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 19 John Zelis, M.D.  
 20  
 21 Subscribed and sworn to before me this \_\_\_\_ day  
 22 of \_\_\_\_\_, 1997.  
 23  
 24 Notary Public  
 25 My commission expires \_\_\_\_\_

1 State of Ohio, } ss: CERTIFICATE  
 2 County of Cuyahoga, )  
 3 I, Phyllis L. Englehart, RMR and Notary Public in  
 4 and for the State of Ohio, duly commissioned and  
 5 quahfied, do hereby certify that the within named  
 6 witness, John Zelis, M.D., was by me first duly sworn to  
 7 testify the truth, the whole truth, and nothing but the  
 8 truth in the cause aforesaid; that the testimony then  
 9 given by him was by me reduced to computerized stenotypy  
 10 in the presence of said witness, afterward transcribed,  
 11 and that the foregoing is a true and correct transcript  
 12 of the testimony so given by him as aforesaid.  
 13 I do further certify that this deposition was  
 14 taken at the time and place, in the foregoing caption  
 15 specified and completed without adjournment.  
 16 I do further certify that I am not a relative,  
 17 counsel, or attorney of either party, or otherwise  
 18 interested in the event of this action.  
 19 IN WITNESS WHEREOF, I have hereunto set my hand  
 20 and affixed my seal of office at Cleveland, Ohio, on  
 21 this \_\_\_\_ day of April, 1997.  
 22 Phyllis L. Englehart, RMR and Notary Public  
 23 in and for the State of Ohio.  
 24 My commission expires June 23, 2001.  
 25

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