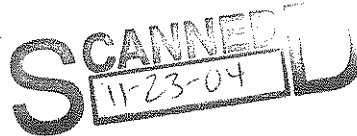


1 IN THE COURT OF COMMON PLEAS
2 OF CUYAHOGA COUNTY, OHIO

3 - - - - -
4 CHARLES TENNEY, III, etc.,
5 et al.,



6 Plaintiffs,

7 vs Case No. 448548

8 URMILA PATEL, M.D., et al.,
9 Defendants.

10 - - - - -
11 DEPOSITION OF COLLEEN ZELONIS, R.N.
12 MONDAY, APRIL 22, 2002

13 - - - - -
14 Deposition of COLLEEN ZELONIS, R.N., a
15 Witness herein, called by counsel on behalf of
16 the Plaintiff for examination under the statute,
17 taken before me, Vivian L. Gordon, a Registered
18 Diplomate Reporter and Notary Public in and for
19 the State of Ohio, pursuant to agreement of
20 counsel, at the offices of Southwest General
21 Health Center, Middleburg Heights, Ohio,
22 commencing at 10:45 o'clock a.m. on the day and
23 date above set forth.
24
25

1 APPEARANCES:

2 On behalf of the Plaintiff

Becker & Mishkind

3 HOWARD D. MISHKIND, ESQ.

Skylight Office Tower Suite 660

4 Cleveland, Ohio 44113

216-241-2600

5

6 On behalf of the Defendant Southwest General
Health Center

7 Bonezzi, Switzer, Murphy & Polito

DONALD SWITZER, ESQ.

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9 216-875-2767

10 On behalf of the Defendant Patel

Weston, Hurd, Fallon, Paisley & Howley

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12 Cleveland, Ohio 44113

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1 COLLEEN ZELONIS, R.N., a witness herein,
2 called for examination, as provided by the Ohio
3 Rules of Civil Procedure, being by me first duly
4 sworn, as hereinafter certified, was deposed and
5 said as follows:

6 EXAMINATION OF COLLEEN ZELONIS, R.N.

7 BY MR. MISHKIND:

8 Q. Tell me who you are, please.

9 A. Colleen Zelonis.

10 Q. Spell your last name for me, please.

11 A. Z-E-L-O-N-I-S.

12 Q. You are an RN?

13 A. Yes.

14 Q. Tell me about your education.

15 A. I have 11 years experience as an LPN
16 and 16 years as an RN, all in obstetrics. And
17 recently last summer I graduated as a certified
18 nurse midwife, but my position here at the
19 hospital is as an RN.

20 Q. Do you have a BSN?

21 A. MSN.

22 Q. From where?

23 A. Case. I do have a BSN too.

24 Q. Predating your MSN?

25 A. Yes.

1 Q. Is your MSN and your certification as
2 a nurse midwife, did they occur concurrently or
3 at different?

4 A. The certification was completed in
5 June, and I had one more class to finish at Case
6 for my MSN so I guess you would say it was
7 concurrently.

8 Q. Where did you obtain your BSN?

9 A. Akron.

10 Q. You are an employee of Southwest?

11 A. Yes.

12 Q. Have you worked your entire career
13 here?

14 A. Twenty-four years and about three
15 months at Southwest. Three years at Metro
16 Hospital right out of LPN school.

17 Q. Where do you live?

18 A. Avon Lake.

19 Q. What is your address, please?

20 A. 31764 Leeward Court, L-E-E-W-A-R-D.

21 Q. I'm sorry, did you say Avon or Avon
22 Lake?

23 A. Avon Lake.

24 Q. Do you have any immediate family
25 members in the medical profession?

1 A. Yes.

2 Q. Who?

3 A. My daughter Rebecca Burchett, and she
4 is an RN at West Shore Hospital in the coronary
5 care.

6 Q. Anyone else?

7 A. Jackie Gerba, second daughter, and
8 she presently is a nursing assistant at West
9 Shore on a medical floor. I think it's 3 north.
10 She is about to graduate as a nurse.

11 Q. Congratulations.

12 A. Thank you. My third daughter is a
13 nursing assistant also. Her name is Laura
14 Gerba. She just started working here at
15 Southwest, PRN status on 2 west. She is a
16 student, so she will be kind of intermittent in
17 her employment here.

18 Q. So Southwest has sort of been your
19 home and is the home sort of to future family
20 nurses?

21 A. Yes. My sister Mary Diley is a nurse
22 here. I don't know how immediate you want the
23 family members to go.

24 Q. Have you ever appeared before a court
25 reporter and given what is referred to as a

1 deposition before?

2 A. I have given a deposition. I can't
3 recall, though, if there was a reporter there.
4 I mean, I did talk to the opponent's lawyer and
5 Don was present. Would the stenographer have
6 been there at that point.

7 Q. Probably. But sometimes stranger
8 things have happened.

9 I take it this was in some other
10 case?

11 A. Yes.

12 Q. Do you remember who the other lawyer
13 was?

14 A. No. I remember the case, though.

15 Q. What was the patient's name?

16 A. Mary -- I will think of it.

17 MR. MISHKIND: Do you remember Don?

18 MR. SWITZER: Was it McDonald?

19 That was not a deposition.

20 MR. MISHKIND: An informal get
21 together?

22 Was it in suit?

23 MR. SWITZER: Off the record.

24 Q. I take it after having the discussion
25 that we had off the record that this in all

1 likelihood is the first time that you have
2 appeared in a formal deposition where a court
3 reporter is taking your testimony down and you
4 have been sworn to tell the truth and all that
5 good stuff?

6 A. Yes, in that case, yes.

7 Q. You have never appeared as a witness
8 in a courtroom, have you?

9 A. No.

10 Q. My questioning this morning, I assure
11 you, will be brief.

12 A. Okay.

13 Q. That's the first bit of good news for
14 you, okay?

15 Even though it's going to be brief, I
16 want to make sure that you understand my
17 question and since you have not had a deposition
18 taken before, don't venture even to start giving
19 me an answer until I am done with the question,
20 okay?

21 A. Okay.

22 Q. I'll also wait until you are done
23 with your answer before I move on to my next
24 question, okay?

25 A. Okay.

1 Q. You do have a tendency of starting to
2 talk quickly, and in fairness to you, make sure
3 you fully understand what I'm asking so you
4 don't give me a yes when it should have been a
5 no.

6 A. Okay.

7 Q. I'm going to ask you -- I assume you
8 have reviewed very limited records in connection
9 with this case; is that true?

10 A. The chart that was given to me, I
11 reviewed. I looked through the entire chart.

12 Q. So that would have been the labor and
13 delivery records for Dawn?

14 A. Yes.

15 Q. And did you also look at Charlie's
16 records, the baby's records?

17 A. Yes.

18 Q. What about the fetal monitor strips,
19 did you look at those also?

20 A. Yes.

21 Q. Were you involved in any of the labor
22 and delivery care?

23 A. According to the records, I was
24 present for the recovery period, as a relief
25 nurse.

1 Q. Were you specifically in the room at
2 the time that the baby was delivered?

3 A. That, I don't remember being present.

4 Q. I'm looking at a recovery room note.
5 It says obstetrics dot recovery room and then
6 below that nurse's notes, and I see some entries
7 by you. Perhaps that may be one of the
8 documents that you have in front of you, as
9 well?

10 A. Yes, it is.

11 Q. Is that the first place that you have
12 discovered your name identified?

13 A. Yes.

14 Q. Do you have any knowledge at all
15 firsthand from having observed any aspect of the
16 delivery of Charlie Tenney in terms of what
17 transpired at the time that the shoulder
18 dystocia was encountered?

19 A. What was the first part of the
20 question?

21 Q. Do you have any firsthand knowledge
22 from having observed any aspect of the delivery
23 from the time that the shoulder dystocia was
24 encountered until the time that Charlie was
25 delivered?

1 A. No.

2 Q. What, if anything, has Dr. Patel
3 explained to you transpired at the time that the
4 delivery occurred?

5 A. Are you talking about during the
6 delivery? Or since then?

7 Q. Since then, right.

8 A. The only discussion I have had with
9 Dr. Patel regarding this was the other day in
10 the office. I told her that I was coming here
11 this morning to meet with you, and we just kind
12 of talked about the case which I asked her if
13 she remembered if I was there and she didn't
14 remember me being there either.

15 Q. How long ago was this discussion?

16 A. Friday.

17 Q. Do you know whether she had already
18 had her deposition taken?

19 A. Yes.

20 Q. When you say in the office --

21 A. Yes.

22 Q. -- which office is that?

23 A. Her office.

24 Q. In the medical building?

25 A. Yes.

1 Q. Did you go up to her medical office?

2 A. I work for her as a nurse midwife
3 part time.

4 Q. I take it you have worked as a nurse
5 midwife for her part time only since you have
6 become certified?

7 A. Yes, since January was my start date.

8 Q. How many hours a week do you work for
9 Dr. Patel?

10 A. The average, four and a half, one day
11 a week.

12 Q. What day is that?

13 A. It's Fridays now.

14 Q. So when you worked on Friday, the
15 lawyers, including myself, have been long gone
16 from having visited Dr. Patel's office, I think,
17 the night before.

18 A. I approached her. We had some lull
19 time and I wanted to tell her that I was going
20 to talk.

21 Q. Obstetricians have lull time?

22 A. Well, we did have a little break, and
23 with me being there, it does free up a little
24 more time for her.

25 Q. So you approached her knowing that

1 your deposition was coming up today; true?

2 A. Yes.

3 Q. And did she at that time reveal to
4 you that she had had her deposition taken the
5 night before?

6 A. I don't know if she told me or if I
7 knew it because Don had mentioned it.

8 Q. Tell me about your discussion with
9 Dr. Patel on Friday.

10 A. Let's see. I told her that I was
11 coming. And I asked her if she remembered if I
12 was in the room and she had said she didn't know
13 who Lisa was. And she said that Ann thought she
14 was there, but when Dr. Patel and I discussed
15 the schedule, Ann wasn't even on the schedule.
16 We were trying to figure out who was there. And
17 then we just started talking about cases. She
18 told me about a couple other cases that she had
19 had.

20 Q. Cases in terms of medical/legal
21 cases?

22 A. Yes. Suits that she has been
23 involved in.

24 Q. What did she tell you about those
25 suits?

1 A. One was a GYN case that she had
2 talked about hitting an artery or something
3 during the surgery, and that despite the fact
4 that a specialist was called in immediately and
5 the problem was fixed, she still lost the suit.

6 Another one was a twin case where the
7 first twin was delivered vaginally and the
8 second, the woman refused to push, so they ended
9 up doing a section, and then six years down the
10 road the family I guess had moved out of town
11 and the second twin wasn't as bright as the
12 first, so someone questioned maybe something
13 went wrong at the birth or something and
14 suggested they look into it, even though the
15 second twin, according to the pediatrician, was
16 found to be totally normal, there was a suit
17 brought against her and lost.

18 We were just talking about how it
19 doesn't seem right even though nothing can
20 really be proven that things weren't anybody's
21 fault that you can get sued and you can lose
22 even when you are doing your best and just that
23 kind of stuff. Kind of comments generally.

24 Q. Overall, is that your sense of how
25 the system works; that you can sometimes do

1 everything proper and still get sued and be held
2 responsible?

3 A. Yes, and it's kind of scary.

4 We all try our best, I think, and
5 nobody is out to cause harm, but nobody can be
6 guaranteed a perfect delivery, the perfect baby,
7 but I think sometimes people look for things
8 when they become wrong to come back and sue. So
9 it was a discussion like that.

10 You know, what would even attract
11 people to go into the medical field with this
12 liability that could be hanging over your head.

13 Q. And I take it you expressed some
14 frustration over the legal process during this
15 conversation?

16 A. A little bit, yes.

17 Q. And Dr. Patel also demonstrated a
18 similar frustration?

19 A. She just tended to agree.

20 Q. Is this the first time you and she
21 have had a discussion about malpractice cases?

22 A. Yes.

23 Q. How long did this discussion on
24 Friday last?

25 A. Three to five minutes, I would say.

1 Q. What did she tell you concerning the
2 questions that had been asked of her during her
3 deposition?

4 A. I don't remember her saying anything
5 that she was asked. She talked about Dawn
6 coming back to the office postpartum and
7 bringing the baby. So the patient did come back
8 for her postpartum checkup.

9 Q. You weren't working in the office at
10 that time, were you, when she came back for
11 postpartum?

12 A. No. I just started at the beginning
13 of this year.

14 Q. Other than her mentioning that Dawn
15 came back for a postpartum with the baby, what
16 else did she tell you about the discussion
17 during the deposition?

18 A. That the family had moved out of
19 town. She did mention about the boyfriend
20 having a limited education and can't read and
21 doesn't work, something like that.

22 Q. What other knowledge or information
23 did she share with you from the deposition?

24 A. That was it, that I can remember
25 right now.

1 Q. Did you make any type of a note
2 during your conversation with Dr. Patel about
3 any of this information she was telling you?

4 A. Oh, no.

5 Q. You mentioned Ann. Who is Ann?

6 A. Ann is a coworker.

7 Q. Is that Keebler?

8 A. No, Barth. I think her real name is
9 Jane, but she goes by Ann.

10 Q. She is a nurse at Southwest Hospital?

11 A. Yes.

12 Q. Does she also work in Dr. Patel's
13 office?

14 A. No.

15 Q. So there is some question as to
16 whether she was or was not working during the
17 delivery of Charlie?

18 A. Yes.

19 Q. And were you satisfied after talking
20 with Dr. Patel that Ann or Jane was not present?

21 A. We couldn't remember who was present,
22 other than Lisa. Oh, and I did think of one
23 other thing. I was surprised that Lisa, the
24 primary nurse on the case, hasn't been talked to
25 yet. That was a comment I made. I thought

1 maybe she could spark some memory. It's
2 bothering me I can't remember.

3 Q. Don't let it bother you.

4 A. Okay.

5 Q. Do the best you can.

6 A. Okay.

7 Q. Do you know Lisa?

8 A. Just from her working here. I mean,
9 she was here a couple months in orientation.

10 Q. Did you orient her?

11 A. I know I had a few days with her
12 where I oversaw her care.

13 Q. Do you know where she worked prior to
14 coming here?

15 A. I was told Elyria, that she worked
16 there for 12 years.

17 Q. At EMH?

18 A. Yes.

19 Q. Do you know if she went back to work
20 there after working here?

21 A. I had heard secondhand that she went
22 to The Cleveland Clinic from here.

23 Q. And secondhand, is that your
24 understanding as to where she is currently
25 working?

1 A. I heard it from a nurse at Lakewood
2 Hospital who was an acquaintance of Lisa's and I
3 was at Lakewood in my mid-wifery training.

4 Q. Again, a small world.

5 A. Yes.

6 Q. Was she, according to the secondhand
7 information, was she working at Lakewood
8 Hospital, Cleveland Clinic, or at the main
9 clinic?

10 A. The main clinic.

11 Q. Do you have reason to believe based
12 upon your discussion during your nurse
13 mid-wifery program that that's where Lisa is
14 currently working?

15 A. I had heard that she no longer works
16 there, but I can't remember where I heard it
17 from.

18 Q. What have you heard, if anything, as
19 to why Lisa left Southwest?

20 A. There was some discussion about she
21 was waiting too long to call the doctors to come
22 for her deliveries and that over at EMH she was
23 known for doctors missing deliveries. Real
24 information is always disclosed. That's just
25 the hearsay I had heard.

1 Q. Was that from someone here at the
2 hospital or someone over at Lakewood?

3 A. This would have been just talk up on
4 the floor.

5 Q. Do you remember which nurse or nurses
6 provided you this scuttlebutt or this
7 conversation?

8 A. I know one nurse would have been Mary
9 Jo Alverson who was the nurse preceptor at the
10 time.

11 Q. How long ago would that discussion
12 where Mary Jo mentioned this have taken place?

13 A. Probably during the time of her
14 orientation, or shortly after she was let go,
15 somewhere around there.

16 Q. And that was my next question. To
17 your knowledge, was she let go as opposed to her
18 leaving on her own?

19 A. Yes.

20 Q. She was let go?

21 A. Yes.

22 Q. From one of the other nurses I
23 learned that with this delivery in September,
24 that as of October of 2000 -- so something less
25 than or about a month later -- Lisa was no

1 longer working here. Does that at all ring true
2 in terms of your reference that it was sometime
3 in September or October of 2000 that Lisa left?

4 A. I just know it was towards the end of
5 her orientation period.

6 Q. How long is the orientation in
7 OB/GYN?

8 A. I would say generally about three
9 months. Maybe shorter for an experienced nurse.

10 Q. Was Lisa, to your knowledge -- and
11 again, if you don't know, just tell me, because
12 eventually we will talk with Lisa -- but was she
13 still in the orientation process in September of
14 2000 when Dawn was in labor?

15 A. She would have had to have been
16 because I don't think she ever left day shift to
17 go to the off shift.

18 Q. So for orientation purposes, it's a
19 day shift regimen?

20 A. Yes.

21 Q. What type of supervision is provided
22 for the orientee during their orientation?

23 A. Generally co-management type of
24 orientation.

25 Q. And is that actually hands-on

1 co-management or is it another nurse like at the
2 nurses' station just sort of looking over
3 entries made in the record by the nurse?

4 A. In the beginning, it would be almost
5 constant supervision, explaining procedures and
6 how things are done here. And then as the
7 employee would be able to be more on their own,
8 it might be more of the latter, like you talked
9 about, reviewing the charting and things like
10 that.

11 Q. From your review of the record -- and
12 I realize that you probably concentrated more on
13 your involvement in this case -- but from your
14 review of the record, are you able to determine
15 who was co-managing Lisa during her orientation
16 back in September of 2000?

17 A. From looking at Lisa's notes, they
18 were all Lisa's notes, so from that I would say
19 no. If I had to pick somebody, I would pick
20 Lois, because her name is on the record here.

21 Q. What is Lois' last name?

22 A. Cricks. And I know Lois also would
23 often fill in for the preceptor.

24 Q. The co-management and the preceptor
25 for Lisa, would that be one and the same person?

1 A. Yes. Somebody would have been
2 assigned to assist Lisa for the day. And that
3 would be found on an assignment sheet.

4 Q. That was my next question. Where
5 would we go about looking at that?

6 A. I would start up in the department
7 with our present nurse manager. They would be
8 stored somewhere.

9 Q. I'm sorry, I may have asked this of
10 you, but I don't recall.

11 My short-term memory is getting
12 shorter and shorter.

13 A. I can relate.

14 Q. Do you remember Dawn?

15 A. A visual picture of her, no.

16 Q. You sort of hesitated when you
17 responded and then indicated a visual picture
18 no. Is there anything about Dawn or any aspect
19 of this case on September 13th that you are able
20 to vaguely remember?

21 A. There is two things I remember. The
22 room she was in.

23 Q. And that was?

24 A. Room 316.

25 Q. That was the birthing room?

1 A. Yes.

2 Q. Where is that in relationship to the
3 nursing station?

4 A. Diagonally across the hall, ten feet,
5 maybe.

6 Q. What causes you to remember that it
7 was 316?

8 A. Maybe from the recovery period. And
9 I remember the codes being called to the nursery
10 for the baby, because that is not something you
11 hear very often.

12 Q. This is the code pink?

13 A. Right. Not the code pink for the
14 delivery. That was something usual. But code
15 to the nursery is not a common occurrence. I
16 remember the baby, you know, was in pretty good
17 shape in the birthing room. From looking at the
18 record, the apgar scores were good and the cord
19 pH was good, so to hear the code later in the
20 nursery was a little disturbing.

21 Q. The nursery in relationship to the
22 nursing station on the third floor is located
23 where?

24 A. Across the hall. The nursery is kind
25 of square in the middle. The nurse's desk is at

1 one end and the labor rooms are down this way.

2 Q. So if room 316 were, say, north of
3 the nursing station, would the nursery be south
4 of the nursing station? I mean, is it --

5 A. You are asking me where is it in
6 relationship to the nursery?

7 Q. Yes, ma'am.

8 A. Across the hall. We are talking a
9 hall's width.

10 Q. Separated by the nursing station?

11 A. No.

12 Q. So the nursing station would be
13 adjacent to --

14 A. You could go from 316's doorway into
15 a nursery in a diagonal line, right across the
16 hall.

17 Q. Got it. Where were you when you
18 heard the code in the nursery?

19 A. At the nurses' desk.

20 Q. Had you already participated in any
21 aspect of the care of Dawn at that point?

22 A. I don't remember that.

23 Q. Now, let's --

24 A. From looking at the record, I think
25 the baby was already in the nursery when I took

1 over her care. It looks like I took over around
2 10 after 12. I think from reading the baby's
3 record, the baby was already in the nursery
4 then.

5 Q. Now, I'm looking again at the
6 recovery room note.

7 A. Okay.

8 Q. And it looks like Lisa's note is
9 right before yours.

10 A. Yes.

11 Q. Would you likely have obtained report
12 from Lisa?

13 A. Yes, that's generally how we do it,
14 but I don't remember receiving report.

15 Q. Given that this was postpartum now,
16 would the report have been given at the nurses'
17 station or would it likely have been given in
18 room 316?

19 A. Either.

20 Q. And there is nothing that helps us to
21 determine the location?

22 A. No.

23 Q. I'm looking at a time of 12:11 and
24 then looking across. Does that 12:11 note
25 correspond with your first note?

1 A. Yes, I would have written that all at
2 the same time.

3 Q. So was your 12:11 note start with
4 eating something diet?

5 A. No, that's Lisa's. Mine is about the
6 appetite.

7 Q. Why don't you read to me slowly.

8 A. Appetite good, visited by Dr. Patel.
9 Baby's condition discussed.

10 Q. Would you have been present then
11 while Dr. Patel was discussing the baby's
12 condition?

13 A. Yes.

14 Q. And that would have been a discussion
15 with mom; true?

16 A. And the parents, whoever would have
17 been in the room.

18 Q. And it could have been dad, it could
19 have been grandparents?

20 A. Yes, I do remember family being
21 present.

22 Q. Dawn's mom and dad were present at
23 the time of delivery at the hospital. Any
24 recollection of meeting Mr. and Mrs. Davis?

25 A. No. Like I said, I just remember

1 family being present.

2 Q. Do you have any recollection of any
3 interaction by way of comments or conversation
4 with any of the family members during the
5 postpartum period?

6 A. I could not remember any kind of
7 conversation I would have had with them other
8 than I do talk to family members.

9 Q. What, if anything, do you recall
10 Dr. Patel telling Dawn and family members that
11 may have been there as to the baby's condition?

12 A. I don't have any memory of what would
13 have been said.

14 Q. Your notes continue on in the
15 additional comment section; correct?

16 A. Yes.

17 Q. At the 12:26 note after it refers to
18 swollen labia, can you tell me what that says?

19 A. Visitors present.

20 Q. And then continue, if you would.

21 A. Legs, hips, heavy, blood pressure
22 cuff removed by patient. Fundus firm at one
23 above U. No urge to void. Lochia small and
24 moderate.

25 Q. The removal of the blood pressure

1 cuff by the patient, was that an inappropriate
2 thing?

3 A. We are supposed to take their blood
4 pressures every ten minutes for an hour and then
5 every half hour. Sometimes the patients just
6 get annoyed by it. This patient was obviously
7 upset about her baby. I would not have given
8 her a hard time about having it on. I was
9 documenting why blood pressures weren't being
10 taken at this point; the patient took it off.

11 Q. It was just --

12 A. Just to justify why they weren't be
13 taken.

14 Q. It didn't in any way compromise her
15 care?

16 A. As a matter of fact, at this point it
17 looks like she already had her hour's worth of
18 vital signs taken.

19 Q. And where it says visitors present, I
20 take it that means more than one visitor?

21 A. Yes.

22 Q. But as to who it was, that would just
23 be speculating?

24 A. Yes.

25 Q. Any vague recollection of a

1 discussion with Dawn about what had transpired
2 during the delivery of her baby?

3 A. No.

4 Q. Or what she recalled transpiring at
5 the time that the shoulder dystocia was
6 encountered?

7 A. No.

8 Q. Did Dr. Patel, when you spoke with
9 her on Friday or at any time since the delivery,
10 tell you the degree of difficulty, if any, that
11 she encountered in freeing the anterior shoulder
12 at the time that the shoulder dystocia was
13 encountered?

14 A. No. We did talk about the time lapse
15 of the four minutes and we thought that that was
16 pretty good. I mean, from looking at the notes
17 of a delivery of a head at 11:20 and 11:24 birth
18 of the baby was pretty good timing.

19 Q. And that was comments that both you
20 and she shared together?

21 A. Yes.

22 Q. So she felt that a four minute period
23 given what needed to be done was a reasonable
24 passage of time?

25 A. It might have been a comment that I

1 made.

2 Q. And did she seem to disagree with you
3 in any respect?

4 A. No.

5 Q. Looking again at the additional
6 comments under 1345, or 1:45 p.m., towards the
7 very end it says crying and upset, emotional
8 support given. And right before that, it says
9 visiting Dr. Shaw, neonatologist, baby's
10 condition discussed. Do you see that?

11 A. Yes.

12 Q. Again, some of the same questions I
13 asked you before. Dr. Shaw is obviously is
14 neonatologist; true?

15 A. Yes.

16 Q. Do you recall anything that Dr. Shaw
17 said or told mom about the baby's condition?

18 A. No.

19 Q. Anything about her emotional state
20 and the degree of upsetness -- poor term -- that
21 she was demonstrating at this point that you
22 recall?

23 A. I don't recall it, but I have it
24 charted that she was crying and upset, and that
25 I gave her emotional support.

1 Q. Do you know at what point in time the
2 bilateral pneumothoraces were discovered?

3 A. Just at some point in the nursery.
4 You know, after the baby had been transferred
5 over.

6 Q. Do you know what caused the
7 cephalohematoma that the baby encountered?

8 A. No.

9 Q. Has anyone to this date explained to
10 you why Charlie Tenney sustained a permanent
11 brachial plexus injury?

12 A. Just that the baby does have the
13 condition.

14 Q. But has anyone explained to you why
15 the condition is permanent in this particular
16 case?

17 A. Oh, no, I didn't know it was
18 permanent. I had heard that they can resolve in
19 time.

20 Q. Was there anything that Dr. Patel
21 indicated to you in conversations that caused
22 you to believe that she encountered any
23 difficulty in freeing the anterior shoulder once
24 the impaction was encountered, once the shoulder
25 dystocia was encountered?

1 A. No.

2 Q. Did she give you the impression that
3 it was a relatively routine maneuver that she
4 followed to free the anterior shoulder and to
5 deliver the baby's body?

6 A. We didn't really talk about the
7 movements or anything to deliver the baby in our
8 discussion on Friday.

9 Q. Has anyone ever described to you what
10 type of movements were necessary to free the
11 anterior shoulder and to deliver the baby's body
12 once the head was delivered?

13 A. No.

14 Q. After the additional comment section
15 on the back of the nurse's notes, do you have
16 any other notes in the record?

17 A. No. I do have one little thing on
18 this. Patient family education record. Under
19 emotional psychological barriers, I have history
20 of depression.

21 Q. What time is that noted?

22 A. There is no time.

23 Q. But that would have been postpartum?

24 A. Yes, definitely postpartum.

25 Q. Of what significance, to you as a

1 nurse, does the history of depression weigh in
2 to the management of this type of a situation?

3 A. To be on the lookout for postpartum
4 depression.

5 Q. Did you see any conduct on the mom's
6 part that you found to be inappropriate during
7 your interactions with her, given the fact that
8 she had had history of depression?

9 A. No. I would say her crying and being
10 upset over hearing about her baby would be an
11 expected reaction.

12 Q. So depression aside, her conduct was
13 within normal limits, from what you would
14 expect?

15 A. Probably just put this on here
16 because this is another piece of paper they want
17 us to fill out.

18 Q. Got you. Do you have any contact
19 with anyone at RB&C to check on baby's status?

20 A. We are able to call them and find
21 out.

22 Q. Did you call to check on little
23 Charlie?

24 A. I didn't, no.

25 Q. Did you obtain any information

1 indirectly from others as to what little
2 Charlie's condition was when he was transferred
3 to RB&C?

4 A. No. The nursery nurses, you know,
5 will often keep us updated, but I don't remember
6 anything about the case.

7 Q. When is your last interaction, either
8 by way of notes or what you can recall with Dawn
9 during the postpartum period?

10 A. It would have to be my last note
11 here.

12 Q. And that would be the --

13 A. For 1:45.

14 Q. -- 1:45 note?

15 A. Well, I'm sorry, there is one more
16 thing. 1350 I have charted that she received a
17 Motrin for perineal discomfort. Although I did
18 not sign it out of the med dispensing machine,
19 Lisa has that initialed. I probably handed the
20 patient the pill, or if she handed it to her, I
21 just charted it.

22 Q. And that would then be the extent of
23 your knowledge base?

24 A. According to this.

25 Q. Again, calling upon what you can

1 recall, generally speaking, is there anything
2 else that you can remember about Dawn Davis?

3 A. I'm sorry.

4 Q. You mentioned it's unusual to hear a
5 code called from the nursery. Did you take it
6 upon yourself to try to get an understanding as
7 to what happened in the nursery that caused the
8 necessity for a code to be called?

9 A. I just remember Darlene Vacca, the
10 nursery nurse saying that the baby had a
11 pneumothorax.

12 Q. Did you talk with Dr. Shaw or any of
13 the other doctors to try to get a sense as to
14 the cause of the pneumothorax?

15 A. When they are busy with the baby,
16 don't go in and ask questions. Wait for them to
17 come out and discuss things with the parents.

18 Q. And I wouldn't expect --

19 A. I may have asked Dr. Patel about it.

20 Q. What do you recall her telling you?

21 A. I am just saying I may have. In the
22 past, I have always tried to find out about the
23 baby's condition to tell the parents.

24 Q. Do you have any knowledge in this
25 case as to what Dr. Patel attributed the

1 pneumothorax to?

2 MS. HARRIS: Objection.

3 A. No.

4 Q. Did you ever have any discussion
5 after the pneumothorax was addressed in the
6 nursery from anyone, nurses, neonatologist,
7 pediatrician, obstetrician, as to what the
8 likely cause of the pneumothoraces were?

9 A. I remember asking if it was from a
10 fractured clavicle and they said there was no
11 fracture of the clavicle. See, I think at the
12 time, we were thinking more problems with the
13 shoulder, but as it turned out, when the baby
14 was in the nursery, there was no shoulder
15 involvement. They said there were no fractures,
16 just the baby had the pneumothorax, so I would
17 think he would concentrate on the baby's
18 condition with the breathing problems and the
19 need to be transferred.

20 Q. So the most critical condition at
21 that point that caused the transfer was the
22 pulmonary status?

23 A. Right. I am sure if I witnessed the
24 terrible birth experience it would stand out in
25 my memory.

1 Q. You weren't there to witness it,
2 though?

3 A. I don't remember seeing it, I really
4 don't.

5 Q. Fair enough. Is there anything else
6 that you learned from what occurred in the
7 nursery or anything that was shared with you
8 from anyone as to what occurred during the
9 delivery that we have not talked about?

10 A. No.

11 MR. MISHKIND: I have no further
12 questions. Thank you.

13 MS. HARRIS: No questions.

14 - - - - -

15 (Deposition concluded at 11:30 a.m.)

16 (Signature not waived.)

17 - - - - -

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1 AFFIDAVIT

2 I have read the foregoing transcript from
3 page 1 through 37 and note the following
4 corrections:

5 PAGE LINE REQUESTED CHANGE

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COLLEEN ZELONIS, R.N.

19

20 Subscribed and sworn to before me this
21 day of , 2002.

22

23 Notary Public

24

25 My commission expires .

CERTIFICATE

State of Ohio,

SS:

County of Cuyahoga.

I, Vivian L. Gordon, a Notary Public within and for the State of Ohio, duly commissioned and qualified, do hereby certify that the within named COLLEEN ZELONIS, R.N. was by me first duly sworn to testify to the truth, the whole truth and nothing but the truth in the cause aforesaid; that the testimony as above set forth was by me reduced to stenotypy, afterwards transcribed, and that the foregoing is a true and correct transcription of the testimony.

I do further certify that this deposition was taken at the time and place specified and was completed without adjournment; that I am not a relative or attorney for either party or otherwise interested in the event of this action. I am not, nor is the court reporting firm with which I am affiliated, under a contract as defined in Civil Rule 28 (D).

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office at Cleveland, Ohio, on this 29th day of April, 2002.



Vivian L. Gordon, Notary Public
Within and for the State of Ohio

My commission expires June 8, 2004.

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