

IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND
Civil Division

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	:
	:
, et al.,	:
	:
Plaintiffs,	:
	:
	: Case No.
vs.	:
	:
	: The Honorable
	:
, INC., et al.,	:
	:
Defendants.	:
	:

-----x

Deposition of _____ M.D.

 Washington, D.C.
 Wednesday, March _____,
 10:00 a.m.

Job No.
 Pages
 Reported by:

Page 2	Page 4
<p>1 Deposition of _____, M.D., held</p> <p>2 at the offices of:</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16 Pursuant to agreement, before</p> <p>17 _____, Court Reporter and Notary Public in and for</p> <p>18 the District of Columbia.</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	<p>1 APPEARANCES</p> <p>2</p> <p>3 ON BEHALF OF THE DEFENDANT _____, M.D.:</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>
Page 3	Page 5
<p>1 APPEARANCES</p> <p>2</p> <p>3 ON BEHALF OF THE PLAINTIFFS:</p> <p>4</p> <p>5 RODNEY M. GASTON, ESQUIRE</p> <p>6 Miller & Zois, LLC</p> <p>7 7310 Ritchie Highway</p> <p>8 Suite 1001</p> <p>9 Glen Burnie, Maryland 21061</p> <p>10 (410) 553-6000</p> <p>11</p> <p>12 ON BEHALF OF THE DEFENDANTS:</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	<p>1 CONTENTS</p> <p>2 EXAMINATION OF _____, M.D. PAGE</p> <p>3 By Mr. Gaston 6</p> <p>4 By Mr. 153</p> <p>5 By Mr. Gaston 159</p> <p>6</p> <p>7</p> <p>8</p> <p>9 EXHIBITS</p> <p>10 (Exhibits retained by counsel.)</p> <p>11 DEPOSITION EXHIBITS PAGE</p> <p>12 Exhibit 1 Notice of Deposition 6</p> <p>13 Exhibit 2 Death Certificate 6</p> <p>14 Exhibit 3 Autopsy 6</p> <p>15 Exhibit 4 Labs 6</p> <p>16 Exhibit 5 Medical Document 6</p> <p>17 Exhibit 6 Medical Document 6</p> <p>18 Exhibit 7 CV 10</p> <p>19 Exhibit 8 Letter dated February 22, 2011 19</p> <p> from Mr. with</p> <p>20 attachments</p> <p>21</p> <p>22</p>

2 (Pages 2 to 5)

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Page 6

PROCEEDINGS

(Exhibits 1-6 were marked for identification and retained by counsel.)

, M.D.

having been duly sworn, testified as follows:

EXAMINATION BY COUNSEL FOR PLAINTIFFS

BY MR. GASTON:

Q Doctor, could you please state your name?

A

Q Dr. , my name is Rodney Gaston and I represent the family that has brought this action against you in the Circuit Court for Montgomery County. We are here today for your deposition.

Have you ever given a deposition before?

A Yes.

Q And in what type of cases?

A My partner, former medical partner, brought an action against me. It was kind of a business dispute.

Q Any other depositions other than that?

A No.

Q I want to go over some of the ground rules

Page 7

so we can hopefully get through this efficiently.

The Court Reporter will be taking down the words that I say, my questions. The Court Reporter is also going to take down your answers. It is important that all the answers and questions be verbal because the Court Reporter cannot take down a shake of the head or a nod. That simply does not translate into words.

And also I would ask if there is a question that I ask you that you don't understand stop me and say Mr. Gaston, I do not understand that question. I will try to rephrase it. Otherwise we will assume when you answer the questions that you have understood them and your answers will be truthful and accurate.

If at any time you want to take a break just let me know.

A Can I clarify one answer I gave you?

Q Yes, sir.

A I remember a minor deposition that I was as a physician. A patient was suing her employer and they asked me to testify as to her visit with us.

I have appeared in court on a couple of

Page 8

occasions when I was asked by the state to come to testify as to what happened when they wrote a prescription or something like that.

Q I didn't understand the last answer. The State of Maryland or the District of Columbia?

A The State of Maryland.

Q The State of Maryland asked you to testify in what regard, sir?

A A patient called in their own medicines.

Q So, this would be a criminal prosecution of a patient who tried to fraudulently obtain medicine?

A Yes.

Q Okay.

A I think there were several of those, but I can't remember all the details.

Q Does that pretty much cover it?

A Yes.

Q Have you ever testified as an expert witness on or behalf of a doctor or a patient?

A Yes.

Q And how many times, Doctor?

Page 9

A Once.

Q According to your answers no one has ever brought a claim against you for medical malpractice; is that correct?

A That is correct.

Q So, this would have to be testimony either on behalf of a doctor who was being sued or on behalf of a patient who brought the lawsuit. Which of those two would it be?

A It was not a medical malpractice case. It was a case where the patient was suing the insurance company over an auto accident that he had sustained injuries in. And I testified as to the care he received from us and how much that involved.

Q Was it actually in court or was it by videotape deposition?

A That was in court.

Q In court. Do you remember what county courthouse you were in?

A In Rockville.

Q Rockville.

3 (Pages 6 to 9)

Page 10

1 **Montgomery County?**
2 A Yes.
3 **Q Do you know how long ago that was, Doctor?**
4 A How long ago?
5 **Q Yes, sir.**
6 A Two years.
7 **Q Two years.**
8 **Do you remember the name of the case by**
9 **chance?**
10 A No. No. I don't. By memory I can't. I
11 have records of it, but I don't remember.
12 **Q Does that cover all of your testimony in**
13 **court and out of court?**
14 A Yes.
15 **Q Doctor, I am going to have the Court**
16 **Reporter mark this as an exhibit.**
17 **We will take a break for a second.**
18 (**Exhibit 7 was marked for**
19 **identification and retained by counsel.)**
20 **BY MR. GASTON:**
21 **Q Doctor, the Court Reporter has marked this**
22 **document as Exhibit Number 7.**

Page 11

1 **I will ask if you can take a look at this**
2 **document and tell us briefly what that document**
3 **represents?**
4 A My Curriculum Vitae.
5 **Q Is that a current CV of yours?**
6 A Yes.
7 **Q Thank you very much.**
8 **Doctor, in preparation for the deposition I**
9 **did send your attorney a Notice of Deposition along**
10 **with a list of items for you to bring with you to the**
11 **deposition. And I will show you and your attorney a**
12 **list and I will ask you if you have any documents in**
13 **accordance with the request.**
14 **This is Exhibit Number 1 for the record.**
15 **The third page of the document is entitled Exhibit**
16 **Number 1.**
17 **The first item on the list asks you to**
18 **bring, quote, "all documents any expert intends to**
19 **rely upon in support of any opinion that the expert**
20 **intends to give in this case".**
21 **Have you brought any documents with you to**
22 **the deposition in response to the request in Item**

Page 12

1 **Number 1?**
2 **Your attorney can assist you with the**
3 **answer as well.**
4 MR. : He wouldn't have any personal
5 knowledge of any of those documents. You know, at
6 this point in time in terms of our experts we aren't
7 in a position to provide you all the documents that we
8 intend to rely upon.
9 **BY MR. GASTON:**
10 **Q My question is do you have any documents**
11 **today in response to Request Number 1? Have you**
12 **brought any of those documents with you today?**
13 MR. : Well, at this point the
14 medical records is what we have here today and that
15 expert or any experts are on the medical records.
16 But as far as all documents, we are not in
17 a position to provide that at the present time.
18 MR. GASTON: Is there a reason or
19 explanation why those documents, to the extent they
20 exist, have not been provided today?
21 The question is if the experts know what
22 they are going to rely upon, I am asking you why we

Page 13

1 don't have them today if they do exist?
2 MR. : What I am telling you is that
3 we provided them the medical records. But the notice
4 says all documents and I can't tell you until their
5 deposition, at that point in time, what are all
6 documents they intend to rely upon. But right now
7 they have the medical records, which you have here in
8 front of you.
9 **BY MR. GASTON:**
10 **Q Number 2. Any exhibits and demonstrative**
11 **evidence that Dr. and his lawyers have**
12 **obtained and that any expert intends to rely upon to**
13 **explain any opinion or medical condition in the case.**
14 MR. : At this point we can't
15 provide all the exhibits and demonstrative evidence
16 and certainly we are not going to provide documents
17 and/or exhibits and demonstrative evidence that are
18 used for the purpose of impeachment.
19 But we don't have everything that any
20 expert will intend to rely upon at this time.
21 MR. GASTON: I need to know if you have any
22 of those items today that have not --

4 (Pages 10 to 13)

Page 14

1 MR. : The medical records.
 2 MR. GASTON: Just any of those items,
 3 exhibits and demonstrative evidence that you have
 4 obtained and that your experts intend to rely upon.
 5 If they are in existence, I think out of fairness I
 6 should be informed of that today and if they are, I
 7 would be entitled to a copy of those today.
 8 So, that is the crux of that inquiry.
 9 MR. : And at the present time it
 10 would be limited to the medical records.
 11 MR. GASTON: Thank you very much.
 12 BY MR. GASTON:
 13 **Q Number 3. All documents and any other**
 14 **items that were sent to any expert witness.**
 15 MR. : I don't believe there is
 16 anything other than the medical records at the present
 17 time.
 18 MR. GASTON: Thank you.
 19 BY MR. GASTON:
 20 **Q All medical textbooks and any other medical**
 21 **publications to include article and medical journals**
 22 **that Dr. or any of his experts claim are**

Page 15

1 **authoritative or representative of the standard of**
 2 **care Dr. followed in the case.**
 3 MR. : Well, Dr. will not be
 4 testifying today as to any textbooks that are
 5 authoritative on the issues of the standard of care,
 6 but I can't tell you what the experts intend to rely
 7 upon until their depositions and we obtain all their
 8 opinions.
 9 MR. GASTON: You mentioned that Dr.
 10 is not going to be relying or testifying on any
 11 textbooks today. What I need to know is if the case
 12 goes to trial and he decides to testify if he is going
 13 to be relying upon. If so, I need to know that now
 14 because I can't ask him later and I need to know what
 15 textbooks.
 16 MR. What I am saying is that he
 17 will not be expressing in this deposition I believe
 18 any opinions that there is any particular textbook
 19 that is authoritative that represents the standard of
 20 care.
 21 MR. GASTON: Thank you.
 22 BY MR. GASTON:

Page 16

1 **Q Copies of any pages of Mr. 's medical**
 2 **chart that were actually written or dictated by**
 3 **Dr. or signed by Dr.**
 4 **To assist counsel and Dr. with the**
 5 **answer to this question I do have a supplemental**
 6 **answer to Interrogatory Number 17, which I will show**
 7 **counsel at this time, that lists the pages I believe**
 8 **that contain Dr. 's handwritten notes.**
 9 **I want to know if those are the only pages**
 10 **that Dr. believes contains his handwritten**
 11 **notes in the medical chart.**
 12 **I can show Dr. Interrogatory Number**
 13 **17. I would ask if he could look at the pages that**
 14 **are outlined in that answer and let me know if those**
 15 **are the only pages that contain his handwritten notes.**
 16 A (Witness perusing documents.)
 17 Which one are you referring to?
 18 **Q I'm sorry, Doctor. It is Number 17.**
 19 **And if you could read those. It is my**
 20 **understanding that they list the page numbers that**
 21 **refer to the documents that were provided to us by**
 22 **your attorney and that those would be the only page**

Page 17

1 **numbers that contain your handwritten notes in the**
 2 **medical chart.**
 3 **I just want to confirm that.**
 4 A (Witness perusing documents.)
 5 10017 or 10018.
 6 MR. : Just to be fair, the
 7 statement in the letter of February also says that
 8 there may be additional orders in the chart and we
 9 believe we brought or he brought with him copies of
 10 the records that have all of his handwritten notes.
 11 MR. GASTON: And that was the crux of that
 12 question, to identify those documents here for me at
 13 the deposition.
 14 BY MR. GASTON:
 15 **Q So, Doctor, if by going through the chart**
 16 **you identify any other records that aren't contained**
 17 **in the answer to Number 17 if you could just call**
 18 **those out to me I would appreciate it.**
 19 A (Witness perusing documents.)
 20 **Q Is there an additional page, Doctor?**
 21 A No.
 22 Well, except for the orders.

5 (Pages 14 to 17)

Page 18

1 **Q I'm sorry. I didn't understand.**
 2 A Well, except as written in Interrogatory
 3 Number 17. Dr. may have additional orders in
 4 the chart which he may be able to identify at
 5 deposition.
 6 So, those are 10071, 10072, 10074, 10075,
 7 10076, 10079, 10080. 80 I didn't write anything. It
 8 was verbal orders. 10081 was also a verbal order.
 9 10083 was a verbal order.
 10 That is all.
 11 MR. : We also have the Death
 12 Certificate.
 13 THE WITNESS: That is correct.
 14 BY MR. GASTON:
 15 **Q I will show you what has been marked as**
 16 **Exhibit Number 2, Doctor.**
 17 **Does that contain your handwriting?**
 18 A Yes. My signature.
 19 **Q Yes, sir. Thank you.**
 20 **Is there any other medical records other**
 21 **than what is contained in the answer to Number 17, on**
 22 **the next exhibit that I am going to have the Madam**

Page 19

1 **Clerk mark and what you testified to now with respect**
 2 **to the medical records that contain your handwritten**
 3 **notes?**
 4 A Are there any others?
 5 **Q Yes, sir.**
 6 A Is that the question?
 7 **Q Yes, sir.**
 8 A No.
 9 **Q Thank you.**
 10 MR. GASTON: Madam Clerk -- I'm sorry,
 11 Doctor. I didn't mean to interrupt you.
 12 THE WITNESS: You are talking about
 13 handwritten, all handwritten, right?
 14 BY MR. GASTON:
 15 **Q Handwritten notes where you made a**
 16 **handwritten note in Mr. 's chart.**
 17 A That includes all of them.
 18 **Q Thank you.**
 19 MR. GASTON: Madam Clerk, I would ask that
 20 you mark this letter from Dr. 's counsel dated
 21 February as the next exhibit.
 22 (Harding Exhibit 8 was marked for

Page 20

1 identification and retained by counsel.)
 2 BY MR. GASTON:
 3 **Q Dr. , just so we all know the**
 4 **document that you were referring to, that we are all**
 5 **referring to, as the answer to Number 17 would that be**
 6 **contained on the second page of Exhibit Number 8?**
 7 MR. : This is Exhibit Number 8.
 8 THE WITNESS: Okay.
 9 You are asking me if -- what was your
 10 question please?
 11 BY MR. GASTON:
 12 **Q I will rephrase the question.**
 13 **Doctor, we were talking about copies or**
 14 **page numbers --**
 15 A Right.
 16 **Q -- in the medical chart that contain your**
 17 **handwritten notes. The page numbers that we were**
 18 **referring to were those page numbers that are**
 19 **contained on page number 2 of Exhibit Number 8 in**
 20 **Answer Number 17.**
 21 **Would that be accurate?**
 22 A Yes.

Page 21

1 **Q And, of course, in addition to the**
 2 **documents of the page numbers that you just testified**
 3 **to?**
 4 A Yes.
 5 **Q Thank you, Doctor.**
 6 **Back to our deposition notice, Exhibit**
 7 **Number 1, page 3 of the deposition notice, it requests**
 8 **any and all agreements entered into by Dr. and**
 9 **any other party to the case at bar.**
 10 **Do you have any of those documents, Doctor?**
 11 **And counsel can assist with the answer.**
 12 MR. : Well, let me just say it is
 13 pretty broad and inclusive.
 14 I mean you can ask him as far as whether he
 15 has any. There are no agreements relating to the
 16 actual litigation if that is what it is directed to.
 17 MR. GASTON: That is exactly what it is
 18 directed to. This litigation alone whether he entered
 19 into any agreements with any other party in this case
 20 regarding this litigation.
 21 MR. : I just want to clarify in
 22 terms of the hospital is a party to the case. He has

6 (Pages 18 to 21)

Page 22

1 privileges at the hospital and things like that. But
 2 there were no agreements that specifically relate to
 3 any sort of agreements that relate to the litigation
 4 itself.
 5 MR. GASTON: Thank you.
 6 BY MR. GASTON:
 7 **Q All documents identified in Dr. [redacted]'s**
 8 **Answers to Interrogatories.**
 9 **And your lawyer can reference whether or**
 10 **not those have been provided to counsel already.**
 11 MR. [redacted]: Well, I think that the
 12 Answers to Interrogatories referred to the medical
 13 records.
 14 Can we go off the record?
 15 MR. GASTON: Yes. Sure.
 16 (Discussion off the record.)
 17 MR. [redacted] In response to Number 7,
 18 other than the medical records that would be it.
 19 Also in response to the documents provided
 20 to experts I understand also that they may have been
 21 provided a copy of the Complaint, as well as the
 22 Certificate of Merit that was filed in the case.

Page 23

1 MR. GASTON: Thank you.
 2 BY MR. GASTON:
 3 **Q Item Number 8 is all documents that were**
 4 **requested by the Plaintiff in any Request for**
 5 **Production of Documents.**
 6 **I need to know if you have any additional**
 7 **documents other than what has already been produced.**
 8 MR. [redacted]: No.
 9 BY MR. GASTON:
 10 **Q So we are all on the same page as to the**
 11 **documents that were produced with respect to the**
 12 **Request for Production of Documents, I did confirm**
 13 **with Ms. [redacted] that those documents have the**
 14 **markings of [redacted] 0001 through 0169.**
 15 **I just want to be sure that those were all**
 16 **the documents, that those are the actual documents,**
 17 **that have been produced so far for plaintiff's case?**
 18 MR. [redacted]: Well, I think that there are
 19 more than just Dr. [redacted]'s office chart.
 20 Is the question is that the number of
 21 documents that --
 22 MR. GASTON: Let's go off the record for a

Page 24

1 second.
 2 (Discussion off the record.)
 3 MR. GASTON: On the record.
 4 BY MR. GASTON:
 5 **Q Doctor, do you have in front of you today**
 6 **at the deposition a copy of the documents that your**
 7 **lawyer has produced with respect to this litigation?**
 8 A Yes. I do.
 9 **Q Thank you very much.**
 10 **Doctor, are you board-certified in internal**
 11 **medicine?**
 12 A Not internal medicine. Family practice.
 13 **Q Family practice. Okay.**
 14 **And generally speaking what is family**
 15 **practice medicine?**
 16 A It is a general specialty that previously
 17 was known as general practice. The name was changed
 18 to family practice back in the 70s when it became a
 19 specialty which required a residency and has been
 20 considered a specialty since the early 70s.
 21 It includes the practice of taking care of
 22 the whole family, which includes adult medicine,

Page 25

1 pediatrics, gynecology. Originally it was obstetrics,
 2 but that is not really a practice that is part of a
 3 common practice in this area anyway.
 4 **Q Does it also include treating of patients**
 5 **for liver disease, kidney disease, heart disease, lung**
 6 **disease?**
 7 A Yes.
 8 **Q And have you actually treated patients over**
 9 **the last 20 years for those types of complaints?**
 10 A Yes.
 11 **Q Do you treat patients for orthopaedic**
 12 **injuries?**
 13 A Yes. As far as diagnosis.
 14 **Q Have you ever treated a patient for a**
 15 **pelvic fracture?**
 16 A Yes. In concert with the orthopaedist.
 17 **Q So, have you ever had patients that**
 18 **sustained a pelvic fracture other than Mr. [redacted] that**
 19 **was admitted to the hospital that you were then called**
 20 **in to follow-up on their --**
 21 A Yes.
 22 **Q -- medical care?**

7 (Pages 22 to 25)

Page 26

1 A Yes.

2 **Q I forgot to tell you the other rule.**

3 MR. You have to listen to his

4 question, let him finish his question, stop, pause,

5 think, and then give your answer because the Court

6 Reporter cannot take down both of you talking at the

7 same time.

8 THE WITNESS: Okay.

9 BY MR. GASTON:

10 **Q Doctor, it is my understanding that there**

11 **has never been a claim for medical malpractice brought**

12 **against you; is that correct?**

13 A Yes.

14 **Q And you have never testified on or on**

15 **behalf of a doctor on a patient in a medical**

16 **malpractice matter?**

17 A Yes. That is true.

18 **Q Doctor, I see in accordance with your CV**

19 **which has been marked as Exhibit Number 7 that you**

20 **have a medical license in Virginia, Maryland, Ohio,**

21 **Pennsylvania and North Carolina.**

22 **Is that correct?**

Page 27

1 A That is correct.

2 North Carolina and Pennsylvania are

3 inactive.

4 **Q When is the last time you actually**

5 **practiced medicine in the State of Ohio?**

6 A That was during my residency. 1974 to

7 1977.

8 **Q And when is the last time that you**

9 **practiced medicine in the State of Virginia?**

10 A That was 2002 or thereabouts.

11 **Q Would it be fair to say that your medical**

12 **practice for the last nine years has been limited to**

13 **treating patients within the State of Maryland?**

14 A Yes.

15 **Q And where is your medical office located?**

16 A

17

18 **Q And how many hospitals do you have**

19 **privileges at, Doctor?**

20 A One currently.

21 **Q What is that hospital?**

22 A

Page 28

1 **Q Doctor, have you reviewed the documents**

2 **that you brought with you today that are in front of**

3 **you that I understand is the same documents that were**

4 **provided by counsel before coming to your deposition?**

5 A Yes.

6 **Q And the documents we are referring to is**

7 **the medical chart of _____ for the treatment**

8 **he received at _____ (General Hospital from May _____),**

9 **to May _____, and also --**

10 MR. _____: Let me just object.

11 BY MR. GASTON:

12 **Q I'm sorry.**

13 **-- and additional medical records with**

14 **respect to the care that Mr. _____ has received over**

15 **the years.**

16 **Is that a general description of the**

17 **documents that you have in front of you?**

18 A Yes.

19 **Q Do they include your chart as well?**

20 A Yes.

21 **Q Can you tell me which of the pages of the**

22 **documents that you have in front of you are**

Page 29

1 **specifically your chart from your medical office?**

2 A 001 through 0169.

3 **Q So, all of these documents 001 through 0169**

4 **are your actual medical chart for Mr. _____?**

5 MR. _____: Do you understand his

6 question?

7 THE WITNESS: Yes. I do.

8 It is our medical chart which also includes

9 documents from consultations, hospital records and

10 anything pertaining to Mr. _____'s care.

11 BY MR. GASTON:

12 **Q Would it also include the medical records**

13 **pertaining to his inpatient stay at**

14 **Hospital from May _____, through May _____?**

15 A Not entirely. There are some summaries of

16 what happened in the hospital such as the lab results.

17 But it doesn't contain the whole record of the

18 hospitalization.

19 **Q Have you actually seen a copy and reviewed**

20 **a copy of Mr. _____ medical chart from**

21 **Hospital?**

22 A Yes.

8 (Pages 26 to 29)

Page 30

1 Q And did you also look at that recently in
 2 preparation for your deposition?
 3 A Yes.
 4 Q Upon going through the medical chart for
 5 the care that Mr. received at
 6 Hospital -- and when I talk about the care he received
 7 at Hospital we are all talking
 8 about the care from May th to May , unless
 9 I direct otherwise.
 10 When you reviewed the chart from the
 11 hospital for the care he received is there any
 12 inaccuracies that you found in any of the medical
 13 records?
 14 MR. : I will just object to the
 15 form of the question as to the term inaccuracies.
 16 But you may go ahead and answer.
 17 THE WITNESS: Well, we found that the
 18 orders written by the nurses were not easily
 19 identified as to the time and it became that that was
 20 the main thing. Otherwise they were accurate, but we
 21 have trouble putting together the timeline on what the
 22 nurses wrote on the orders.

Page 31

1 BY MR. GASTON:
 2 Q Are you claiming that any of the nurses at
 3 Hospital failed to carry out any of
 4 the orders in a timely fashion?
 5 MR. : Well, let me just object to
 6 the form of the question. His original answer was
 7 relating to the chart.
 8 But you can go ahead and answer the
 9 question.
 10 THE WITNESS: Can you clarify that question
 11 again?
 12 BY MR. GASTON:
 13 Q Are you claiming that any of the orders
 14 that the nurses carried out were not carried out in a
 15 timely fashion?
 16 MR. : Objection to the form.
 17 You may answer.
 18 THE WITNESS: No. I am not claiming that.
 19 BY MR. GASTON:
 20 Q Are there any other inaccuracies or
 21 problems that you found with the medical chart such as
 22 missing documents, misfiled documents, incorrect

Page 32

1 notations in the chart, anything that is unusual or
 2 any problems that you saw with any of the medical
 3 chart?
 4 MR. : I will object to the form of
 5 the question, especially to the term, quote,
 6 "unusual," unquote, and to the quote, "problems,"
 7 unquote that are in the question and to the compound
 8 nature of the question.
 9 But you may go ahead and answer.
 10 THE WITNESS: No.
 11 BY MR. GASTON:
 12 Q Are you claiming in this case that any of
 13 the nurses from Hospital did
 14 something or didn't do something that caused or
 15 contributed to Mr. 's death?
 16 MR. Object to the form and
 17 foundation.
 18 You may answer.
 19 THE WITNESS: No.
 20 BY MR. GASTON:
 21 Q Are you claiming in this case that
 22 Dr. , did anything or failed to

Page 33

1 do anything that caused or contributed to Mr.
 2 death?
 3 MR. Objection to form and
 4 foundation.
 5 You may answer.
 6 THE WITNESS: No.
 7 BY MR. GASTON:
 8 Q Are you claiming in this case any of the
 9 information that you received from Dr. through
 10 any conversations you had with him regarding
 11 Mr. 's death was either inaccurate or incomplete?
 12 MR. : I will object to the form and
 13 foundation.
 14 You can answer.
 15 THE WITNESS: No.
 16 BY MR. GASTON:
 17 Q And the same question goes to Dr.
 18 MR. : Object to the form and
 19 foundation.
 20 You can answer.
 21 THE WITNESS: No.
 22 BY MR. GASTON:

Page 34

1 Q Any information that you received from any
2 of the doctors who saw Mr. at the hospital, are
3 you claiming that any of that information -- first
4 off, did you rely upon any information received from
5 any doctors who saw and treated Mr. at the
6 hospital in formulating your diagnosis and a plan of
7 medical care for Mr. ?
8 MR. : I will object to the form.
9 But you can answer.
10 MR. : I have the same objection.
11 THE WITNESS: Can you clarify the question?
12 BY MR. GASTON:
13 Q Sure.
14 It is my understanding that during the
15 course of Mr. 's care he was seen by other
16 doctors other than yourself. I see in the notes that
17 the doctors make notes of their consultation. I also
18 see in the notes there are some records of Dr.
19 conferred with this doctor and Dr. , conferred
20 with another doctor.
21 What I am asking you is did you rely upon
22 any of that information from those doctors -- and I

Page 35

1 know there are several of them and we can go over them
2 one by one -- in formulating your treatment plan for
3 Mr. while he was at the hospital?
4 MR. : Objection to form.
5 MR. : Join.
6 MR. : You can answer.
7 THE WITNESS: I incorporated the results of
8 consultations with them to my thought processes.
9 BY MR. GASTON:
10 Q Let's talk about the orthopaedic doctor
11 that saw Mr. when he was first admitted.
12 Do you remember that doctor's name by
13 chance?
14 A I believe it was Dr.
15 Q : Okay.
16 And do you recall the information that
17 Dr. conveyed to you after his examination of
18 Mr. when he was first admitted through the ER?
19 MR. : You can certainly go into the
20 chart and refer to the chart.
21 BY MR. GASTON:
22 Q Well, let me ask you a question.

Page 36

1 Before you look at your chart do you have
2 an independent recollection of that conversation now
3 as you look back three years ago?
4 A My recollection is that there was not any
5 verbal conversation. The communication was in the
6 chart written.
7 Q So, you did not speak with Dr. ?
8 A Right.
9 Q Did you speak to Dr. at any time
10 during the three days that Mr. was a patient at
11 the hospital?
12 A Well, I don't recall any particular
13 conversation.
14 Often my communication with the
15 orthopaedist is through their physician's assistant
16 who I meet in the morning in the hospital.
17 I do not recall any conversations about
18 Mr. , I don't recall any conversations with him.
19 Q Upon reading the consultation notes that
20 are in the file what was your understanding of
21 Mr. 's medical condition when he was admitted to
22 the hospital?

Page 37

1 MR. : Are you asking him for his
2 impression or from the doctor?
3 BY MR. GASTON:
4 Q Well, my understanding, Dr. , is you
5 did not speak with Dr.
6 A Right.
7 Q So, any information -- and you can correct
8 me if I am wrong -- any information you learned about
9 his orthopaedic condition would be from the documents
10 you read in the chart.
11 Would that be a fair statement?
12 A Yes.
13 Q What is your understanding after reading
14 the charts of Mr. 's orthopaedic condition or
15 injury when he was admitted to the hospital?
16 MR. : Please go to the chart.
17 Are you directing him to a specific
18 timeframe?
19 MR. GASTON: I am just asking him what his
20 general understanding was.
21 THE WITNESS: Well, my main communication
22 from Dr. was his dictated consultation,

10 (Pages 34 to 37)

Page 38

1 which is on pages 10034 through 10036. And it
 2 indicated the diagnosis was a left acetabular fracture
 3 and it was decided that he did not need surgery, that
 4 he would need a prolonged period of nonweightbearing
 5 and traction and it was suggested that Mr. would
 6 need pain management.
 7 BY MR. GASTON:
 8 Q Did you actually look at the x-ray films of
 9 the fractured pelvis?
 10 A No.
 11 I relied on Dr. 's report and the
 12 report of the radiologist, the written reports.
 13 Q It is my understanding that Mr. had
 14 been your patient for a number of years.
 15 A Yes.
 16 Q And when did you first start seeing
 17 Dr. ?
 18 A Let me look in the chart.
 19 January
 20 Q Is it your understanding that before
 21 Mr. was admitted to the hospital that he was
 22 suffering from polyneuropathy?

Page 39

1 A Yes.
 2 Q Did he also have an autoimmune disorder?
 3 A Well, he had been followed at
 4 for not well determined problems which were of the
 5 nature of autoimmune disorder.
 6 Q Did you actually refer him to the doctors
 7 at for a consultation to try to ascertain or
 8 better understand his illness?
 9 MR. : Let me just object to the
 10 form in terms of, quote, "illness," unquote.
 11 Please look to your chart when you are
 12 answering these questions.
 13 THE WITNESS: Okay.
 14 MR. : But you may answer.
 15 THE WITNESS: The referrals to
 16 came through local specialists that he had
 17 been seeing, the neurologist. My recollection is that
 18 Mr. was referred by the neurologist to
 19 is originally.
 20 BY MR. GASTON:
 21 Q And did those doctors communicate with you
 22 and send you the results of their evaluations and

Page 40

1 examinations of Mr. ?
 2 MR. : I will object to the form as
 3 to, quote, "those doctors," unquote.
 4 But you can answer.
 5 THE WITNESS: Yes.
 6 BY MR. GASTON:
 7 Q Does the name Dr. come to mind?
 8 A Yes.
 9 Q And was he one of Mr. 's doctors at
 10 Hospital that was treating him?
 11 A Let me look.
 12 (Witness perusing documents.)
 13 Q Doctor, while you are looking, do you have
 14 an independent recollection that Dr. was one
 15 of the doctors at Hospital that had been
 16 treating Mr. within the year or two before his
 17 admission to Hospital?
 18 A I recollect the name.
 19 Q Other than the name, I don't want to put
 20 words in your mouth.
 21 Do you know specifically the type of doctor
 22 Dr. is, whether he is a nephrologist,

Page 41

1 internal medicine, rheumatologist?
 2 Do you have any idea?
 3 A Let me look.
 4 (Witness perusing documents.)
 5 I think we called somebody from a listing
 6 of physicians at
 7 Dr. was identified as a
 8 neurologist.
 9 Q But you can't remember today exactly what
 10 type of doctor Dr. is; is that correct?
 11 A Not for certain.
 12 Q I will ask you another question, Doctor.
 13 Doctor, let's go back to the time Mr.
 14 came under your care.
 15 How were you aware that he was in the
 16 hospital?
 17 A A call from the Emergency Room.
 18 Q Do you have an independent recollection now
 19 of what they told you?
 20 A At this point I would have to refer to the
 21 documentation.
 22 Q Did you go to the hospital?

Page 42

1 A Let me get that in front of me.
 2 MR. : He asked you another
 3 question. Just listen to the question.
 4 BY MR. GASTON:
 5 Q Did you go to the hospital?
 6 A Yes.
 7 Q When you arrived at the hospital did you
 8 see Mr. ?
 9 A Yes.
 10 Q Do you remember what, if anything, he told
 11 you that happened that night before?
 12 Do you have any independent recollection of
 13 that?
 14 MR. : Outside of the chart?
 15 BY MR. GASTON:
 16 Q I am asking you right now sitting here
 17 without looking at the chart do you have an
 18 independent recollection what Mr. told you when
 19 you saw him in the Emergency Room at the hospital?
 20 A Most of that information came to me from
 21 the Emergency Room record of that he had had a dose of
 22 IVIG and had taken two drinks of alcohol and had some

Page 43

1 other medication, I believe it was Ativan, and that he
 2 had fallen.
 3 Let me refer to my History and Physical.
 4 That is where I wrote down what he had told me.
 5 As I recall this information came from his
 6 wife that he was adjusting the thermostat and passed
 7 out and fell to the floor.
 8 Q Is that your handwriting on page 10017,
 9 Doctor?
 10 A Yes. It is.
 11 Q Is that the notes that you made after
 12 speaking with Mr. , and I presume you also spoke
 13 to his wife at the time, to obtain a history of what
 14 happened prior to his arrival at the hospital?
 15 A Right. Correct.
 16 Q I am having a hard time. Sorry. I am
 17 having a hard time reading your writing. It is not a
 18 criticism because most people can't read mine.
 19 Can you go through and just tell me what
 20 you wrote down there?
 21 A Yes.
 22 MR. : And you are referring to

Page 44

1 10017?
 2 MR. GASTON: Yes, sir.
 3 THE WITNESS: The Chief Complaint is left
 4 hip pain.
 5 History of Present Illness: Patient had a
 6 fall after treatment yesterday with IVIG and
 7 Prednisone by Dr.
 8 Then there is an arrow. Two alcohol
 9 drinks.
 10 It says: Was adjusting the thermostat.
 11 There is a time in there.
 12 Then the a.m. he was adjusting thermostat
 13 and passed out and fell on the floor. He went to the
 14 Emergency Room.
 15 CT of the head was okay.
 16 Labs okay.
 17 Left acetabular fracture.
 18 BY MR. GASTON:
 19 Q Where is the reference to labs okay?
 20 A The last line of the History of Present
 21 Illness.
 22 Q Yes, sir.

Page 45

1 I see CT of the head okay.
 2 Is that second word or phrase where it says
 3 labs okay? Is that where you are referring to?
 4 A Yes.
 5 Q Thank you, Doctor. Go ahead.
 6 A Do you want me to read the whole page?
 7 Q Yes, please, if you would.
 8 A Allergies: None.
 9 Medications and Dosages:
 10 Aggrenox b.i.d.
 11 Verapamil SR 180 b.i.d.
 12 Avapro 150 milligrams b.i.d.
 13 Lisinopril 20 b.i.d.
 14 Clonidine .1 b.i.d.
 15 AndroGel 5 milligrams, two daily.
 16 Then crossed off was Toprol XL 50.
 17 Q Do you know why you crossed that off?
 18 A Because I think it was pointed out that he
 19 was no longer on that. That was the reason for that.
 20 Q Please continue.
 21 A Norvasc 2.5 b.i.d.
 22 Singulair 10.

12 (Pages 42 to 45)

Page 46

1 Aspirin or ASA 325.
 2 Albuterol.
 3 Flonase inhalers.
 4 Cymbalta 30.
 5 Penicillin 500 q.i.d.
 6 IVIG two or three days.
 7 B12 injections.
 8 CPAP.
 9 Uroxatral 10 milligrams.
 10 There was one other medicine there. Ostac.
 11 That is I believe a calcium replacement.
 12 **Q What is the word under the U-N-O-X-Y-P-O**
 13 **10 milligrams?**
 14 A That is Uroxatral.
 15 **Q Okay. Thank you.**
 16 A Well, are you asking for the one below
 17 that?
 18 **Q The one below it. Yes, Doctor.**
 19 **It looks like nothing, but I don't know**
 20 **what that means.**
 21 **Is that morphine?**
 22 **I am just guessing. I don't know. You**

Page 47

1 **have to help me out with that.**
 2 A I am trying to interpret that.
 3 I am not sure what that says right now.
 4 **Q Okay.**
 5 **We can go to Past Medical/Surgical History.**
 6 **If you can read those.**
 7 **I have the numbers here 1, 2, 3.**
 8 A Right.
 9 **Q Go ahead, Doctor.**
 10 A Polyneuropathy.
 11 Up arrow BP for hypertension.
 12 BPH means benign prostatic hypertrophy.
 13 Dementia.
 14 **Q Is that number 4?**
 15 A No.
 16 **Q Dementia is 5.**
 17 **What is number 4? Back-up to the first**
 18 **line. I didn't catch what that was?**
 19 A Number 4 was --
 20 MR. : Would it be helpful if I
 21 could maybe give some guidance?
 22 MR. GASTON: I would rather you not assist

Page 48

1 the witness. I want to know if he can read his own
 2 handwriting.
 3 THE WITNESS: I am not sure what that says
 4 right now.
 5 BY MR. GASTON:
 6 **Q Number 5, Doctor?**
 7 A Dementia.
 8 **Q Number 6?**
 9 A Hypogonadism.
 10 **Q Number 7?**
 11 A Asthma.
 12 **Q Number 8?**
 13 A Severe sleep apnea.
 14 **Q Number 9?**
 15 A Depression/anxiety.
 16 **Q Number 10?**
 17 A Renal insufficiency.
 18 **Q What was the nature of Mr. 's renal**
 19 **insufficiency that you noted in number 10 upon his**
 20 **admission to the hospital?**
 21 A That was noted in the consultation from
 22 , plus it was a listing that Mrs.

Page 49

1 had on her listing also.
 2 **Q Renal insufficiency does that refer to**
 3 **kidney disease?**
 4 A Yes.
 5 **Q Does it also refer to a decrease in the**
 6 **kidney function?**
 7 A Yes.
 8 **Q Do you know what his output was, how much**
 9 **it was decreased by a percentage, or can you give me**
 10 **an understanding of what you understood that renal**
 11 **insufficiency to be at the time he was admitted to the**
 12 **hospital?**
 13 MR. : Look at the chart.
 14 While he is looking off the record.
 15 (Discussion off the record.)
 16 THE WITNESS: If you look in the lab report
 17 0122.
 18 BY MR. GASTON:
 19 **Q 0122? Is this your records?**
 20 A My records.
 21 **Q Excuse me, Doctor.**
 22 **I am there, Doctor.**

13 (Pages 46 to 49)

Page 50

1 A The creatinine at that time 11:30:04 was
 2 1.7. It was mildly elevated.
 3 The BUN was 32. That was mildly elevated.
 4 Q And mildly elevated means what in laymen's
 5 terms with respect to the kidney function?
 6 A Increased creatinine means decreased renal
 7 function. So, his creatinine was above normal.
 8 Q Is creatinine one of those chemicals or
 9 some other type of fluid or item that is found in
 10 blood that they test to see the level to determine how
 11 deficiently the kidney is filtering the blood?
 12 A Yes.
 13 Q And do you know the creatinine level of 1.7
 14 how that relates to decreased kidney function?
 15 Is the kidney function 100 percent,
 16 95 percent, 90?
 17 Can you give me any idea?
 18 A No. I can't give you that.
 19 Q Do you know what the creatinine level was
 20 from his admission, whether or not the blood tests
 21 were available for you to review, when you wrote that
 22 note on page 10017?

Page 51

1 MR. : You mean the specific time he
 2 did the H&P? Is that what you are saying?
 3 BY MR. GASTON:
 4 Q Right.
 5 Do you know what the levels were at that
 6 time?
 7 Because you mentioned that labs were okay I
 8 am wondering if you can tell me what okay means with
 9 respect to the creatinine level.
 10 A On 5/16 --
 11 Q What page, Doctor.
 12 A Page 10144.
 13 Q Okay, Doctor. Go ahead.
 14 A The creatinine at that time was normal.
 15 1.4.
 16 Q 1.4 is normal. 1.7 is mildly elevated.
 17 Would that be accurate?
 18 A Right.
 19 And there was a level back in the previous
 20 record up to 1.9.
 21 Q 1.9. Okay.
 22 Now, did the renal insufficiency cause you

Page 52

1 to do anything with respect to the management of
 2 Mr. 's kidneys?
 3 The note renal insufficiency, did that note
 4 at all cause you to do anything to change his
 5 medications to address for renal insufficiency at that
 6 time?
 7 MR. : Objection to form.
 8 You can answer.
 9 THE WITNESS: No.
 10 BY MR. GASTON:
 11 Q All right, Doctor.
 12 Let's go ahead with Social History. We are
 13 back on 10017.
 14 A Social History. No smoking.
 15 Q Okay.
 16 A Alcohol three or four a day.
 17 Married. No children.
 18 Works in the office of wife's real estate
 19 as manager.
 20 Q If you can follow on the rest?
 21 A Family History.
 22 Father had an MI.

Page 53

1 Uncle diabetes.
 2 Brother diabetes.
 3 No cancer in the family.
 4 Q What does Review of Systems mean, Doctor?
 5 A Just it refers to discerning whether there
 6 are any particular complaints related to different
 7 body systems.
 8 Q Was that based upon your evaluation of him
 9 after you did a physical examination and reviewed the
 10 medical chart?
 11 A It is a review. I mean it is a history
 12 asking him.
 13 Q Okay, Doctor.
 14 What did you write? What did you note
 15 there?
 16 A Head, eyes, ears and throat negative.
 17 Cardiorespiratory negative.
 18 GI negative.
 19 CR, cardiorespiratory, negative.
 20 Musculoskeletal is okay except for the
 21 current problem, which is the pain. The main problem
 22 with the pain in his hip which is addressed in the

Page 54

1 History of Present Illness.
 2 **Q So, that is basically just what he is**
 3 **telling you, correct?**
 4 A Correct.
 5 **Q When you said labs were okay, the initial**
 6 **lab did they do a red blood count, hemoglobin count,**
 7 **hematocrit count when he first came in?**
 8 **What I will add is I will show you what has**
 9 **been marked as Exhibit Number 4. This is from the**
 10 **medical records. It is actually 00230. I**
 11 **pulled that out because I think that contains the lab**
 12 **reports, Doctor, and you can correct me if I am wrong.**
 13 **Can you tell me what was your understanding**
 14 **of the hemoglobin and hematocrit level upon his**
 15 **admission to the hospital?**
 16 A His hemoglobin was 11.6. His hematocrit
 17 was 33.3. They were slightly low.
 18 His white count was normal.
 19 **Q Let's go back to the hematocrit/hemoglobin.**
 20 **What is the normal hematocrit in your**
 21 **opinion based upon years of experience treating**
 22 **patients in a family practice setting?**

Page 55

1 MR. : Let me just object to the
 2 form and foundation.
 3 Are you referring to the lab in this
 4 hospital or others?
 5 MR. GASTON: What I am asking for is what
 6 is his understanding of a normal hematocrit level
 7 based upon his treating of patients. And we are
 8 talking about a male of the same age and weight of
 9 Mr.
 10 MR. : I will object to the form and
 11 foundation.
 12 THE WITNESS: The hemoglobin I mean the
 13 normal is 14.
 14 MR. : Just for the record, he is
 15 referring to the entries on Exhibit Number 4.
 16 THE WITNESS: Especially in people who have
 17 a history of renal insufficiency it is not unusual to
 18 have a little bit lower hemoglobin and hematocrit.
 19 BY MR. GASTON:
 20 **Q I thought the hematocrit was the 11.3; is**
 21 **that correct?**
 22 A The hemoglobin was 11.6.

Page 56

1 **Q 11.6.**
 2 A The hematocrit was 33.3.
 3 **Q And what would be a normal hematocrit for a**
 4 **man the same age and weight of Mr. i?**
 5 MR. : Objection to form and
 6 foundation.
 7 You can answer.
 8 THE WITNESS: I mean the laboratory lists
 9 42.
 10 BY MR. GASTON:
 11 **Q Do you agree with that?**
 12 MR. : Objection to form.
 13 You can answer.
 14 THE WITNESS: Well, I agree with the
 15 laboratory normals for a normal person. Having
 16 slightly low hematocrit/hemoglobin is not unusual in
 17 somebody with renal insufficiency.
 18 BY MR. GASTON:
 19 **Q It is not unusual, but still it is below**
 20 **the norm for an otherwise healthy individual with no**
 21 **renal insufficiency?**
 22 A It is slightly below.

Page 57

1 My reference to labs being okay was that it
 2 was not significantly out of range.
 3 **Q And based upon your reading of the lab**
 4 **reports, with your knowledge of the hematocrit and**
 5 **hemoglobin levels as they are indicated in the lab,**
 6 **did you make any decisions to address those specific**
 7 **levels with any care or treatment provided to**
 8 **Mr. to increase any of those levels?**
 9 MR. : Object to the form.
 10 Can you define when you are talking about
 11 levels?
 12 MR. GASTON: Well, the levels that the
 13 doctor just testified to that were found in the blood
 14 test reports.
 15 BY MR. GASTON:
 16 **Q The levels of the hematocrit and the levels**
 17 **of the hemoglobin because they were less than normal**
 18 **for a normal person without renal insufficiency, and**
 19 **knowing that Mr. had renal insufficiency, based**
 20 **upon reading those levels did you take any action to**
 21 **address those levels?**
 22 MR. : Objection to form and

15 (Pages 54 to 57)

Page 58

1 foundation.

2 You can answer.

3 THE WITNESS: There was no indication for

4 action at that point. He had had work-ups. He was

5 known to have a low B12 level as being in place.

6 I didn't feel that any action was

7 appropriate at the time.

8 BY MR. GASTON:

9 Q Doctor, for the lab reports in

10 Hospital as soon as the lab has the results

11 from the blood test are they on a computer that you

12 can go to a keyboard and access or do you have to

13 actually wait until they print out a hard copy that is

14 put into the medical file and then go to the medical

15 file to read the hard copy of the report?

16 A There is computer access.

17 Q So, from a time perspective as soon as the

18 lab technician uploads the data on to the computer

19 screen at the hospital it is immediately accessible to

20 the patient's treating physician?

21 MR. : Let me just object to the

22 form and foundation because you are asking a general

Page 59

1 question.

2 Is that correct?

3 BY MR. GASTON:

4 Q Well, Doctor, you just told me that these

5 laboratory results are available by computer, correct?

6 A Correct.

7 Q So, would it be fair to say, you can tell

8 me if I am wrong because you are familiar with the

9 hospital, you admit patients there, as soon as the

10 laboratory technician can input the data, the values

11 from the blood tests on to the computer in the

12 hospital, you should be able to have immediate access

13 to that?

14 Would that be a fair statement?

15 MR. : Let me just object to the

16 form and foundation because you haven't established

17 where this treating physician was physically located

18 and what access they would have.

19 But you can answer.

20 THE WITNESS: I mean it is available on the

21 computer. I mean it is usually only accessed once a

22 day or so. But it is monitored by the nurses also.

Page 60

1 BY MR. GASTON:

2 Q So, the nurses have immediate access to the

3 laboratory results and treating physicians like

4 yourself can walk into the hospital at the nurses

5 station and either ask the nurse to pull it up on the

6 computer screen for you or you could do that yourself.

7 Would that be a fair statement?

8 A Yes.

9 Q Let's go to page 018.

10 Actually you can keep that exhibit there,

11 Doctor.

12 Is that your handwriting on page 10018?

13 A Can I clarify something from before?

14 Q Yes, Doctor. Of course.

15 A That diagnosis on the History and Physical

16 that was kidney stones in the past.

17 Q Are you talking about number 4?

18 A Yes.

19 Q Is that a medical term there for kidney

20 stones in the past that you wrote?

21 MR. : What page are you on?

22 MR. GASTON: 10017.

Page 61

1 MR. : Let me object to the form of

2 your question as to what is a, quote, "medical term,"

3 unquote.

4 You can answer.

5 THE WITNESS: It is a commonly used term

6 for the condition.

7 BY MR. GASTON:

8 Q What is that word? Is that kidney stones

9 in past or something else, Doctor?

10 A Kidney stones in past.

11 Q Okay. Thank you.

12 Now let's go to the next page 10018.

13 Is that your handwriting, Doctor?

14 A Yes.

15 Q Did you personally physically examine

16 on May th?

17 A Yes.

18 Q Do you know what time that occurred?

19 A Approximately 8:00 o'clock in the morning.

20 Q What were your findings on physical

21 examination?

22 A General Appearance: Good.

16 (Pages 58 to 61)

Page 62

1 Eye fundi were normal.
 2 Throat is normal.
 3 Neck is normal.
 4 Heart: Rate regular. No murmurs or
 5 gallops.
 6 Lungs: Clear.
 7 Abdomen: Soft, non-tender, no masses.
 8 Extremities: Left hip tenderness.
 9 Skin: Normal.
 10 Neurological: Normal.
 11 Mental Status: Normal.
 12 Impression: Left hip fracture and multiple
 13 historical problems.
 14 The Plan was admit and an orthopaedic
 15 consult.
 16 **Q Doctor, I think you testified before that**
 17 **you have treated patients who have suffered hip**
 18 **fractures.**
 19 **Would that be true?**
 20 A That is true.
 21 **Q And this type of fracture is an acetabular**
 22 **fracture?**

Page 63

1 A Acetabular.
 2 **Q Acetabular.**
 3 **What are some of the risks associated with**
 4 **an acetabular pelvic fracture?**
 5 MR. : Objection to form and
 6 foundation.
 7 You can answer.
 8 THE WITNESS: The risks, you know, have a
 9 lot to do with the need to be at bedrest.
 10 There can be some swelling around the
 11 fracture site.
 12 There are things that you need to monitor
 13 for stability there.
 14 BY MR. GASTON:
 15 **Q What would cause swelling around the**
 16 **fracture site, Doctor?**
 17 A The trauma.
 18 **Q Trauma to the tissue, soft tissue?**
 19 A Right.
 20 **Q Did that also include trauma to the vessels**
 21 **inside the body that carry blood?**
 22 A There can be some trauma there too.

Page 64

1 **Q Is there any particular danger of bleeding**
 2 **that you are aware of that is associated with an**
 3 **acetabular fracture?**
 4 A Acetabular.
 5 MR. : Objection to form and
 6 foundation.
 7 You can answer.
 8 THE WITNESS: You can get some hematomas
 9 and things around the site of the fracture.
 10 BY MR. GASTON:
 11 **Q Is there such a term called retroperitoneum**
 12 **hematoma?**
 13 A Well, there is that term.
 14 **Q Are you familiar with that term as it**
 15 **relates to risks from this type of pelvic fracture**
 16 **that Mr. sustained?**
 17 MR. : Objection to form and
 18 foundation.
 19 You can answer.
 20 THE WITNESS: I am familiar with
 21 retroperitoneal hematomas. I know what it is.
 22 BY MR. GASTON:

Page 65

1 **Q And were you aware when you were treating**
 2 **Mr. that this is one of the known complications**
 3 **of the pelvic fracture that he sustained and to be**
 4 **aware of it and to watch for it?**
 5 MR. : Objection to form and
 6 foundation.
 7 You can answer.
 8 THE WITNESS: Yes. I am aware of it.
 9 MR. : Listen to his question please
 10 because there is elements in his question.
 11 THE WITNESS: Okay.
 12 BY MR. GASTON:
 13 **Q I am talking about retroperitoneum hematoma**
 14 **or hemorrhage as it relates to the type of pelvic**
 15 **fracture that Mr. sustained.**
 16 **Are you aware that this is a risk**
 17 **associated with this type of fracture?**
 18 MR. : Objection to form and
 19 foundation.
 20 You can answer.
 21 BY MR. GASTON:
 22 **Q It is either yes or no.**

17 (Pages 62 to 65)

Page 66

1 MR. : He can answer and then
2 explain.
3 BY MR. GASTON:
4 Q Are you aware that this is a risk
5 associated with the type of fracture that Mr.
6 sustained?
7 A Yes.
8 Q And were you aware of this by your training
9 in medical school? Would that be the first time that
10 you became aware of that?
11 A I can't recall. There has been a lot of
12 things that have happened since then.
13 Q When were you first aware that this was a
14 complication or risk that you should be aware of for
15 patients who sustained a type of pelvic fracture that
16 Mr. sustained?
17 When did you gain that knowledge, Doctor?
18 A I can't say that.
19 Q Five years? Ten years? 20 years?
20 A I don't think I should say that either.
21 Q You just don't know?
22 A I am not sure when that knowledge was

Page 67

1 acquired. No.
2 Q When you treated patients with hip
3 fractures before did you have that knowledge at that
4 time?
5 A Yes.
6 Q When is the first time that you treated a
7 patient for a hip or pelvic fracture?
8 A I don't really recall that. I don't
9 remember.
10 Q How many patients have you treated for hip
11 fractures before you treated Mr. for his hip
12 fracture?
13 MR. You are referring in
14 conjunction with another doctor, orthopaedic surgeon?
15 BY MR. GASTON:
16 Q Well, I think, Dr. , that you said
17 you did treat patients with hip fractures before in
18 your practice.
19 A Right.
20 Q What I am trying to figure out is how many
21 patients have you treated for hip fractures, pelvic
22 fractures, before you treated Mr. for a pelvic

Page 68

1 fracture?
2 A In the last two or three years there were
3 probably two or three.
4 Q We have to go before May ' , That is the
5 timeframe we are talking about.
6 Before you treated Mr. how many
7 patients had you treated for hip fracture?
8 A I can't give you a number.
9 Q Was it even one? Do you know if you even
10 treated one patient?
11 A Yes.
12 Q One?
13 A I mean I treated hip fractures in Pakistan.
14 Q So, it is at least one.
15 Is it less than five?
16 MR. : Objection. You asked the
17 question and he said he can't tell you the number.
18 But you can answer the question.
19 THE WITNESS: Let me think.
20 Probably five.
21 BY MR. GASTON:
22 Q Probably five. Okay.

Page 69

1 Five before Mr. Okay.
2 In those five patients that you treated
3 before you treated Mr. what tests or
4 examinations would you employ to check for the
5 retroperitoneum hemorrhage in the pelvic area?
6 How would you account for that? How would
7 you check for that? How would you make sure that that
8 wasn't something that was going on with those patients
9 you treated before you treated Mr. ?
10 A Observation and serial blood tests.
11 Q What about your observations would lead you
12 to believe that a person was suffering from a
13 retroperitoneum hemorrhage for a person that had a
14 pelvic fracture?
15 A I would watch their general condition,
16 their blood pressure, their blood counts.
17 Q What about their general condition would
18 suggest to you that there was a bleed going on in the
19 area of the pelvis?
20 MR. : Objection to form and
21 foundation.
22 You can answer.

18 (Pages 66 to 69)

Page 70

1 THE WITNESS: Well, if they become
 2 unstable, you know, the blood pressure is unstable,
 3 observing the blood counts.
 4 BY MR. GASTON:
 5 Q The observations are not necessarily the
 6 physical observation of the patients. It is the
 7 observations of the vital signs.
 8 Would that be accurate?
 9 The blood pressure, the blood counts,
 10 things of that nature.
 11 Would that be a fair statement?
 12 A Yes.
 13 Q And what about the blood pressure would
 14 lead you to believe or give you reason to suspect that
 15 there was an internal bleeding in the pelvic area?
 16 A Well, if it got low.
 17 Q A drop in blood pressure?
 18 A Yes.
 19 Q And what would you consider a drop in blood
 20 pressure enough to raise an eyebrow or to cause you to
 21 believe that there may be internal bleeding going on
 22 in the pelvic area of a patient that suffered a pelvic

Page 71

1 fracture such as Mr. ?
 2 MR. : I will object to the form and
 3 to the foundation.
 4 THE WITNESS: When you object to the form
 5 and foundation what does that mean actually?
 6 BY MR. GASTON:
 7 Q Doctor, your lawyer can object and he can
 8 either instruct you not to answer the question or to
 9 answer the question. That is usually how things flow.
 10 Right now your lawyer has not told you that
 11 you couldn't answer the question. So, I would ask you
 12 to answer the question.
 13 MR. : The reason for the objection
 14 is that you said such as a patient like Mr. and
 15 that was the reason for the form and the foundation as
 16 far as my objection.
 17 THE WITNESS: Could you restate the
 18 question?
 19 BY MR. GASTON:
 20 Q Sure.
 21 What drop in blood pressure would send off
 22 red flares in a patient such as Mr. who

Page 72

1 sustained a similar hip fracture as Mr. that
 2 would cause you to do something?
 3 This has to do with the bleeding. You said
 4 a drop in blood pressure was one of those things you
 5 would look for.
 6 How much of a drop in blood pressure would
 7 you need to see before it would cause you to believe
 8 that there was internal bleeding going on in a patient
 9 with a hip fracture such as Mr. ?
 10 MR. : I will object to the form and
 11 foundation.
 12 You can answer.
 13 THE WITNESS: A significant drop.
 14 BY MR. GASTON:
 15 Q Which is what?
 16 I don't know what significant means,
 17 Doctor.
 18 MR. : Objection to form.
 19 BY MR. GASTON:
 20 Q What is significant in your opinion?
 21 MR. : Objection to form and
 22 foundation.

Page 73

1 You can answer.
 2 THE WITNESS: A 20-millimeter mercury or
 3 blood pressure less than 100.
 4 BY MR. GASTON:
 5 Q Do you recall now whether Mr. had
 6 such a drop in blood pressure?
 7 A He had some labile drops. The systolic got
 8 less than 100. But after he moved it came back up.
 9 Go ahead.
 10 Q So, there was a drop in blood pressure.
 11 Did that suggest to you that there could be
 12 internal bleeding going on at the time?
 13 A It suggested to me that he should receive
 14 increased fluids.
 15 Q Does that include blood products as well?
 16 MR. : Objection to form.
 17 THE WITNESS: It can.
 18 Initially the response is fluid
 19 replacement.
 20 BY MR. GASTON:
 21 Q Do you think he was actually bleeding
 22 internally at that time when he had that drop in blood

Page 74

1 pressure?
2 MR. : Objection to form and
3 foundation.
4 THE WITNESS: No.
5 BY MR. GASTON:
6 Q Did you ever during your care and treatment
7 of Mr. believe that he was bleeding internally
8 at the location around the site of the pelvic
9 fracture?
10 MR. : Objection to form and
11 foundation.
12 You can answer.
13 THE WITNESS: No. I didn't think he was
14 having a significant problem.
15 BY MR. GASTON:
16 Q You also said in order to check or test for
17 internal bleeding in a patient with a hip fracture
18 such as Mr. you can do serial blood tests.
19 A Yes.
20 Q Serial means repeated blood tests over a
21 period of time?
22 A Yes.

Page 75

1 Q And what period of time would you recommend
2 for serial blood tests for a patient such as Mr.
3 who suffered a hip fracture when you are looking or
4 being cautious for an internal bleed?
5 MR. : Objection to form and
6 foundation.
7 You can answer.
8 THE WITNESS: I think daily is appropriate.
9 BY MR. GASTON:
10 Q Every 24 hours?
11 A Right.
12 Q How come not every 12?
13 MR. : Objection to form.
14 THE WITNESS: I think 24 hours is adequate
15 when they are stable. He was stable when he came in.
16 BY MR. GASTON:
17 Q Was there a point where he became unstable?
18 MR. : Please refer to the medical
19 record when you are answering these questions.
20 I will object to the form as to the term
21 "stable".
22 BY MR. GASTON:

Page 76

1 Q Well, Doctor, what I would like you to do
2 is, instead of your lawyer telling you to look at the
3 records, what I want to know is whether you have an
4 independent recollection first.
5 If you don't have an independent
6 recollection, then if you need to refer to the records
7 you can, but I would rather you tell me what you
8 remember about the case first before you look at the
9 records.
10 So, from your independent recollection,
11 without looking at the records, did there come a point
12 in Mr. 's care and his stay at the hospital when
13 he became unstable?
14 MR. Let me just object also to
15 not permitting him to look at the medical records to
16 answer this question.
17 So, I will object.
18 You may answer.
19 BY MR. GASTON:
20 Q Doctor, you have to answer the question
21 before you look at the records. Then I will give you
22 an opportunity to look at them.

Page 77

1 MR. : Do you understand the
2 question?
3 THE WITNESS: Yes.
4 MR. : Listen to the question
5 please.
6 THE WITNESS: Yes.
7 BY MR. GASTON:
8 Q Doctor, sitting here today do you have an
9 independent recollection of if Mr. became
10 unstable, and if you do, when he became unstable?
11 Do you remember that today sitting here?
12 MR. : I just want to object because
13 you are not letting him look at the medical records to
14 answer that question.
15 First the question is can you?
16 THE WITNESS: Can I?
17 MR. : Can you without looking at
18 medical records answer that question?
19 THE WITNESS: Well, yes.
20 BY MR. GASTON:
21 Q Well, go ahead and answer it, Doctor.
22 A I mean the morning of the 17th he was

Page 78

1 having some problems.
2 **Q** What are the problems he was having on the
3 morning of the 17th that you believe where he was
4 starting to become unstable?
5 MR. : Just for the record are you
6 going to let him this time look at the medical records
7 to answer that question?
8 BY MR. GASTON:
9 **Q** Doctor, what I want you to do is answer the
10 question with your own recollection as you are sitting
11 here today. If you cannot, tell me and then of course
12 you can look at the records. But I want to know if
13 you have a memory of your own right now as we are
14 sitting here talking.
15 So, the question again is what about
16 Mr. 's condition on the morning of May
17 caused you to believe that he was becoming unstable?
18 MR. ! Objection. The objection is
19 to the form and also not permitting the witness to
20 look at the medical records to answer the question.
21 But you can answer if you can.
22 THE WITNESS: Do you want me to look at the

Page 79

1 records or not look at the records?
2 BY MR. GASTON:
3 **Q** Doctor, it is very simple and it is so
4 simple.
5 I want to know if you remember today. That
6 is the deal. If you can't remember today, I will
7 surely allow you to look at the records. But I want
8 to know what your recollection is today.
9 It is that simple.
10 So, tell me if you have a recollection
11 today without looking at the records.
12 A His urine output was less the night of the
13 th or the th.
14 His blood pressure was down around 100 or
15 so. It fluctuated between 100 and 110 or so.
16 **Q** We have a urine output that is decreased.
17 We have a drop in blood pressure.
18 Is that a fair statement?
19 A Yes.
20 **Q** And that caused you some concern?
21 A Yes.
22 **Q** What are some of the reasons for the drop

Page 80

1 in urine output?
2 MR. : In this case?
3 MR. GASTON: In this case.
4 BY MR. GASTON:
5 **Q** Yes, Doctor. In this case.
6 A Well, again because you are low on fluids
7 or the kidneys aren't functioning properly.
8 **Q** Had you previously ordered fluids for
9 Mr. ?
10 A He got fluids the first day and the second
11 day they were stopped. He was stable.
12 **Q** Did you stop the fluids on the second day?
13 A The fluids were stopped on the second day.
14 **Q** By your order?
15 A Yes.
16 **Q** The second day we are talking about the
17 th, the third day the th, correct?
18 A Yes.
19 **Q** Now, you talked about serial blood tests,
20 going back to the serial blood tests, to try to fare
21 it out whether there is internal bleeding.
22 What about the serial blood test results

Page 81

1 would suggest to you that there is internal bleeding
2 in Mr. ' ?
3 What would you be looking at?
4 A If there is a significant drop in the
5 hemoglobin.
6 **Q** What do you call a significant drop in
7 hemoglobin?
8 MR. : Let me just object to the
9 form.
10 Are you referring to this case or are you
11 referring in general to any patient?
12 BY MR. GASTON:
13 **Q** Well, in this case what would you consider
14 to be a significant drop in hemoglobin for Mr. ?
15 MR. : And again you are not going
16 to let him look at records; is that right?
17 BY MR. GASTON:
18 **Q** The entire process is, Doctor, I want to
19 know if you have a recollection as we sit here today.
20 And for the second time, if you don't, I will surely
21 allow you to look at your records. I want you to just
22 tell me what you remember today before you look at

21 (Pages 78 to 81)

Page 82

1 your records.

2 A Well, your question didn't really have to

3 do with the records.

4 What was your question?

5 Q What would be a significant drop in

6 hemoglobin in Mr. 's case that you would consider

7 significant?

8 MR. : And I will object again. You

9 are not letting him look at the records or what his

10 hemoglobin is.

11 With that objection, you can answer the

12 question.

13 THE WITNESS: A hemoglobin drop like two.

14 BY MR. GASTON:

15 Q Two points?

16 A Two milligrams.

17 Q And how about drop in the hematocrit?

18 Would you also be keeping an eye on that?

19 A Yes. They go together pretty much.

20 Q What would you consider a significant drop

21 in hemoglobin in Mr. 's case?

22 A Six or seven.

Page 83

1 Q Six or seven points?

2 A Right.

3 Q Doctor, hemoglobin measures, and you

4 correct me if I am wrong, the volume of the red blood

5 cells in the blood itself?

6 A Well, it is actually measuring the

7 hemoglobin in the cells, not the volume.

8 Q Not the volume.

9 Does the hematocrit measure the volume of

10 the red blood cells in the blood?

11 A Yes.

12 Q So, when you talk about a drop of six or

13 seven what does that equal to in cc of blood?

14 Is that half a pint, a pint, a pint and a

15 half, two pints?

16 Can you give me an idea?

17 A No.

18 Q You can't give me an idea?

19 A It varies.

20 And actually you can have drops in

21 hemoglobin without drops in volume.

22 Q Well, again the hemoglobin refers to the

Page 84

1 red blood cells in the blood?

2 A Yes. It is a measurement.

3 Q And the drop in the hemoglobin equals a

4 drop in the red blood cells in the blood itself,

5 correct?

6 A Yes.

7 Q And the hemoglobin in the red blood cells

8 carry the oxygen to the tissues of the body, correct?

9 A Correct.

10 Q They also carry away the carbon dioxide?

11 A Correct.

12 Q So, when you have a drop in the hemoglobin

13 you have less ability to oxygenate the various organs

14 in the body.

15 Would you agree with that?

16 Because less oxygen is going because there

17 is less hemoglobin going to those organs?

18 Does that make sense?

19 A Yes.

20 Q If a patient lost one pint of blood what

21 would be the drop in the hematocrit that you would

22 expect to see in a blood test?

Page 85

1 MR. : Objection to form and

2 foundation.

3 THE WITNESS: I wouldn't answer that.

4 BY MR. GASTON:

5 Q You don't know?

6 A Well, it varies.

7 Q Well, let's say in Mr. 's case. If he

8 lost one pint of blood and you treated him, he is your

9 patient, what corresponding drop in hematocrit would

10 you expect to see?

11 MR. : Objection to form and

12 foundation.

13 THE WITNESS: Well, approximately -- I am

14 doing some calculations.

15 MR. : I don't want you to guess or

16 speculate.

17 THE WITNESS: So, what is the question

18 again?

19 BY MR. GASTON:

20 Q If Mr. lost one pint of blood was a

21 corresponding drop in hematocrit what you would expect

22 to see show up on his blood test?

Page 86

1 MR. : Objection to form and
 2 foundation.
 3 THE WITNESS: It depends on how much fluid
 4 is replaced.
 5 When you lose blood immediately you don't
 6 get an immediate drop in hemoglobin. When you lose
 7 blood acutely there is not an immediate drop. You
 8 have to have replacement of the fluids, remaining
 9 fluids, to change the hemoglobin and hematocrit.
 10 So, you know, it depends on how much fluid
 11 has been replaced and various other factors.
 12 BY MR. GASTON:
 13 Q So, you can't tell me today from your
 14 review of the lab work if Mr. had a loss of one
 15 pint of blood what you would expect to see in his
 16 hematocrit?
 17 You are unable to tell me that?
 18 MR. : Objection to form and
 19 foundation.
 20 You can answer.
 21 And again you not letting him look at the
 22 record. That is another objection I am making too.

Page 87

1 THE WITNESS: I wouldn't put a number on
 2 that.
 3 BY MR. GASTON:
 4 Q You can't?
 5 A No.
 6 Q Same question with respect to hemoglobin.
 7 A It is the same.
 8 Q You are unable to answer that question too?
 9 A Right.
 10 MR. : Objection to form and
 11 foundation.
 12 BY MR. GASTON:
 13 Q Now I am going to let you look at the
 14 medical records all you want and I am going to ask you
 15 the same question. After looking at the medical
 16 records, after seeing the fluids that were replaced, I
 17 am going to ask you the same question and I am going
 18 to ask if you can answer the question.
 19 MR. : Is there a certain timeframe
 20 you are directing him to?
 21 BY MR. GASTON:
 22 Q Take a look at all the records.

Page 88

1 MR. : No. I am saying the
 2 timeframe for the question.
 3 MR. GASTON: I am going to let him look at
 4 the medical records.
 5 BY MR. GASTON:
 6 Q Doctor, I am going to ask you the same
 7 question.
 8 For Mr. if he had a loss of one pint
 9 of blood what would you expect to see in the
 10 hematocrit levels and hemoglobin levels based upon the
 11 care and treatment that he was provided at the
 12 hospital by you and the fluid replacement that he was
 13 receiving?
 14 A I don't think I should answer that. I
 15 don't think you can. I don't think that is a figure
 16 that you just determine that.
 17 Q Are you unable to answer my question?
 18 A Yes.
 19 Q Okay.
 20 A Because I don't think all the information
 21 is there for that calculation.
 22 Q Not even in all the medical records the

Page 89

1 information is not there?
 2 A Right.
 3 Q How did you then determine by looking at
 4 the blood work and by following the blood test whether
 5 there was a significant drop in hematocrit and
 6 hemoglobin levels that would warrant some action on
 7 your part to prevent that drop from getting worse?
 8 MR. : Objection to form and
 9 foundation.
 10 You can answer.
 11 THE WITNESS: I think at the level that he
 12 was at what was appropriate was to replace his fluid.
 13 BY MR. GASTON:
 14 Q And what level and time are we talking
 15 about?
 16 A We are talking about the morning of the
 17 17th.
 18 Q According to the records that you have
 19 looked at, Doctor, what was his hematocrit and
 20 hemoglobin level at the morning of the 'th?
 21 A 10.1 and 28.
 22 Q Are you still able to tell me today in

Page 90

1 **blood loss volume what those figures relate to?**
 2 MR. : Objection. That has been
 3 asked and answered.
 4 BY MR. GASTON:
 5 **Q Is that correct?**
 6 A That is correct.
 7 **Q Okay.**
 8 **Now, when you saw replacement of fluids**
 9 **what fluids are you talking about?**
 10 A I am talking about crystalloid fluids,
 11 saline.
 12 **Q And how would the replacement of fluids**
 13 **bring the hematocrit and hemoglobin levels back up to**
 14 **where they were at the time of his admission?**
 15 **How does that work?**
 16 A Well, that is not the goal of the
 17 treatment. The treatment is to have adequate volume
 18 to maintain his vascular status. That is the initial
 19 goal.
 20 **Q So, you want to increase the volume of**
 21 **blood in the body and you can do that by either fluids**
 22 **or by packed cells, correct? Would that be two ways**

Page 91

1 **of doing it?**
 2 A Well, packed cells aren't very good at
 3 replacing the volume.
 4 **Q But are packed cells good at replacing the**
 5 **drop in the hemoglobin?**
 6 MR. : Objection to form.
 7 THE WITNESS: Well, I mean that is a true
 8 statement, but there is a lot of evaluation of when it
 9 is to be given.
 10 BY MR. GASTON:
 11 **Q And that is what I want to ask you.**
 12 **The next question is how come there was a**
 13 **decision regarding saline and not packed cells? Why**
 14 **did you pick one over the other and not do both?**
 15 MR. : Objection to form.
 16 THE WITNESS: At a hemoglobin of 10 my
 17 assessment is that replacement of the fluids is the
 18 most important thing.
 19 BY MR. GASTON:
 20 **Q What about hematocrit of 25, 28? Is it the**
 21 **same thing that the fluids was the most important**
 22 **thing to replace and not use packed cells?**

Page 92

1 A Well, I think you would consider using them
 2 once everything stabilized.
 3 **Q I didn't understand your answer.**
 4 A Okay.
 5 I think it would be appropriate once
 6 everything stabilized with the fluids, with the fluid
 7 challenge. Yes.
 8 **Q Couldn't you do it at the same time, have**
 9 **an IV of saline solution in one arm and give him**
 10 **packed cells in the other? And would there be any**
 11 **great danger to the patient to have both of those**
 12 **products infusing at the same time?**
 13 MR. : Objection to form.
 14 You can answer.
 15 THE WITNESS: I mean it could be done.
 16 BY MR. GASTON:
 17 **Q Would there be any immediate danger to**
 18 **Mr. if you had chose that course of treatment in**
 19 **this case?**
 20 MR. : Objection to form.
 21 THE WITNESS: I don't think there would be
 22 an immediate danger.

Page 93

1 BY MR. GASTON:
 2 **Q On May th when you decided that there was**
 3 **a need for an increase of volume and you instituted**
 4 **fluids did you then ask for a blood test within four**
 5 **hours?**
 6 MR. : What time are you referring
 7 to?
 8 BY MR. GASTON:
 9 **Q Do you know what time that you were aware**
 10 **of the 10.1 in the hemoglobin and the 28 in the**
 11 **hematocrit level, what time that was in the morning,**
 12 **Doctor?**
 13 A It was 8:00 o'clock.
 14 **Q I have 6:45 on page 230.**
 15 A Yes.
 16 **Q Does that sound about right?**
 17 A 6:45 was when -- well, you asked me when I
 18 was aware. I made rounds between 7:30 and 8:00. So,
 19 it would be somewhere around that time.
 20 **Q And did you then ask for a blood test to be**
 21 **done again around 12:00 or 1:00 o'clock?**
 22 A Not at that time.

Page 94

1 **Q Can you tell me why not?**
 2 A Well, I was just observing him at that
 3 time. He had blood ordered at 5:00 o'clock later.
 4 **Q He had blood ordered at 5:00 o'clock?**
 5 A I mean blood tests.
 6 **Q Blood tests at 5:00 o'clock. So, that**
 7 **would be nine hours later.**
 8 **Is there a reason why you didn't do it in a**
 9 **four-hour interval?**
 10 A Well, at 8:00 o'clock the hemoglobin was 10
 11 and I didn't feel I needed to check that immediately.
 12 I gave him the fluids and observed him at that time.
 13 **Q Did you check to be sure that the fluids**
 14 **were infusing properly and nothing had happened with**
 15 **the IV lines?**
 16 MR. : At what time?
 17 BY MR. GASTON:
 18 **Q May th after you ordered the fluids.**
 19 A Yes. We came back at 10:00 o'clock and
 20 checked them then.
 21 **Q Did they have any problems with the IV**
 22 **lines on May th at all?**

Page 95

1 MR. : Are you going to let him look
 2 at the chart?
 3 BY MR. GASTON:
 4 **Q You can do it by memory first and then you**
 5 **can look at the chart if you need the chart to help**
 6 **you.**
 7 A There were problems earlier in the day at
 8 7:00 o'clock, but I ordered a PICC line. He went down
 9 for the PICC line and it was not done because they
 10 were able to start an IV, a conventional IV that was
 11 not a PICC line.
 12 **Q So, when was your understanding that they**
 13 **were able to start a conventional IV? What time on**
 14 **the th?**
 15 MR. : Let me just object.
 16 Are you going to let him look at the record
 17 or not?
 18 BY MR. GASTON:
 19 **Q Again it is the same protocol for the**
 20 **questions.**
 21 **If you have a recollection of it, I would**
 22 **like to know what your recollection is. If you can't,**

Page 96

1 **you are then free to look at the records, Doctor.**
 2 **You just need to tell me one way or the**
 3 **other.**
 4 MR. : You have to tell him whether
 5 you need to look at records or not.
 6 Do you understand the question?
 7 THE WITNESS: Yes. I know.
 8 At 10:00 o'clock.
 9 What was the question again you wanted to
 10 ask me?
 11 BY MR. GASTON:
 12 **Q The question was when was he able to get**
 13 **the IV line in Mr. 's arm?**
 14 MR. : And the question is do you
 15 know from an independent memory without looking at the
 16 hospital chart?
 17 THE WITNESS: It was before --
 18 MR. : Yes or no? That is the
 19 question.
 20 Do you understand the first question?
 21 THE WITNESS: Yes.
 22 BY MR. GASTON:

Page 97

1 **Q What is your answer, Doctor?**
 2 A It was before 10:00 o'clock. Approximately
 3 9:00 o'clock. Because I checked at 10:00 o'clock.
 4 **Q Okay.**
 5 **I think you mentioned that he was getting**
 6 **IV treatments before the th, fluids before the th;**
 7 **is that correct?**
 8 A On the th he got IV fluids.
 9 **Q Did you order that?**
 10 A Yes.
 11 **Q And why did you order that?**
 12 A It is fairly routine for a newly admitted
 13 patient to give them IV fluids and just to make sure
 14 he is well hydrated.
 15 **Q And it is important to keep a patient**
 16 **hydrated because if a patient becomes dehydrated there**
 17 **is a possibility that a patient could go into shock**
 18 **from lack of hydration.**
 19 **Would that be correct?**
 20 MR. : Objection to form.
 21 THE WITNESS: It is a possibility.
 22 BY MR. GASTON:

25 (Pages 94 to 97)

Page 98

1 **Q Did you order the IV solutions or IV**
 2 **infusion on the because of his hemoglobin and**
 3 **hematocrit levels at that time or was it for a**
 4 **completely different reason?**
 5 **MR. : Again are you going to let**
 6 **him look at the record or not?**
 7 **BY MR. GASTON:**
 8 **Q Doctor, this is the fifth time. I think we**
 9 **have a good understanding.**
 10 **When I am asking you questions I just want**
 11 **to know what your recollection is and if you tell me**
 12 **you can't answer the question without looking at the**
 13 **chart, you are free to look at the chart. And that is**
 14 **how we have been answering the questions. Your lawyer**
 15 **keeps objecting.**
 16 **Do you understand how I am asking you the**
 17 **questions?**
 18 **A Yes.**
 19 **Q Let's see if you can answer that.**
 20 **MR. : No.**
 21 **The first question is can he? You need to**
 22 **establish and ask him can he or he is not going to**

Page 99

1 **answer the question.**
 2 **BY MR. GASTON:**
 3 **Q Doctor, we will understand that if I ask**
 4 **you a question and you can tell me I can't answer**
 5 **without looking at the chart, then you can look at the**
 6 **chart. If you can answer the question without, just**
 7 **answer the question.**
 8 **Let's go back to my original question.**
 9 **A Ask me the question.**
 10 **Q I will ask you the question.**
 11 **You started Mr. on IV fluids**
 12 **according to your testimony on the th.**
 13 **A Right.**
 14 **Q Was the reason for the starting him on IV**
 15 **fluids because of the levels of his hematocrit and**
 16 **hemoglobin or for some completely unrelated reason?**
 17 **MR. : Objection to form and**
 18 **foundation.**
 19 **You can answer.**
 20 **THE WITNESS: I am thinking.**
 21 **It wasn't because of his hemoglobin and**
 22 **hematocrit on the first day. He had had levels**

Page 100

1 similar to that in the past. But generally the first
 2 day in a situation like this it is good to hydrate the
 3 patient and give him some IV fluids.
 4 **BY MR. GASTON:**
 5 **Q Which brings me to my next question.**
 6 **If he is getting the proper IV fluids on**
 7 **the th, if everything else is the same, shouldn't**
 8 **the hematocrit and hemoglobin levels stay the same?**
 9 **MR. : Objection to form.**
 10 **THE WITNESS: Well, if you give adequate**
 11 **fluids you are going to see some drop in the**
 12 **hemoglobin.**
 13 **BY MR. GASTON:**
 14 **Q What drop would you expect to see with the**
 15 **fluids that you were giving him?**
 16 **MR. : At what time?**
 17 **BY MR. GASTON:**
 18 **Q On the th you saw a drop of almost five**
 19 **points in the hematocrit and a drop of 1.4 in the**
 20 **hemoglobin.**
 21 **A Wait. We have to establish a timeframe.**
 22 **Q May th at 8:00 o'clock when you arrived.**

Page 101

1 **A But we talked about giving him fluids the**
 2 **first day.**
 3 **Q Right.**
 4 **A And that was the th. That is when he got**
 5 **the IV fluids.**
 6 **Q Okay.**
 7 **A The next day -- and I am going to look at**
 8 **these records just to get everything straight.**
 9 **The second day his hemoglobin was pretty**
 10 **much unchanged, it was basically unchanged. It was**
 11 **11.6 and 11.6.**
 12 **Q But the hematocrit dropped.**
 13 **A That is insignificant. That is within the**
 14 **range of error.**
 15 **Q So, there was really little or no change**
 16 **from May th up until 6:40 a.m. on May h, correct?**
 17 **A There was a slight improvement in the**
 18 **creatinine from 2.1 to 1.4.**
 19 **So, that is an indication that the fluids**
 20 **did accomplish what I wanted them to.**
 21 **Q So, if he is still getting the fluid volume**
 22 **that you prescribed for him what is the increase in**

Page 102

1 the volume that you recommended after you recognized
 2 there was a drop in hemoglobin and hematocrit on the
 3 morning of May th at 8:00 o'clock when you saw him?
 4 A Can you state that again?
 5 Q Sure.
 6 He is already getting fluids.
 7 A Right.
 8 Well, he got fluids the first day. He did
 9 not get fluids the second day.
 10 MR. : Can we just clarify? When
 11 you are talking about first and second day we need to
 12 get dates, as opposed to first and second day.
 13 THE WITNESS: On May th he did not get
 14 any fluids.
 15 BY MR. GASTON:
 16 Q Did not get any fluids at all?
 17 A Well, you know, oral fluids, but his IV
 18 fluids were stopped on the th.
 19 Q And did you stop the IV fluids on the th?
 20 A Yes.
 21 Q About what time?
 22 A That I have to look at the record for.

Page 103

1 Q Go right ahead, Doctor.
 2 A That was the morning of the th and when I
 3 made rounds in the morning of the th, which would
 4 have been 8:00 o'clock, the order was to DC the IV and
 5 make it into a saline lock. He did get some fluids by
 6 means of his pain management, which was a PCA pump.
 7 Q What is the decrease in volume?
 8 I mean when you stopped it and then you say
 9 he is getting it by the PCA I am not understanding
 10 that.
 11 Is he getting the same amount of fluids,
 12 different fluids?
 13 A No.
 14 The objective of the PCA pump is not to
 15 give fluids. It is for pain management. It is just
 16 there as a vehicle. He wasn't ordered any fluids on
 17 the th.
 18 Q He was still getting fluids through the
 19 pain pump though?
 20 A And orally.
 21 Q And orally.
 22 A That is why we stopped. He was taking them

Page 104

1 orally.
 2 Q And would you expect to see such a drop in
 3 the hemoglobin or hematocrit on the next day, which is
 4 the th, at 8:00 o'clock when he was still getting
 5 some of the fluids orally and through the pain pump or
 6 did that really concern you when you saw that?
 7 MR. : Objection to form and the
 8 compound nature of the question.
 9 You can answer if you understand it.
 10 THE WITNESS: Yes.
 11 If you look at those lab reports, on the
 12 th we noted that his hemoglobin hadn't changed
 13 between the h and the th, but it had gone down
 14 somewhat on the th. But his creatinine had gone
 15 down.
 16 I would question some of whether the th
 17 hemoglobin was actually -- it probably had gone down
 18 minutely because he got the fluids. So, I doubt there
 19 was quite as much change from the th to the th as
 20 indicated there.
 21 BY MR. GASTON:
 22 Q You are not claiming that the lab report

Page 105

1 values are incorrect, are you?
 2 A I am just stating that there can be some
 3 variation in the lab reports.
 4 It is a little surprising that it stayed
 5 the same even though he got fluids and the creatinine
 6 stayed the same.
 7 Q So, what I am trying to understand is are
 8 you claiming that the lab values on May th on
 9 Exhibit Number 4 for the hemoglobin and hematocrit are
 10 inaccurate?
 11 I don't understand what you are telling me.
 12 A All right.
 13 MR. : Objection to form.
 14 THE WITNESS: Should I answer?
 15 MR. : Yes. If you can.
 16 THE WITNESS: I am saying that I think
 17 there was a slight drop in hemoglobin. I think it was
 18 a little more gradual than you could make out from the
 19 16th to the th.
 20 That is what I am saying.
 21 BY MR. GASTON:
 22 Q Did you rely upon these lab reports in

Page 106

1 making your decisions for the treatment of Mr. ?
2 A Yes.
3 Q Did you mention to any other doctor that
4 you didn't think the laboratory reports were
5 completely accurate?
6 A No.
7 Q Are you claiming now that the laboratory
8 reports are not accurate?
9 A Well, you were asking me to look at them
10 and give my feelings on them and that is what I am
11 doing, my interpretation.
12 Q What do you think the correct value for the
13 hemoglobin and the hematocrit should have been on May
14 th for that 6:45 a.m. test?
15 A I can't tell you. I am looking and saying,
16 you know, I would expect it to be low.
17 Q But you have no idea? You can't tell me
18 the value you would give it though?
19 A No.
20 Q Was your decision not to give blood, packed
21 cells, based upon your impression that the hematocrit
22 and hemoglobin levels as reflected on the blood tests

Page 107

1 were not accurate?
2 A No.
3 Q What again was that based on?
4 A It was based on that at a hemoglobin of 10
5 he needed fluid replacement.
6 Q And I think you never considered at all
7 that there was an internal bleeding going on in
8 Mr. 's body during the entire time he was under
9 your care; is that correct?
10 A He wasn't showing signs of bleeding, you
11 know, physical signs and that hemoglobin drop, you
12 know, was --
13 Q Well, he did have a drop in blood pressure.
14 He did have a drop in hematocrit and hemoglobin.
15 Is there another test that you could have
16 employed or used to determine whether or not he was
17 bleeding at the site of the fracture?
18 A Well, I mean there are other tests.
19 Q Can you tell me what some of those are?
20 A CT scan, that kind of thing.
21 Q Would a CT scan have revealed a hemorrhage
22 at the site of the pelvic fracture if he was bleeding

Page 108

1 internally at that time?
2 MR. : Objection to form and
3 foundation, the hypothetical nature of the question.
4 You can answer.
5 THE WITNESS: I mean it could have. The
6 autopsy did not reveal any bleeding at the site,
7 significant bleeding.
8 BY MR. GASTON:
9 Q You read the autopsy report, correct?
10 A Yes.
11 Q You saw the note of hemorrhages and
12 retroperitoneum?
13 A Yes.
14 MR. : Let me just object.
15 If you have to, go to the autopsy report.
16 But listen to the question before you answer.
17 THE WITNESS: Okay.
18 BY MR. GASTON:
19 Q You can answer, Doctor.
20 You looked at the autopsy report, correct?
21 A I have looked at it. Yes.
22 Q Do you disagree with any of the findings in

Page 109

1 the autopsy report?
2 MR. : I will object to the form and
3 foundation. He certainly is not a pathologist.
4 But you can answer.
5 THE WITNESS: I have no reason to object to
6 any of the findings on the autopsy report.
7 BY MR. GASTON:
8 Q And you are aware that there were some
9 findings on the autopsy report regarding a hemorrhage
10 in the retroperitoneum area around the left pelvis,
11 correct?
12 MR. : Let me just object.
13 THE WITNESS: Let us look at that.
14 BY MR. GASTON:
15 Q Actually I have it marked as an exhibit. I
16 can hand it to you.
17 It is Exhibit Number 3, Doctor. Right
18 there.
19 A There was an indication of soft tissue
20 hematomas, but not actual bleeding.
21 Q And were the hematomas located in the
22 retroperitoneum area?

Page 110

1 A In the facial planes.
2 **Q Is that correct?**
3 A That is what they indicated.
4 **Q Does the hematoma indicate a blood clot?**
5 MR. : Objection to form and
6 foundation.
7 As described in the autopsy report or just
8 in general?
9 BY MR. GASTON:
10 **Q How would you describe a hematoma, Doctor?**
11 A It is a collection of blood. But it is not
12 free blood.
13 **Q Do you disagree that Mr. was**
14 **suffering from internal bleeding at the site of his**
15 **pelvic area while he was in the hospital?**
16 MR. : Objection to form and
17 foundation.
18 You can answer.
19 THE WITNESS: I am looking at the autopsy
20 report and it is not indicating significant bleeding.
21 BY MR. GASTON:
22 **Q I am asking you if you are claiming in this**

Page 111

1 **case that Mr. did not suffer from any internal**
2 **bleeding at the site of the pelvic fracture while he**
3 **was under your care in the hospital?**
4 MR. : Objection to form and
5 foundation.
6 You may answer.
7 THE WITNESS: I am looking at the autopsy
8 report which indicates that there were some soft
9 tissue hematomas, but I don't believe that indicates
10 significant bleeding.
11 BY MR. GASTON:
12 **Q Well, let's talk about bleeding first and**
13 **then we will talk about significant.**
14 **Do you agree that Mr. suffered some**
15 **bleeding internally while he was under your care at**
16 **the hospital in the area around the pelvic fracture?**
17 MR. : Objection to form and
18 foundation.
19 This is in your care at the hospital.
20 Do you understand the question?
21 THE WITNESS: Okay.
22 No.

Page 112

1 BY MR. GASTON:
2 **Q Why do you believe he was not suffering**
3 **from any internal bleeding at all in the area around**
4 **the site of the pelvic fracture while he was under**
5 **your care at the hospital?**
6 MR. : Objection to form.
7 You can answer.
8 THE WITNESS: I believe the autopsy report
9 indicates he had a little bleeding at the time he had
10 the fracture, but not significant bleeding.
11 BY MR. GASTON:
12 **Q That is different. Let's go back to the**
13 **question again.**
14 A Well, that is my answer though.
15 **Q I thought you said that you didn't believe**
16 **he had any bleeding at all from the pelvic site of the**
17 **pelvic fracture while he was in the hospital.**
18 **The question is do you agree that while he**
19 **was under your care at the hospital he had some degree**
20 **of bleeding in the area around the pelvic fracture?**
21 MR. : Objection to form and
22 foundation.

Page 113

1 You can answer.
2 THE WITNESS: I don't think that can be
3 determined. I think the bleeding took place at the
4 time of the trauma.
5 BY MR. GASTON:
6 **Q So, your testimony is that whatever**
7 **bleeding he suffered from the pelvic fracture occurred**
8 **at the time he fell at home and it did not continue**
9 **nor was there any additional bleeding in the area of**
10 **the pelvic fracture while he was under your care at**
11 **the hospital?**
12 **Is that your testimony?**
13 MR. : Objection to form.
14 THE WITNESS: My understanding of that
15 autopsy is that he did not have significant bleeding
16 from that site.
17 BY MR. GASTON:
18 **Q Again that is not my question. My question**
19 **is very specific.**
20 A Okay.
21 **Q Do you agree that he sustained bleeding in**
22 **the area of the pelvic fracture at the time he fell at**

Page 114

1 home?
2 MR. : Objection to form and
3 foundation.
4 You can answer.
5 THE WITNESS: You know, I think the
6 hematomas are one known complication of a fracture
7 and, you know, the autopsy does not indicate that he
8 had significant bleeding from the site.
9 BY MR. GASTON:
10 **Q Does that mean yes?**
11 MR. : Objection to form.
12 THE WITNESS: Does that mean?
13 MR. : Do you understand the
14 question?
15 THE WITNESS: No. Tell me the question.
16 BY MR. GASTON:
17 **Q I will ask it again. It is a simple yes or**
18 **no.**
19 **Do you agree that Mr. suffered from**
20 **internal bleeding in the area of his pelvic fracture**
21 **at the time he fell at his house?**
22 MR. : Objection to form.

Page 115

1 You can answer.
2 THE WITNESS: I believe he had development
3 of the hematomas, that they showed on the autopsy.
4 BY MR. GASTON:
5 **Q Is that yes? Is that a yes answer?**
6 A No. That is my answer.
7 **Q When do you think he developed the**
8 **hematomas that were discussed in the autopsy report,**
9 **at what time?**
10 A I think he probably developed them at the
11 time of the fracture.
12 **Q Now, do you think he developed any more**
13 **hematomas or whether there was a continuing bleed**
14 **while he was under your care?**
15 MR. : Objection to form and
16 foundation. And you haven't laid a foundation that he
17 thinks that it was a bleed.
18 But you can answer.
19 THE WITNESS: No. I don't believe that he
20 did. The autopsy does not show that.
21 BY MR. GASTON:
22 **Q Do you believe he was still bleeding in the**

Page 116

1 area of the pelvic fracture at the time he was first
2 admitted at the hospital?
3 MR. : Objection to form.
4 You can answer.
5 THE WITNESS: I don't think we know that.
6 I don't think that can be known for sure.
7 BY MR. GASTON:
8 **Q Would it be fair that you are not an expert**
9 **in vascular diseases?**
10 **Correct?**
11 A That is correct.
12 **Q You are not a vascular surgeon?**
13 A That is correct.
14 **Q So, would it be fair to say that you are**
15 **unable to give an opinion as to whether there was**
16 **bleeding going on inside of Mr. 's body while he**
17 **was a patient under your care in the hospital?**
18 MR. : I am going to object to the
19 form and foundation.
20 You have asked the question already. He
21 has already answered it.
22 But you can answer it again.

Page 117

1 THE WITNESS: Ask me again.
2 BY MR. GASTON:
3 **Q Doctor, would it be fair to say because you**
4 **are not a vascular surgeon, you are not an expert in**
5 **vascular diseases, that you are unable to provide an**
6 **opinion one way or the other whether Mr.**
7 **suffered internal bleeding at the area of the fracture**
8 **site while he was a patient under your care at the**
9 **hospital?**
10 MR. : Objection to form and
11 foundation.
12 You have asked the question. He has
13 already answered it previously in the deposition.
14 You can answer it again.
15 THE WITNESS: I don't believe he suffered
16 significant bleeding.
17 BY MR. GASTON:
18 **Q And why not?**
19 **Let's set aside the autopsy report by**
20 **itself. If we didn't have the autopsy report, would**
21 **you be able to render that opinion that you just gave**
22 **that you don't believe he suffered bleeding at the**

Page 118

1 hospital?
2 A We have the autopsy report. I don't think
3 we should set that aside.
4 Q Set that aside. If you didn't have that,
5 would your opinion still be the same?
6 A I wouldn't render an opinion.
7 Q Did Mr. go into shock at any time he
8 was under your care?
9 MR. : Objection to form and the
10 term shock.
11 You can answer.
12 MR. : I'm sorry. What was the
13 answer?
14 THE WITNESS: What was that?
15 MR. : I didn't hear what you said.
16 THE WITNESS: I haven't really said
17 anything yet.
18 MR. : I'm sorry.
19 THE WITNESS: So, your hearing is good.
20 Well, his blood pressure remained at the
21 level of 100. I mean it was a concern. His low urine
22 output was a concern.

Page 119

1 I mean I do not believe it would be defined
2 right then as shock with his blood pressure. But he
3 did have some changes in his vital signs.
4 Q What are some of the signs of shock that a
5 doctor such as yourself should be aware of with
6 treating a patient such as Mr. for his injuries?
7 MR. : Objection to form and
8 foundation.
9 You can answer.
10 THE WITNESS: Well, the blood pressure.
11 BY MR. GASTON:
12 Q A drop in blood pressure?
13 A Right.
14 Q A drop of hematocrit and hemoglobin could
15 also indicate the onset of shock?
16 MR. (: Objection to form and
17 foundation.
18 THE WITNESS: It is not directly related.
19 It is not directly related.
20 BY MR. GASTON:
21 Q Could it be associated with shock?
22 A Yes.

Page 120

1 Q How about nausea?
2 A Nausea can come from many causes.
3 Q Including shock? Including a body that is
4 going into shock?
5 A Yes.
6 Q How about sweating? Can that also be
7 considered a sign of shock?
8 A Yes.
9 Q And Mr. had a drop of the blood
10 pressure, a drop of his hematocrit and hemoglobin,
11 nausea and sweating before he went into cardiac
12 arrest.
13 Would you agree with that?
14 MR. : Objection to form and
15 foundation.
16 THE WITNESS: Well, he had those and he had
17 a response to it also. He had the fluid
18 resuscitation.
19 BY MR. GASTON:
20 Q Do you agree that right before Mr. 's
21 death he had a grand mall seizure, he went into a
22 convulsion and then following that he went into

Page 121

1 cardiac arrest?
2 A That is what I read in the records.
3 MR. : Mr. Gaston, when you have an
4 appropriate breaking point.
5 MR. GASTON: We can take five minutes right
6 now.
7 Any time you need a break. Let's take five
8 minutes.
9 (Recess.)
10 BY MR. GASTON:
11 Q Doctor, at any time during your treatment
12 of Mr. did he or his wife request that he be
13 transferred to Hospital?
14 A I don't recall the conversation, but it was
15 mentioned by the nurses.
16 I can refer to the record.
17 Q You can refer to your notes. Sure, Doctor.
18 A On the th there was a note in the nurse's
19 note, something about family hopes for transfer to
20 and contact is being made.
21 Q But you don't have any recollection sitting
22 here that Mrs. or Mr. ever specifically

Page 122

1 asked you that he be transferred to ?

2 A No. I don't have that recollection.

3 I mean just the indications from the

4 nurses.

5 Q If Mrs. and Mr. had made the

6 request for him to be transferred to

7 Hospital on May th was there any reason why you

8 wouldn't have honored the request?

9 MR. : Objection to form and the

10 hypothetical nature.

11 You can answer.

12 THE WITNESS: No. There is no reason that

13 I would not.

14 BY MR. GASTON:

15 Q Do you recall -- maybe I don't need to ask

16 this.

17 Right now can you recall any specific

18 conversation you had with Mrs. at the hospital?

19 MR. : The entire time?

20 MR. GASTON: Yes. For the three days:

21 THE WITNESS: There is only one that I

22 really remember.

Page 123

1 BY MR. GASTON:

2 Q Which is the one conversation that you

3 remember, Doctor?

4 A Right after Mr. died she talked to

5 me. She was upset with the intensivist because he

6 looked at Mr. and said he was doing fine and

7 then he died shortly after that. And she said that

8 Mr. thought a lot of me as his physician and I

9 was one of the better physicians that he had.

10 That is what she told me.

11 Q She told you that at the hospital right

12 after he died?

13 A Yes. She was upset.

14 Q Was this in the room? Was it outside in

15 the hallway?

16 A I am not sure. It was one of those two.

17 It was either there or at the nursing station or in

18 the room. I can't remember which one.

19 Q And other than that conversation it is fair

20 to say that you have no recollection of any other

21 conversation with Mrs. that occurred at the

22 hospital?

Page 124

1 A No. I don't have any recollection.

2 Q Other than the history that you took from

3 Mr. that you testified to, do you have any other

4 specific recollection of any conversations with

5 Mr. at the hospital?

6 A No. No specific recollection.

7 Q Do you have any specific recollections of

8 conversations with Dr. at the hospital?

9 A I don't have a specific recollection, but

10 according to the notes we did discuss the case as we

11 were sending him to a medical ICU, Intermediate ICU.

12 Q Did there come a time when Dr.

13 after seeing Mr. informed you that he thought it

14 would be a good idea to get Mr. transferred to

15 Hospital?

16 A I don't recall Mr. saying that.

17 Q Dr. you don't recall him saying

18 that?

19 A No.

20 Q Do you recall Dr. indicating or did

21 you ever hear any conversation between Dr. and

22 Mrs.

Page 125

1 A No.

2 Q Did Dr. ever inform you one way or

3 the other, either verbally or in written notes, that

4 he believed that Mr. was bleeding internally

5 based upon the lab reports?

6 A No.

7 Q Did he believe and inform you either in

8 person or in the notes that Mr. was suffering

9 from organ failure?

10 A Let me look at my notes here.

11 He just put in multisystem. He made a note

12 about multisystem problems on page 10049.

13 Q Do you believe that note was referencing to

14 multisystem failure?

15 MR. : Objection to form.

16 You can answer. Don't guess or speculate.

17 THE WITNESS: His note was on page 10049

18 and he mentioned a multisystem -- I am not sure I can

19 read the second word. But multisystem.

20 That is my reference that I know of to the

21 multisystem problems.

22 BY MR. GASTON:

Page 126

1 Q Was a decision made to transfer Mr.
 2 to Hospital?
 3 A Yes.
 4 Q Who made that decision?
 5 A Well, the hospitalist called
 6 and set it up.
 7 I can't recall exactly how that decision
 8 was made, but I know that he did call and set it up.
 9 Q Well, would it be fair to say that the
 10 patient could not have been transferred absent your
 11 permission and consent?
 12 A No. I don't think that is fair to say.
 13 But I mean I would have given my consent.
 14 There would not have been any limitation.
 15 Q So, from your recollection you are not the
 16 one who initiated the transfer to
 17 Hospital, it was Dr. , the intensivist?
 18 A He initiated that transfer. Yes. That is
 19 what I recall.
 20 Q On page 10051 at the top of the page there
 21 is letters M-A-G with a phone number
 22 Is that your handwriting?

Page 127

1 A No.
 2 Q Do you know whose handwriting that is?
 3 A No.
 4 Q How did Dr. come to examine
 5 Mr. ?
 6 A I don't specifically recall the details of
 7 how that came about.
 8 Q Did you -- I'm sorry. I didn't mean to
 9 interrupt you.
 10 A I don't recall specifically how it came
 11 about.
 12 Q Did you make a request or reach out to him
 13 to examine Mr. ?
 14 A Yes. I believe so.
 15 Q Where is that reflected?
 16 A It is not reflected in there. That is what
 17 I am saying. I don't recall specifically.
 18 Q Mrs. indicated that she reached out
 19 to Dr. who was able to get ahold of
 20 Dr. to come to the hospital.
 21 Do you have any reason to disagree that
 22 that is how Dr. came to examine Mr. ?

Page 128

1 MR. : I'm sorry. I am just going
 2 to object because you didn't establish that was the
 3 reason.
 4 Are you suggesting that Mrs. called?
 5 BY MR. GASTON:
 6 Q Mrs. testified during her deposition
 7 that she is the one that called Dr. , who then
 8 contacted Dr. or the cardiology group to have
 9 the cardiologist come in to examine Mr.
 10 Do you have any reason to disagree with
 11 that course of events?
 12 A Yes.
 13 I mean I have no specific absolute
 14 recollection, but I believe that I was the one who
 15 called Dr.
 16 Q And when you reach out for a consultation
 17 do you usually write it in the medical records that I
 18 called for a consultation, cardiac consultation, and
 19 Dr. is on the way?
 20 A Not always.
 21 Q Did you do it in this case?
 22 A The afternoon I was in the office busy and

Page 129

1 I was calling Dr. in the middle of that
 2 afternoon. I would not have had a chance to write in
 3 there that I called him in.
 4 Q Can you tell me where you were on the th?
 5 I know you were in the hospital at
 6 8:00 o'clock. Did you then see patients in your own
 7 office that day?
 8 A In the afternoon?
 9 Q In the afternoon?
 10 A Afternoon. Early evening.
 11 Q Then when did you come back to the
 12 hospital? What time did you return back to the
 13 hospital on the th?
 14 A Let me look at these records.
 15 Around 6:30.
 16 Q Would you go to page 10085, Doctor?
 17 I am reading the handwritten notes on the
 18 right side of that page to say transferred to
 19
 20 Is that your reading of that too?
 21 A That is what I see.
 22 Q And whose signature appears below that?

Page 130

1 A It is not a clear signature, but my
2 assumption -- well, maybe I shouldn't make an
3 assumption. I can't read that.
4 **Q Is that your signature?**
5 A It is not my signature.
6 **Q Okay. That is what I wanted to see.**
7 **Do you have any idea whose signature that**
8 **might be?**
9 A Well, you know, I have some idea.
10 **Q Okay.**
11 A I think it was the hospitalist. But I am
12 not certain of that.
13 **Q Were you prescribing any blood thinning or**
14 **anticoagulating medication for Mr. while he was**
15 **under your care?**
16 A Yes.
17 **Q What were they, Doctor?**
18 A Lovenox.
19 Let me look.
20 He was started on Coumadin.
21 **Q Coumadin?**
22 A Yes.

Page 131

1 **Q Is that the same as Warfarin?**
2 A Yes.
3 **Q So, he is on Warfarin and then was Lovenox**
4 **added to the Coumadin, in addition to the Coumadin?**
5 A Well, it is customary to start them both at
6 the same time if you want to continue later on with
7 oral medication.
8 **Q And what was the reason for prescribing the**
9 **blood thinning/anticoagulating medication for Mr.**
10 **while he was in the hospital?**
11 A Well, he was anticipating long bedrest. He
12 had a history of TIAs, transient ischemic attacks,
13 that they identified. He was treated at
14 for those.
15 Those are the main reasons.
16 **Q Long bedrest, why would he need blood**
17 **thinners if he is in for long bed rest?**
18 A It is conducive to causing blood clots.
19 **Q Was he also taking aspirin?**
20 A Yes. Which was stopped.
21 Let me look.
22 **Q Okay.**

Page 132

1 A The Aggrenox was stopped at the time that
2 the Lovenox and Coumadin were initiated.
3 **Q Aspirin was stopped, but the Lovenox and**
4 **the Coumadin were then started?**
5 A Right.
6 **Q Would it be fair to say that if you were**
7 **aware that Mr. was bleeding internally at the**
8 **site of his fracture you would have discontinued the**
9 **Lovenox and Coumadin?**
10 MR. Objection to form and the
11 hypothetical nature.
12 You can answer.
13 THE WITNESS: Well, if I knew that he was
14 bleeding internally I would have stopped it. Yes.
15 BY MR. GASTON:
16 **Q Because for a patient who has internal**
17 **bleeding the administration of a blood thinning and**
18 **anticoagulant medicine would make it easier for the**
19 **patient to bleed internally, correct?**
20 MR. : Objection to form.
21 You can answer.
22 THE WITNESS: Yes.

Page 133

1 BY MR. GASTON:
2 **Q And it would be contraindicated?**
3 A If you knew they were bleeding.
4 **Q Is that a yes?**
5 A Yes. With that proviso.
6 **Q Do you know why Dr. stopped the**
7 **Lovenox?**
8 A He determined at the time that his renal
9 function had deteriorated to the point where the dose
10 was higher than his renal function indicated. So, he
11 stopped it because of that. That is what he indicated
12 in his note.
13 **Q You were following his blood tests all**
14 **along, correct?**
15 A Yes.
16 **Q Is there a reason why you didn't stop the**
17 **Lovenox earlier?**
18 A Well, if you look at the -- let's look.
19 **Q I have Dr. report on 10041 if that**
20 **is what you are looking for, Doctor.**
21 A No. I am looking for the labs again.
22 **Q The labs.**

Page 134

1 **They are right here again. Exhibit**
2 **Number 4.**
3 A The adjustment for the renal function are
4 when the creatinine gets less than 30 you decrease the
5 dose of Lovenox. If you calculate his creatinine
6 clearance on the th and the th they are
7 significantly over the 30 and they are slightly under
8 30 on the th when the creatinine was noted to be up
9 to 3.6.
10 So, I mean at the time he was put on the
11 Lovenox the renal function was good enough that he
12 didn't need an adjustment.
13 **Q Right.**
14 **And for what benefit is Lovenox to a**
15 **patient with renal insufficiency?**
16 A I am not sure I understand the nature of
17 that question.
18 **Q Well, you said the creatinine dropped less**
19 **than 30, so the Lovenox was stopped.**
20 **What is the correlation between those two?**
21 A Well, when the creatinine clearance drops
22 less than 30 you adjust the Lovenox dose so that it

Page 135

1 doesn't get too high.
2 **Q Why don't you want it to get too high?**
3 A Well, his did not get too high. We do have
4 evidence of that. His PTT level was within the normal
5 range of 31 on the th, the last day.
6 **Q And the PTT is the bleeding time, correct?**
7 A Partial thromboplastin time. Yes.
8 **Q That is the time it takes blood to clot and**
9 **the application of an anticoagulant is to lengthen the**
10 **amount of time that it takes for blood to clot or that**
11 **is the effect of the medication of the anticoagulant,**
12 **correct?**
13 A Right.
14 **Q So, if you wanted to increase or speed up**
15 **the clotting process, you would take away the Coumadin**
16 **and you would take away the Lovenox, correct?**
17 A Yes.
18 **Q Is there something else, another medication**
19 **or vitamin, that you could have prescribed for**
20 **Mr. to speed up the amount of time that it would**
21 **normally take his blood to clot?**
22 A Ask me the question again.

Page 136

1 **Q Sure.**
2 **If you wanted to increase the time or speed**
3 **up the time for Mr. 's blood to clot, is there**
4 **something else that could have been prescribed to him?**
5 **Other than taking away the Coumadin and**
6 **Lovenox, is there something else you could prescribe**
7 **for him to take that would help his blood clot**
8 **quicker?**
9 A Well, I mean to change the clotting you
10 could give Vitamin K or other reversals. But there
11 was no indication for that in this patient.
12 **Q I don't know whether I asked you this**
13 **question. I apologize if I repeat it.**
14 **Is there anything that you read in**
15 **Dr. 's note that changed the course of medical**
16 **treatment for Mr. , changed your course of**
17 **medical treatment for Mr. ?**
18 A Let me look at that note.
19 MR. : I think it is on page 49, if
20 that helps.
21 THE WITNESS: I don't think there was
22 anything specific that changed the course.

Page 137

1 BY MR. GASTON:
2 **Q What I am asking for, and another way of**
3 **asking it, is there anything you did or didn't do for**
4 **the treatment of Mr. based upon Dr. 's**
5 **evaluation and reading his written note in the record?**
6 A No. I don't think so.
7 **Q The same question with Dr. 's**
8 **evaluation. Is there anything you did or didn't do**
9 **based upon Dr. 's evaluation of Mr. and**
10 **reading his note in the record?**
11 A No. I am not sure that there was
12 significant -- I mean enough time that elapsed.
13 But I mean Dr. would have implemented
14 all of his suggestions that he made.
15 **Q But Mr. expired before all of those**
16 **suggestions could be implemented.**
17 **Would that be a fair statement?**
18 A Yes. That is true.
19 **Q You never spoke to any of Mr. 's**
20 **doctors at Hospital while he was under**
21 **your care at Hospital.**
22 **Would that be a fair statement?**

1 A Yes.

2 Q I will show you what is marked as Number 2.

3 It is the Death Certificate, Doctor.

4 Is that your signature on page 29-B?

5 A Yes.

6 Q Do you agree with the causes of death that

7 are reflected on the Death Certificate?

8 MR. : Objection to form and

9 foundation.

10 You can answer.

11 THE WITNESS: Well, those were a statement

12 of what was known at the time that I made out the

13 Death Certificate.

14 BY MR. GASTON:

15 Q Do you still agree with those causes of

16 death today?

17 MR. : Objection to form and

18 foundation.

19 You can answer.

20 THE WITNESS: I believe that the statements

21 are correct, but they do not have all the information

22 from the autopsy and anything following his death.

1 BY MR. GASTON:

2 Q Are you telling me that you were unaware of

3 the autopsy results when you signed the Death

4 Certificate?

5 A Yes. It hadn't occurred at the time.

6 Q When did you sign the Death Certificate?

7 A The .

8 Q And when did Mr. expire?

9 A The th.

10 Q And when was the autopsy performed, if you

11 know?

12 A .

13 Q Is there a reason why you didn't sign the

14 Death Certificate until a week after Mr. passed?

15 A He had fallen and broken his hip. That

16 made it a case managed by the Medical Examiner. The

17 Medical Examiner had to sign-off on it first.

18 Q So, it is your understanding that you could

19 not sign the Death Certificate until after the

20 Medical Examiner signed off on it?

21 A Yes.

22 Q What is the date that you signed the Death

1 Certificate, Doctor?

2 A It looks like l. th.

3 Q Yes.

4 The Medical Examiner didn't sign-off on it

5 until th.

6 So, you are mistaken?

7 A I may be mistaken if that is the case.

8 Q Now, what caused Mr. 's renal failure?

9 A I am not certain that the total cause of

10 that is known.

11 Q What caused his hepatic failure?

12 A Well, I don't think we know that either.

13 But I think he did have general organ failure at the

14 time.

15 Q Do you agree that that was the cause?

16 List conditions, if any, leading to the

17 immediate cause. And the first cause is renal

18 failure. The second cause was hepatic failure. You

19 signed the Death Certificate acknowledging that those

20 were number one and number two. But here today you

21 can't explain why there was a renal failure or hepatic

22 failure in Mr. .

1 Would that be accurate?

2 MR. Objection to form.

3 THE WITNESS: Well, that Death Certificate

4 puts forth the facts that were known at the time.

5 BY MR. GASTON:

6 Q But I mean is that a yes to my question?

7 MR. : Objection to form.

8 THE WITNESS: What was the question again?

9 BY MR. GASTON:

10 Q The question was you put on the Death

11 Certificate that (a) the cause of his death was renal

12 failure, (b) the cause of death was hepatic failure.

13 But today you can't explain what caused Mr. 's

14 renal failure and you can't explain what caused his

15 hepatic failure.

16 Is that accurate?

17 MR. : Objection to form.

18 You can answer.

19 THE WITNESS: Yes.

20 BY MR. GASTON:

21 Q Doctor, I have a question for you. It has

22 to do with your experts and your attorney can help me

Page 142

1 because this is the only time that I get to ask a
 2 party about what their experts may say.
 3 And I will tell you as a precursor to the
 4 question is that I received your certificates from
 5 your experts as to what they were going to opine. In
 6 each of the certificates they say they may opine as to
 7 the cause of death, but they haven't done so to this
 8 date and they haven't done so in the answers to the
 9 questions.
 10 It is a collective question to both you and
 11 your attorney. I need to know now whether you have
 12 any information from your experts or have knowledge of
 13 the opinions that they are going to give as to what
 14 caused Mr. death.
 15 First, do you have any information from the
 16 experts?
 17 MR. Let me just object because I
 18 don't want you to say or testify as to anything that I
 19 told you or anything from our firm.
 20 MR. GASTON: That is fine.
 21 BY MR. GASTON:
 22 Q Are you aware of any information as to any

Page 143

1 opinions your experts are going to give on the cause
 2 of Dr. 's death?
 3 A No.
 4 Q Have you spoken to any of your expert
 5 witnesses as of this date?
 6 A No.
 7 Q Is there any information that you believe
 8 was known by any physician who treated Mr. that
 9 was not conveyed to you?
 10 MR. : Objection to form.
 11 You can answer.
 12 THE WITNESS: Can you repeat that question?
 13 I am not sure what you are asking.
 14 BY MR. GASTON:
 15 Q Sure.
 16 Are you claiming that any physician
 17 withheld any information from you during the care or
 18 their treatment of Mr. while he was in the
 19 hospital?
 20 A No.
 21 Q And how about any of the nurses? Did any
 22 of the nurses withhold any information from you?

Page 144

1 A No.
 2 Q To the best of your recollection did the
 3 nurses keep you apprised of Mr. 's medical
 4 condition?
 5 A Yes.
 6 Q This might be a legal question your
 7 attorney can assist you with.
 8 We always ask if the doctor is blaming
 9 Mr. for his own death, either that he
 10 contributed to his own death or assumed the risk of
 11 injuries to his own death?
 12 The Answers to Interrogatories say, well,
 13 we still raise this as a defense and we reserve the
 14 right to add on to this later.
 15 Now is the time that I need to know if you
 16 are claiming that any of Mr. 's conduct himself,
 17 what he did or didn't do, contributed to his death.
 18 MR. : Objection to form and
 19 foundation.
 20 Do you understand the question?
 21 THE WITNESS: Yes. Whether he did anything
 22 to contribute?

Page 145

1 Well, number one, the one thing that he did
 2 was he continued to drink alcohol. That has been
 3 noted several places.
 4 BY MR. GASTON:
 5 Q How did his consumption of alcohol
 6 proximately contribute to the cause of his death?
 7 A I am not claiming that there was a proximal
 8 contribution.
 9 Q That is fair enough, Doctor. That is a
 10 fair enough answer.
 11 Anything else that you can think of that he
 12 did or didn't do that proximately contributed to the
 13 cause of his death?
 14 A No.
 15 Q Can you tell me what the normal urine
 16 output is of a man of the age and weight of Mr. ?
 17 MR. : Objection to form.
 18 BY MR. GASTON:
 19 Q Per day in cc?
 20 A Usually 30 cc an hour.
 21 Q And you were monitoring his urine output
 22 during the entire time he was in the hospital,

Page 146

1 correct?
2 A Yes.
3 Q Do you intend to give any expert opinions
4 in this case?
5 MR. : Maybe I can address that.
6 I am not going to be asking him any
7 standard of care opinions as a 26(b)(4) expert. He
8 will basically be testifying about his care and
9 treatment. But as far as whether he met the standard
10 of care he will not be asked that ultimate question.
11 BY MR. GASTON:
12 Q Are you going to testify as to what the
13 regular course of treatment would be for a patient in
14 Mr. condition by a doctor with your
15 qualifications?
16 MR. : Well --
17 MR. GASTON: It is almost the same
18 question, but it is a little bit different.
19 MR. : He is not going to be
20 expressing any opinions as a designated 26(b)(4)
21 expert as to standards of care and what other doctors
22 recognize as the standard of care.

Page 147

1 Does that address your inquiry?
2 MR. GASTON: That is fine.
3 We are in state court. So, although the
4 26(b)(4) is the Federal court rule, it would be the
5 same opinion elicited in the state court action as
6 well.
7 MR. : Yes.
8 BY MR. GASTON:
9 Q Do you agree that the standard of care for
10 a doctor with your qualifications and skill for
11 treating a patient with similar conditions is the same
12 whether the patient is in Hospital or
13 County or or some other place in
14 Maryland?
15 Do you agree that the standard of care
16 would have to be the same?
17 MR. : I will just object to the
18 form of the question. I think you are asking him
19 about a legal opinion.
20 But if you understand it, you can answer.
21 THE WITNESS: It seems like a reasonable
22 thing to assume. Yes.

Page 148

1 BY MR. GASTON:
2 Q It would be the same and there is no lower
3 care that would be provided to a patient if he was a
4 patient in County or City or
5 somewhere else other than County.
6 Would you agree with that?
7 A Right. Yes.
8 Q Did you ever have a patient you were
9 treating for a pelvic fracture expire on you other
10 than Mr.
11 MR. : Objection to form.
12 The question is yes or no.
13 THE WITNESS: No.
14 BY MR. GASTON:
15 Q Thank you.
16 Doctor, this might be a little difficult
17 for me to ask. But can you tell me what your first
18 thoughts were that were going through your mind when
19 you found out that Mr. died?
20 MR. : Object to the form.
21 You can answer.
22 THE WITNESS: I felt badly that he died.

Page 149

1 I mean that was my first thought.
2 BY MR. GASTON:
3 Q Anything else that came to your mind after
4 that?
5 MR. : Objection. It has been asked
6 and answered.
7 THE WITNESS: That was the main thing.
8 BY MR. GASTON:
9 Q Dr. indicated in his report that
10 Mr. suffered from anuric failure.
11 Did I pronounce that correctly?
12 A Yes.
13 Q What is that?
14 A Well, that is just describing the fact that
15 he wasn't making much urine.
16 Q Did you agree with that assessment?
17 A Yes.
18 Q Just give me one minute. I think that is
19 all the questions I have.
20 Is there a reason why you didn't order
21 cardiac enzyme tests?
22 A Let me look and see.

Page 150

1 At what point are you talking about
2 ordering them?
3 **Q Well, at any time during the course of his**
4 **treatment I didn't note there were any cardiac enzyme**
5 **tests ordered by you.**
6 **Is there a reason why you didn't order that**
7 **series of tests?**
8 A In the Emergency Room his troponin was
9 normal and his CK. The troponin is the main test we
10 use for cardiac enzymes currently. It was negative.
11 And let me look.
12 His cardiograms were normal.
13 There wasn't any indication for ordering
14 them.
15 **Q And what is usually the purpose for**
16 **ordering a cardiac enzyme test? To test what function**
17 **of the heart or what condition with the heart?**
18 A Usually you order it for chest pain.
19 **Q Chest pain?**
20 A Make sure that there is no myocardial
21 infarction occurring.
22 **Q Did you ever render a diagnosis of what was**

Page 151

1 **the cause of Mr. 's syncope?**
2 A Yes.
3 The assessment was that it was due to his
4 IV immunoglobulin mixed with -- let me look at the
5 record.
6 The ER record, what number was that?
7 Do you have the ER record?
8 **Q I'm sorry. The ER record begins on 10008,**
9 **Doctor, I believe.**
10 **My question is whether you yourself made a**
11 **determination what was the cause of the syncope?**
12 A The cause of his syncope was that he had
13 had the IVIG along with his Ativan and alcohol.
14 **Q And did that cause a drop in the blood**
15 **pressure that caused him to faint?**
16 **Was it a cardiac incident that caused less**
17 **amount of blood from being pumped to his brain?**
18 **Exactly how did that work together to cause**
19 **him to faint and pass out?**
20 MR. : Objection.
21 If you know.
22 MR. I object to foundation.

Page 152

1 MR. Same objection.
2 BY MR. GASTON:
3 **Q What do you think happened?**
4 THE WITNESS: So, I shouldn't answer? I
5 don't answer then?
6 MR. : You can answer if you know.
7 The objection is to the foundation and if
8 you don't know in your own opinion, that is fine.
9 THE WITNESS: Can you repeat that question?
10 BY MR. GASTON:
11 **Q Sure.**
12 **You said the syncope was a result of the**
13 **IVIG treatment, the Ativan and the alcohol.**
14 **How did that work together to cause him to**
15 **faint?**
16 MR. : Objection. Form and
17 foundation.
18 MR. : Same.
19 THE WITNESS: I don't think we know for
20 sure. But it affects the mental function. We combine
21 two depressants. It is a neurological depressant.
22 That is the main effect.

Page 153

1 BY MR. GASTON:
2 **Q And would it be fair to say that during the**
3 **course of Mr. 's treatment you did not explore**
4 **any other causes or initiate any other test to further**
5 **explore why he had the syncope episode?**
6 A He had the troponin checked in the
7 Emergency Room and he had a CT scan of his head in the
8 Emergency Room.
9 Let me make sure of that.
10 **Q I did note that. But I am wondering after**
11 **you took over his care did you find any real need to**
12 **further explore the cause of his syncope incident?**
13 A No.
14 MR. GASTON: Thank you.
15 That is all the questions I have, Doctor.
16 Thank you very much.
17 MR. : You can go first. I am not
18 sure if I have any or not.
19 MR. : I have a few questions.
20 EXAMINATION BY COUNSEL FOR DEFENDANTS
21 BY MR. :
22 **Q Can you turn to your History and Physical,**

Page 154

1 which is at page 17?
2 A Okay.
3 Q I just want to clarify.
4 You were reading the document that
5 plaintiff's counsel was asking you to basically read
6 some of your handwriting.
7 Do you recall that?
8 A Yes.
9 Q And the reference where it says labs okay,
10 is the words before there with head, dash, labs okay?
11 A No. That says CT head okay.
12 Q It says CT head?
13 A Yes.
14 Q And then dash labs okay?
15 A Right.
16 Q Then you also went down and you have the
17 History and the History has married and is that two
18 children or no children?
19 A Two children.
20 Q Now, you were asked some questions about
21 when Mr. went into shock.
22 Do you recall those questions?

Page 155

1 A Yes.
2 Q And he arrested at the time that he was in
3 the hospital; is that correct?
4 A Correct.
5 Q Did you believe that he was in shock at any
6 time before he arrested?
7 A No.
8 Q And why not?
9 A Well, his blood pressure did remain in the
10 range of 100 to 110 and he was communicating
11 effectively.
12 Dr. noted that -- I mean he evaluated
13 him just before he expired and he did not feel that he
14 was exhibiting acute symptoms of shock at that time.
15 Q Now, when you were treating him while he
16 was at Hospital, that is Mr.
17 and up until the time of his demise, did you at any
18 time see any evidence at all that he was bleeding
19 while he was under your care and treatment?
20 MR. : Objection. He is making a
21 legal conclusion as to evidence.
22 I would ask that you rephrase the question.

Page 156

1 BY MR. :
2 Q Well, while you were his treating physician
3 at Hospital up until the time of
4 his demise did you formulate any opinion that he was
5 bleeding during the time that he was under your care
6 and treatment?
7 A I didn't feel he was bleeding. He was not
8 bleeding.
9 Q Now, you were asked questions about the
10 Death Certificate and the timing as far as you signing
11 the Death Certificate; is that correct?
12 A Correct.
13 Q And you referenced that the Medical
14 Examiner was contacted because there was a prior
15 trauma; is that correct?
16 A Correct.
17 Q And was it your understanding that the
18 Medical Examiner has the first opportunity or choice
19 to execute a Death Certificate before you do?
20 Is that correct?
21 A That is my understanding. Yes.
22 Q And is that the reason why you did not do a

Page 157

1 Death Certificate for at least a period of time after
2 his demise?
3 Is that correct?
4 A Yes.
5 Q You were asked questions about Exhibit
6 Number 2, the Death Certificate; is that correct?
7 A Yes.
8 Q And you have listed in the Death
9 Certificate under A, B, C and D four conditions that
10 were listed in that report; is that correct?
11 A Correct.
12 Q At the time that you signed that Death
13 Certificate did you formulate in your own mind a clear
14 cause of death for Mr. 's demise?
15 A No.
16 Q Why not?
17 A We didn't have all the information
18 available to us.
19 Q Now, you were asked many questions about
20 whether you had an independent memory of what had
21 transpired without looking at the chart.
22 Do you recall that?

Page 158

1 A Yes.
2 **Q Now, you provided some answers because you**
3 **weren't permitted to look at the chart during this**
4 **deposition; is that correct?**
5 A Yes.
6 **Q And when you were asked about your**
7 **independent memory your independent memory was based**
8 **at least in part on having reviewed this chart right**
9 **before this deposition; is that correct?**
10 A That is correct.
11 **Q And in many of the answers that you gave**
12 **you weren't permitted to actually look at the hospital**
13 **record before you gave the answers; is that correct?**
14 A That is correct.
15 MR. : I don't have any other
16 questions.
17 Thank you.
18 MR. : Can we just go off the record
19 for one minute please?
20 (Off the record.)
21 MR. : We can go back on the record.
22 MR. : Can we take a quick short

Page 159

1 break?
2 MR. GASTON: Sure.
3 (Recess.)
4 MR. : I don't have any questions.
5 MR. GASTON: Just a few follow-up, Doctor.
6 **EXAMINATION BY COUNSEL FOR PLAINTIFFS**
7 **BY MR. GASTON:**
8 **Q Your lawyer indicated that you were not**
9 **going to give any opinions on the standard of care.**
10 **But I guess I really need to know what are the**
11 **opinions that you intend to give at trial.**
12 MR. I told you that he is not
13 being designated as a 26(b)(4) expert on the issue of
14 standard of care. He is also not going to be
15 providing any 26(b)(4) opinions as far as the issue of
16 causation is concerned.
17 He is going to be testifying primarily
18 about his care and treatment of the patient.
19 MR. GASTON: But see the last question you
20 asked him in your opinion, based upon the medical
21 documentation, do you believe he was in shock? He
22 said no and then he gave his basis for the opinions.

Page 160

1 **BY MR. GASTON:**
2 **Q I need to know if at trial you are going to**
3 **give other expert opinions in the case. If you are, I**
4 **need to know those now so I can explore them.**
5 MR. : Well, let me just state this
6 for the record.
7 The opinion that he was asked about being
8 in shock was formed as a treating healthcare provider
9 who saw this particular patient and whatever he is
10 going to be testifying to would be relating to his
11 role as the treating physician.
12 MR. GASTON: That still doesn't answer my
13 question.
14 **BY MR. GASTON:**
15 **Q Right now I have heard that you are going**
16 **to give one opinion that you did not believe he was in**
17 **shock before he arrested.**
18 **I need to know if you are going to give**
19 **other opinions as an expert in this case at trial and**
20 **if you are, I need to know them because no one has**
21 **told me the opinions that you intend to give at trial.**
22 MR. : And again I will state for

Page 161

1 the record he is not being designated as an expert
2 witness under the Maryland rules and therefore there
3 is no requirement that I am aware of that you are
4 entitled to be provided any designation of any
5 opinions. He is going to be testifying as a defendant
6 relating to his course of treatment.
7 MR. GASTON: Does that mean he is not going
8 to be giving any expert opinions at trial?
9 MR. I just responded he is not
10 being designated as an expert witness under the
11 Maryland rules.
12 MR. GASTON: And by that a party can give
13 expert opinions and I need to know if he intends to
14 give expert opinions at trial because I need to know
15 them now.
16 I can't leave the deposition without
17 knowing what opinions, expert opinions, he is going to
18 give. He can talk about facts all he wants, but the
19 expert opinions I do need to know now.
20 **THE WITNESS: I think that has been**
21 **answered by my attorney.**
22 **BY MR. GASTON:**

Page 162

1 **Q I just need to know definitively other than**
2 **the one opinion we have heard here today do you intend**
3 **to give any other expert opinions in the field of**
4 **medicine during trial?**
5 MR. : I am going to object to the
6 form and foundation.
7 THE WITNESS: It was already answered by my
8 attorney.
9 BY MR. GASTON:
10 **Q But I need to know --**
11 A I mean I have no knowledge other than that
12 actually.
13 I mean I am not determining what is going
14 to happen at the trial.
15 MR. GASTON: Well, I still didn't get the
16 right answer. You can instruct him not to answer.
17 MR. : I think he answered the
18 question, sir.
19 MR. GASTON: Well, I don't think he did.
20 THE WITNESS: Well, that is all the answer
21 I am going to give because I don't know.
22 I mean my answer is I do not intend to give

Page 163

1 any further. I do not intend to give those answers or
2 to testify as an expert in the court.
3 MR. GASTON: Thank you very much.
4 BY MR. GASTON:
5 **Q One other question to follow-up.**
6 **Your lawyer said at the time you filled out**
7 **the Death Certificate you did not have a clear cause**
8 **of Mr. death.**
9 **I will ask you now do you have a clear**
10 **cause for Mr. death?**
11 MR. : I will just object because
12 the question was related to his opinion at the time of
13 the signing of the Death Certificate as a treating
14 provider.
15 But you can go ahead and answer the
16 question.
17 THE WITNESS: I don't really have an
18 opinion. I will leave that up to the pathologist.
19 MR. GASTON: Thank you very much. I
20 appreciate that, Doctor.
21 Your lawyer can advise you of your rights
22 to read and sign.

Page 164

1 MR. : We won't waive. You can send
2 it to me and I will get him to review it.
3 MR. GASTON: What I will do I will take
4 back all of the exhibits for the deposition. I will
5 make copies of all the exhibits. I will keep the
6 original and I will send counsel copies if that is
7 okay with everybody.
8 MR. : Sure.
9 MR. GASTON: Thank you.
10
11
12 (Signature having not been waived, the
13 deposition of : was concluded at
14 1:30 p.m.)
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Page 165

1 * * *
2 ACKNOWLEDGMENT OF DEPONENT
3 I, , do hereby
4 acknowledge that I have read and examined the
5 foregoing testimony, and the same is a true, correct,
6 and complete transcription of the testimony given by
7 me, and any corrections appear on the attached Errata
8 Sheet signed by me.
9
10
11 (DATE) (SIGNATURE)
12
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42 (Pages 162 to 165)