

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM BERKELEY COUNTY
Court of Common Pleas

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MAY 02 2013

Stephanie P. McDonald, Circuit Court Judge

SC Court of Appeals

Case No. 2009-CP-08-3237

Finley C. Evans..... Appellant

v.

Roper Hospital, Inc. d/b/a Roper
St. Francis Healthcare and d/b/a
Roper-St. Francis Home Health..... Respondents.

RECORD ON APPEAL (VOLUME 2)

Christy DeLuca
Jordan Calloway
McGowan, Hood & Felder, LLC
1539 Health Care Drive
Rock Hill, SC 29732
(803) 327-7800
(803) 328-5656 (fax)
cdeluca@mcgowanhood.com
jcalloway@mcgowanhood.com

Attorneys for Appellant

Stephen L. Brown
Joseph J. Tierney, Jr.
Christine Kent Toporek
Russell G. Hines
Young Clement Rivers, LLP
25 Calhoun Street, Suite 400
P.O. Box 993
Charleston, SC 29402
(843) 720-5488

Attorneys for Respondent

1 taking pills or anything else. But, you know,
2 how I am. That's normal.

3 But to sit there and leave me hanging,
4 knowing that somebody is bleeding, -- she
5 could have at least told me that he was
6 bleeding, but she didn't. She didn't tell me
7 anything.

8 I expected her to come back.

9 Q. Ms. Evans, what did you do once you
10 discovered that Mr. Evans was bleeding, and
11 while you were waiting for EMS to arrive?

12 A. I just kept holding onto him and pushing
13 as much as I could on the bags, anything that
14 -- I tried to -- push, that's all that I could
15 think of, to just stop the bleeding.

16 Q. Did it help?

17 A. I don't know. He's still here. It is
18 stupid to say, I don't -- it made me upset,
19 when the EMS came in, they wondered what had
20 happened. It made me look like I was a
21 criminal, that I did this to him. I mean --
22 no. I didn't. And it hurts to sit there and
23 he's bleeding on that gurney.

24 Q. Okay. Do you want to take a break?

25 A. No, I just want to tell you the agony that

1 he went through.

2 Q. If you want to take a break, let me know.

3 A. No, we're going to finish this -- I want
4 to go on with it. I don't want to stop, I
5 want to get it out.

6 Q. Do you remember anything else about the
7 visit with the nurse?

8 A. No. She did -- actually that day, I think
9 she was more into herself and what was
10 happening around her and her thoughts. I
11 don't think that she was interested in
12 anything except getting what she wanted to get
13 done down the road and being with the shadow
14 or whatever it was. She wasn't really into
15 her job.

16 I don't know what her job is and I
17 can't specify on what knowledge she has, but
18 I'll tell you -- (pause) -- don't put yourself
19 in that sort of scene, ever.
20 Because once is enough.

21 Next time I am going to take a
22 videotape of everything, make sure that I have
23 a camera. Because, I tell you what, what she
24 did to Finley and me being there -- this is
25 what I want to say, I think very little of a

1 person that can do that. I think very, very
2 little.

3 And she demeaned his doctors. I mean, if
4 you don't want to do the job, why come? This
5 is my problem (sic), why come? Why are you in
6 the business?

7 I mean, granted, I had jobs I didn't like
8 -- I didn't, but I had to do them because I
9 wanted to survive. But if you don't like your
10 job, get on with it. I'm sorry. Maybe she
11 had a bad day. I don't know. But I don't --
12 I'm sorry, I don't.

13 Q. Ms. Evans, I want to talk to you about
14 once EMS arrived at your house. Can you tell
15 me what you remember about that?

16 A. They came in and they told me about --
17 they were there and they wondered what
18 happened. I told them that the nurse left him
19 in this situation, because they wondered --
20 you know, it was an open wound -- like that --
21 and all the blood. There was blood all over.
22 They had a blue sheet under him, one of those
23 plastic sheets that you buy like for -- in
24 case something ---

25 Q. Was it a disposable pad?

1 A. Yes.

2 Q. Like they use in hospitals?

3 A. Yes. That's what they are, sheets or
4 something. He had a couple of those
5 underneath him. So we -- you know, just
6 spread across the bed. So, anyways, the
7 doctor -- not the doctor but the EMS man, and
8 woman, they were -- they were ---

9 MR. TIERNEY: I am going to
10 object to her saying anything what the EMS man
11 or woman said. That is clearly hearsay.

12 THE COURT: Sustained. That's
13 hearsay. Also, don't speculate.

14 THE WITNESS: But nobody told me
15 ---

16 MR. TIERNEY: Objection.

17 THE COURT: Sustained. Ma'am, you
18 are not allowed to say what the EMS folks
19 said.

20 THE WITNESS: Okay. They asked
21 me what had happened -- does that make sense?
22 I told them that the nurse had left, that the
23 nurse had done this, and they looked at me and
24 they said 'What?'

25 MR. TIERNEY: Objection.

1 THE COURT: Sustained.

2 DIRECT EXAMINATION CONTINUED

3 BY MS. DELUCA:

4 Q. Okay. Ms. Evans, if you -- you can tell
5 me what you told them, or the substance of
6 your conversation, but the judge has sustained
7 the objection, that you can't tell me what
8 they said.

9 A. No. All right. They asked me, -- is that
10 what you want to hear? I'm sorry.

11 THE COURT: Just tell us what they
12 did.

13 THE WITNESS: First thing they
14 did was he came in and asked me what had
15 happened and why was he in this kind of
16 condition.

17 MR. TIERNEY: Objection.
18 Hearsay.

19 THE COURT: Sustained.

20 THE WITNESS: I don't know what
21 to say.

22 THE COURT: Ask her questions
23 specifically and let her answer, but don't
24 lead.

25 DIRECT EXAMINATION CONTINUED

1 BY MS. DELUCA:

2 Q. Ms. Evans, did -- what did the EMS workers
3 do immediately when they arrived at the house?

4 A. They came in the house, went straight back
5 to the bedroom, looked at him, and they were -
6 - I don't how know to explain it.

7 THE COURT: What did they do when -
8 - for him when they arrived. How did they
9 treat him?

10 THE WITNESS: They packed him as
11 quick as they could, I guess is what they
12 called him, shoved something in him to stop
13 the wound from bleeding. He said, 'How did
14 this happen?' I looked at him and I told him
15 -- that I wasn't understanding anything at
16 that point, I was -- (pause) -- I said the
17 nurse left him. I said -- (pause) -- I didn't
18 know what else to say. And I said, 'I called
19 you.' And they asked me where ---

20 MR. TIERNEY: Hearsay, Your
21 Honor.

22 THE WITNESS: They asked me where
23 to take him to the hospital. I said to Roper.
24 Was that not right? I was taking him to Roper
25 Hospital in Moncks Corner here, to the

1 emergency place.

2 DIRECT EXAMINATION CONTINUED

3 BY MS. DELUCA:

4 Q. The Moncks Corner Medical Center?

5 A. Yes. The new one, University Center.

6 Q. Ms. Evans, how did you -- let's talk about
7 everything that happened at the house first,
8 with the EMS. So you've told me that they
9 came. What happened after they came in with
10 the gurney?

11 A. Well, they saw him laying there -- I don't
12 know how to explain it. They saw all that
13 blood. They took him and they took the blue
14 sheet, to have the blue sheet under him, and
15 they lifted him onto the gurney. When they
16 lifted him onto the gurney, they took him out.
17 But they had to -- they had to try and -- the
18 hose got stuck and they had to push on it
19 because they were trying to hold it and push
20 on it.

21 Q. On the bed?

22 A. On the -- on everything, because they were
23 trying to get him out. I don't know how to
24 explain it otherwise. And it's not hearsay, I
25 saw it.

1 Q. Ms. Evans, is that everything that you
2 remember about what happened that night with
3 EMS at the house?

4 A. They put him in the back. When they --
5 when they lifted him up to put him in the
6 back, his son was coming around, not waiting
7 on the EMS truck, he came in and -- like I
8 say, I told him that I needed him. He turned
9 around and, as they were putting him in, he
10 said 'please ---

11 MR. TIERNEY: Your Honor, it's hearsay
12 if she is going into what the son said.

13 THE WITNESS: No, the son ---

14 THE COURT: Hold on a minute.

15 MS. DELUCA: Don't answer.

16 THE COURT: Counsel, ---

17 MS. DELUCA: Wait until the judge --

18 -

19 THE COURT: --- come forward,
20 please.

21 (OFF RECORD BENCH CONFERENCE)

22 THE COURT: Ma'am, do you need some
23 water?

24 THE WITNESS: I have water.

25 THE COURT: The way that the

1 hearsay rule applies, you can -- if Mr. Evans
2 said something, he's a party, so you can
3 certainly say that.

4 THE WITNESS: That is what I'm
5 saying.

6 THE COURT: Yes, ma'am. I
7 understand.

8 THE WITNESS: He said ---

9 THE COURT: But if his son said
10 anything, you're not allowed to say what he
11 said. You're not allowed to say what other
12 people said, but you can tell what they did
13 and how they treated him. And, ma'am, ---

14 THE WITNESS: I'm sorry.

15 THE COURT: --- whenever I get an
16 objection, you need to -- I know that. This
17 is hard. But whenever I get an objection, you
18 need to let me rule on it before you answer.
19 Okay?

20 THE WITNESS: Yes, ma'am.

21 THE COURT: Do you need a break?

22 THE WITNESS: No, because I want
23 to get this done.

24 THE COURT: I understand.

25 DIRECT EXAMINATION CONTINUED

1 BY MS. DELUCA:

2 Q. Ms. Evans, who were you talking about that
3 made a statement to you, Mr. Evans or Ben?

4 A. Mr. Evans.

5 Q. Okay.

6 A. And I was -- I don't know whether to say
7 this, because he said this to his son, but I
8 was right here, he said to Ben, "Take care of
9 Janie." Because he thought that he was
10 dying. He said, "I don't know if I am going
11 to make it."

12 Q. Ms. Evans, do you want to ---

13 A. Let's take a break.

14 THE COURT: Let's take a ten-minute
15 break. Ladies and Gentlemen, if you will go
16 to your jury room, we will take a quick ten-
17 minute break. Please do not discuss the case
18 yet. I know you know that already. Thank you
19 kindly. (JURY OUT)

20 THE WITNESS: Please forgive me.
21 Please -- it makes me very -- please forgive
22 me.

23 THE COURT: Okay. I know you're
24 not in court every day.

25 THE WITNESS: I don't mean to

1 lose it.

2 THE COURT: We are at-ease, ma'am.
3 You may step down, if you like. You may walk
4 around. You just can't discuss your testimony
5 while we are on the break.

6 THE WITNESS: I know. I just
7 want to be -- it's so embarrassing.

8 THE COURT: You don't need to be
9 embarrassed. Not one bit. Not one bit.

10 (BRIEF RECESS)

11 (OFF RECORD DISCUSSION)

12 MS. DELUCA: Your Honor, for the
13 record, -- we did not discuss the subject of
14 Ms. Evan's testimony, but I tried to explain
15 it and I'll tell you exactly what I said.

16 THE COURT: Okay.

17 MS. DELUCA: That once Joe says
18 "objection", that she has to stop talking.

19 THE COURT: That's appropriate.
20 Thank you.

21 MS. DELUCA: She said she didn't
22 understand when you say "Sustained" or
23 whatever. I said, 'just wait until I ask you
24 a question.'

25 THE COURT: Perfect.

1 MS. DELUCA: I didn't want us to
2 have any problem with her continuing with the
3 answer when you've sustained the objection.

4 THE COURT: I understand. Thank
5 you. I appreciate that. Let's make sure that
6 everybody understands that before we get
7 started with the next set of witnesses.

8 MR. TIERNEY: And if you could
9 caution the witnesses, Your Honor, that they
10 are under oath and that there is not to be any
11 discussion about their testimony when we take
12 a break.

13 THE COURT: I thought I did that.

14 MS. DELUCA: You did. But I thought
15 it would facilitate the situation and it did
16 not address the subject of the testimony.

17 THE COURT: Okay.

18 THE WITNESS: I'm sorry. I
19 didn't know.

20 THE COURT: That's okay. I know
21 this is hard. We are all in here every day,
22 so we're used to is.

23 THE WITNESS: I am not familiar -

24 --

25 THE COURT: I know that. It's

1 okay. Let's get through it. How much longer
2 do you think you have.

3 MS. DELUCA: Maybe five minutes.
4 I am so near the end.

5 THE COURT: Okay. We are going to
6 get this over with, you can go to lunch and it
7 will be good. Bring the jury for me.

8 (JURY IN @ 10:52 A.M.)

9 THE COURT: Thank you, Ladies and
10 Gentlemen. I apologize for the interruption
11 but that worked out well for our morning
12 break. We are ready to proceed.

13 DIRECT EXAMINATION RESUMED

14 BY MS. DELUCA:

15 Q. Ms. Evans, I want to ask you about the --
16 have you told me everything about what you
17 remember happened at your home?

18 A. Mostly, that I can remember.

19 Q. How did -- what did you do or how did you
20 get to the hospital?

21 A. I was in the EMS truck.

22 Q. Where did you ride in the EMS truck?

23 A. Inside.

24 Q. In the ---

25 A. Inside.

1 Q. What do you remember about the ride in the
2 EMS truck?

3 A. We came from our house and as you come to
4 a certain point, they had to stop the truck
5 because they had to pick up somebody for my
6 husband -- I don't know whether to say it or
7 not, because I heard the lady saying ---

8 MR. TIERNEY: Objection.

9 THE COURT: Sustained.

10 DIRECT EXAMINATION CONTINUED

11 BY MS. DELUCA:

12 Q. What was your impression -- could you see
13 what was going on in the back of the truck?

14 A. I kept hearing.

15 Q. Okay. Without telling me what you heard
16 anybody other than Mr. Evans saying, what was
17 your impression of what was going on, based on
18 what you could hear?

19 A. That he wasn't going to make it. That
20 they couldn't get his blood pressure or
21 whatever up -- (emotional).

22 Q. You arrived at the hospital, then what
23 happened?

24 A. They took him out and this lady from --
25 they told me that he couldn't make it Roper.

1 The driver told me that the ---

2 MR. TIERNEY: Objection, Your
3 Honor. Hearsay.

4 THE COURT: I am going to overrule
5 that objection. I think under 803(1) and (3)
6 that's probably a present sense impression and
7 a statement of mind issue, because of the
8 excitement going on at the time. Let's
9 continue. Though, go ahead and wrap this up.

10 MR. TIERNEY: Thank you, Your
11 Honor.

12 THE WITNESS: The driver told me
13 he wasn't going to be able to go to Roper and
14 he asked me, he said, 'we will go to Trident,
15 we can't make it to Roper.' That's why we
16 ended up at Trident.

17 The nurse from the E.R., or whatever
18 they call it, came in and took me in and got
19 his identification and everything.

20 DIRECT EXAMINATION CONTINUED

21 BY MS. DELUCA:

22 Q. What happened once you arrived at the
23 hospital?

24 A. The E.R. nurse came, we went to the front
25 office.

1 Q. Was your husband released that day?

2 A. No.

3 Q. Was he admitted?

4 A. Yes.

5 Q. How long was he in the hospital?

6 A. It was that one day -- well, he went to
7 the E.R. and they checked him there until they
8 could get him under control, I guess, or
9 whatever it was, and then they sent him on to
10 Trident where the doctor was. I guess it is
11 either in Goose Creek and -- it's between
12 Summerville and Goose Creek, where the Trident
13 Hospital is there on 126.

14 Q. After Mr. Evans was released from the
15 hospital, what if any subsequent medical
16 treatment did he get for the care of the
17 wounds?

18 A. They bandaged him up, they took him off --
19 because the doctor, Dr. Widenhouse, and they
20 told me that the wound vac wouldn't be good
21 for him. So they ended up putting a bandage
22 on it. He said that it would take longer ---

23 MR. TIERNEY: Objection, Your
24 Honor. Not only is it hearsay but she is also
25 giving a medical diagnosis.

1 THE COURT: Sustained.

2 DIRECT EXAMINATION CONTINUED

3 BY MS. DELUCA:

4 Q. Did you continue treating with Dr.
5 Widenhouse after this last visit?

6 A. Yes, ma'am.

7 Q. Did y'all continue receiving home
8 healthcare?

9 A. Not under Roper.

10 Q. But ---

11 A. It was another one. Yes.

12 Q. Were you unhappy with any of the care
13 provided to Mr. Evans subsequent to the Roper
14 Home Health nurse?

15 A. I don't understand what you're talking
16 about.

17 Q. Were you happy with the care that was
18 provided to your husband?

19 A. Yes, ma'am, except for -- now, Roper, I am
20 not blaming Roper for this. I blame the nurse
21 who left him in a situation like this. I am
22 not blaming Roper for anything.

23 Q. Ms. Evans, do you know who the nurse
24 worked for?

25 A. Roper Care, Roper Home Healthcare. But I

1 -- like I said, I am holding them responsible.
2 I am holding her responsible because she knew
3 what she had done.

4 Q. Do you know who her employer was?

5 A. Yes, Roper.

6 Q. Who sent her out to your house?

7 A. Roper did.

8 Q. Why did you bring this action?

9 A. Because ---

10 MR. TIERNEY: Objection, Your
11 Honor.

12 THE COURT: Sustained. Rephrase
13 your question -- if you like.

14 MS. DELUCA: I will strike it.

15 THE COURT: Thank you.

16 MS. DELUCA: That is all the
17 questions that I have, Your Honor.

18 THE COURT: Thank you. Cross
19 examination?

20 MR. TIERNEY: Thank you, Your
21 Honor.

22 CROSS EXAMINATION

23 BY MR. TIERNEY:

24 Q. Ms. Evans, Joe Tierney. We met prior to
25 coming here today?

1 A. Yes, sir.

2 Q. Ms. Evans, when Judy Burbage -- who, for
3 identification purposes, because I don't know
4 if you covered this in your examination, was
5 the first nurse who came to the home.

6 A. Yes.

7 Q. She is in the courtroom with us today,
8 isn't she?

9 A. Yes, she is.

10 Q. Is that her back there?

11 A. Yes, ma'am. I mean sir.

12 Q. When she came to your home initially, did
13 she provide you with a booklet from Roper Home
14 Health which went over the expectations of
15 home health nurses?

16 A. Yes, she did.

17 Q. Things of that nature?

18 A. Yes, she did.

19 Q. In fact, y'all held onto that booklet,
20 didn't you?

21 A. I think -- I don't know.

22 Q. You gave it to your lawyer, correct?

23 A. Yes.

24 Q. And you've seen that booklet before,
25 right?

1 A. Yes, when she came to the house.

2 Q. All right. Bear with me for one second,
3 Mr. Evans.

4 MR. TIERNEY: May I approach the
5 witness, Your Honor?

6 THE COURT: You may.

7 CROSS EXAMINATION CONTINUED

8 BY MR. TIERNEY:

9 Q. Ms. Evans, I am going to hand to you a
10 piece of paper which I will represent to you
11 is the front page from Roper Home Health that
12 was given to you when Judy Burbage first came
13 and saw you that first time. Have you ever
14 seen that document before?

15 A. (Upon review), I don't know exactly but it
16 looks similar to what I saw.

17 Q. All right.

18 A. I would have to have to the other paper to
19 see it.

20 Q. What other paper do you need?

21 A. I mean the front. I -- well, -- I mean,
22 when you read book, you want to make sure
23 that it's the same book.

24 Q. I will represent to you that this document
25 was produced to me by your lawyer.

1 A. Okay.

2 Q. All right?

3 A. Then that's the one.

4 Q. Does it appear to you, and I will publish
5 that to the jury, the blowup, uh, I believe
6 that it was your earlier testimony that the
7 only phone number that you had was that of the
8 agency. Is that correct?

9 A. Yes.

10 MS. DELUCA: Your Honor, misstates
11 prior testimony.

12 THE COURT: Overruled.

13 CROSS EXAMINATION CONTINUED

14 BY MR. TIERNEY:

15 Q. How many phone numbers do you see listed
16 on the Home Care Services Patient Orientation
17 handbook?

18 A. (Upon review), I'd say five.

19 Q. Is Janelle Belk's cell phone number on
20 there -- and I will represent to you that it
21 doesn't say -- well, actually it is Janelle
22 Belk. Is her cell phone number on there?

23 A. 708-4487.

24 Q. Is there a number for you to call if you
25 have an emergency?

1 A. Yes.

2 Q. Is there a voice mail number for Janelle
3 Belk?

4 A. Yes.

5 Q. Is there a cell phone number for Judy
6 Burbage?

7 A. Yes.

8 Q. Is there another number for Judy Burbage
9 in case you can't get her on her cell?

10 A. Yes.

11 Q. But it was your testimony in front of this
12 jury on the direct examination that you only
13 had one phone number for Roper Home Health, is
14 that correct?

15 A. At that time I wasn't looking for the
16 book. All I knew was that he had it on his
17 phone and that that was the person that we
18 were supposed to call.

19 Q. Who was the person that you were supposed
20 to call?

21 A. Janelle. She gave him that number.

22 Q. All right. When did Janelle give the
23 number?

24 A. I beg your pardon?

25 Q. When did Janelle give you the number?

- 1 A. When she came to us.
- 2 Q. On the third (sic) time?
- 3 A. No, the first time.
- 4 Q. So in fact Janelle Belk did give you her
- 5 cell phone number ---
- 6 A. The first time, yes. It was like when
- 7 Judy Burbage came, we had her in the phone,
- 8 too, at that time.
- 9 Q. There is no question that you had Janelle
- 10 Belk's cell phone number and she gave that to
- 11 you the first time that she came to your
- 12 house, which would have been on October 2nd?
- 13 A. She gave me her phone number so that we
- 14 could reach her.
- 15 Q. All right. Now that we know that Judy is
- 16 here in the courtroom, we've identified her.
- 17 A. Yes.
- 18 Q. You remember her coming to your house on
- 19 that first visit?
- 20 A. I do.
- 21 Q. Which I believe was around September 29th?
- 22 A. Yes. Somewhere around there.
- 23 Q. Do you remember having a discussion with
- 24 Judy Burbage on whether or not she had placed
- 25 a wound vac before?

1 A. Yes, we were talking about it over the
2 package.

3 Q. Did you testify in front of this jury here
4 this morning, and correct me if I am wrong,
5 that Judy Burbage told you that she had never
6 placed a wound vac before?

7 A. She never had at that time, she said that
8 she'd never had to do that.

9 Q. That she had never placed a wound vac?

10 A. Yes. She knew of it and she knew -- and
11 she was familiar with it but she'd never had
12 to do that.

13 Q. Did you know when Judy Burbage came to
14 your house on September 29th that she was a
15 certified wound care nurse?

16 A. I guess. I figured they were all
17 certified or -- I don't know what home care is
18 if you don't have somebody certified. Unless
19 they're a night nurse, to take care of
20 somebody. I mean, to -- what do you call
21 those nurses that come in, they don't do
22 anything but make sure that the patient --
23 like hospice does, they're not -- (pause).

24 Q. I believe that you also testified earlier
25 that you offered for Judy Burbage to watch the

1 video of how a wound vac is placed; correct?

2 A. Yes, we both did. Actually we didn't
3 watch it. She said she knew enough about it
4 and I -- I took her word for it. She's a
5 nurse.

6 Q. And she placed the wound vac, correct?

7 A. Yes.

8 Q. But your testimony here today is that she
9 told you that she'd never placed a wound vac
10 before?

11 A. She never had to. I'm sorry. That's what
12 she told me.

13 Q. I don't know if you were asked this on
14 direct examination, but I will ask you now --
15 did you have a discussion with Janelle Belk --
16 -

17 A. Yes.

18 Q. Wait until I finish my question, please.
19 Did you have a discussion with Janelle Belk on
20 October 2nd about whether or not she had ever
21 placed a wound vac?

22 A. Yes.

23 Q. And what did she say to you?

24 A. She said no.

25 Q. Did you ask Janelle Belk if she wanted to

1 watch the video?

2 A. I asked her and she said no. She was very
3 adamant. She thought it was a joke.

4 Q. She thought the placement of a wound vac
5 was ---

6 A. Yes, she told me that she thought it was a
7 joke.

8 Q. Let me finish my question, please, and
9 then you can respond. I will give you all the
10 time that you need to respond, but let me
11 finish my question.

12 A. (No verbal response).

13 Q. Janelle Belk told you that she thought
14 that the placement of a wound vac was a joke?

15 A. Yes.

16 Q. Is that where the response ended?

17 A. No.

18 Q. What else did she say? Did she give you
19 any indication of why she thought it was a
20 joke?

21 A. Well, yeah, because she said they don't
22 use those things anymore.

23 Q. So your testimony in front of this jury is
24 that you have two nurses from Roper Home
25 Health come to see you, one on September 29th

1 and one on October 2nd, and neither of those
2 two nurses had ever placed a wound vac before?

3 A. I don't know. I wasn't - I don't know. I
4 don't know what they do. But if they say that
5 they're qualified, would you not be -- would
6 you not be qualified to do a lawyer's job if
7 you said that you were a lawyer?

8 Q. I am not here to answer questions. I
9 appreciate that.

10 A. I am just asking. I don't -- I know, but
11 I'm asking. If you had a degree, would I
12 question you?

13 Q. Were you concerned at all over the fact
14 that Roper Home Health sent two nurses to
15 place a wound vac who had never placed one
16 before?

17 A. I don't know. I don't know.

18 Q. You don't know if you were concerned?

19 A. They had -- well, they had the opportunity
20 of knowing what was there. They're a nurse.
21 I don't know. I don't know what they know.

22 Q. Did you observe Judy Burbage actually
23 place the wound vac on your husband's open
24 wound?

25 A. Yes, sort of. I didn't see what she was

1 doing with it, no, but I was talking to my
2 husband, holding onto him.

3 Q. Did she have any problems placing the
4 wound vac?

5 A. As far as I know, no.

6 Q. What about Janelle Belk, did she have any
7 problems putting the wound vac on on October
8 2nd?

9 A. She was upset with it. Very upset.

10 Q. That's not my question, whether she was
11 upset with it. Did she have any problems
12 placing the wound vac?

13 A. I don't know.

14 Q. Did you observe that?

15 A. All I know is that she was frustrated.

16 Q. Did you observe her actually place the
17 wound vac on your husband on October 2nd?

18 A. No.

19 Q. Can you offer any criticisms then about
20 the method of how she placed that wound vac?

21 A. No. I don't -- I don't know how she
22 placed the wound vac.

23 Q. How long was Janelle Belk at your home on
24 October 2nd?

25 A. I would say maybe an hour and a half to

1 two.

2 Q. An hour and a half to two?

3 A. On the first visit, yes.

4 Q. And were you present when she assessed
5 your husband on the first visit?

6 A. Yes. Sorta. I was there, I was in the
7 room to a certain point. They were getting
8 along just fine.

9 Q. When she left your home on October 2nd,
10 did you have any questions or concerns?

11 A. No. She didn't seem to have any questions
12 or concerns that she was concerned with. She
13 said that he would be fine.

14 Q. Did you note any problem with bleeding
15 with your husband on October 2nd?

16 A. No.

17 Q. How long had your husband been on Coumadin
18 prior to October 2nd and 3rd, 2009?

19 A. For years.

20 Q. For years?

21 A. A couple of years.

22 Q. And I think ---

23 A. Since he had ---

24 Q. Since he had what?

25 A. Uh, ---

1 Q. Since he had what? I want to let you
2 finish.

3 A. The first time that he had the operation
4 they put him on Coumadin.

5 Q. Since 2000, then?

6 A. Yes, ma'am (sic).

7 Q. And the first operation was for what?

8 A. For the same thing, hydradenitis.

9 Q. Did he have an open wound after the 2000
10 surgery?

11 A. He developed that later. He didn't have
12 it right away.

13 Q. He required a wound vac after that first
14 surgery in 2000, didn't he?

15 A. I beg your pardon?

16 Q. Did he require a wound vac after that
17 first ---

18 A. They put it on in the ---

19 Q. --- surgery, in 2000?

20 A. They put it on in the hospital.

21 Q. So that's a yes?

22 A. They kept it on him in the hospital, they
23 didn't take it when he came home.

24 Q. But he had a wound vac on after his 2000
25 surgery, correct?

1 A. Yes, when he first -- yes, they put a
2 wound vac on.

3 Q. And you testified that he was experiencing
4 some pain on October 2nd, is that correct?

5 A. Yes, he started having pain.

6 Q. And as a ---

7 A. He told her that he had pain to begin
8 with. When she put it on, he said he felt
9 "tight", that he didn't feel good with it on.
10 He asked her did she feel that way and she
11 said that everything would be fine.

12 Q. I believe that you testified to this jury
13 that on October 2nd, because of your husband's
14 pain, that you called Janelle Belk?

15 A. Yes.

16 Q. Is that correct??

17 A. I didn't. He did.

18 Q. He called Janelle Belk?

19 A. Yes. He was in pain.

20 Q. Were you present when he actually spoke
21 with Janelle Belk?

22 A. Yes, I was, because he wanted to talk to
23 her. The first one or two time, I don't know
24 whether she was at home or what, but he didn't
25 get her. So he called her again.

1 Q. What number did he call her on?

2 A. I don't know. It was on his cell phone.

3 I didn't make the call.

4 Q. So your testimony to this jury is that
5 your husband spoke with Janelle Belk directly
6 on October 2nd, after she had left the home?

7 A. Yes, he talked to somebody. Now, whether
8 it was Janelle Belk, I don't know. As far as
9 I am concerned, he was talking to her. He was
10 talking to somebody on that phone.

11 Q. Well, you testified earlier that he spoke
12 to Janelle?

13 A. It sounded like Janelle, the way that he
14 was talking to her. He was talking to her
15 like she was a nurse. It was like -- I don't
16 understand what you're trying to say.

17 Q. You inferred to this jury that ---

18 A. Yes.

19 Q. --- Janelle Belk's treatment ---

20 A. Yes.

21 MS. DELUCA: Objection.

22 MR. TIERNEY: Let me finish my
23 question and then you can answer.

24 THE COURT: Folks, there's an
25 objection pending, so we need to rule on that.

1 But the main thing that we need to do is that
2 only one person talks at a time.

3 THE WITNESS: I'm sorry.

4 THE COURT: My court reporter can't
5 take down both of y'all.

6 THE WITNESS: Sorry.

7 THE COURT: But let him finish his
8 whole question and then you can answer him.
9 Objection is overruled.

10 MR. TIERNEY: Thank you.

11 CROSS EXAMINATION CONTINUED

12 BY MR. TIERNEY:

13 Q. You testified to this jury that Janelle
14 Belk treated it like it was no big deal, the
15 phone call on October 2nd, about your husband
16 being in pain?

17 A. I assume so.

18 Q. But you don't know whether your husband
19 actually spoke to Janelle Belk, do you?

20 A. He said that he called her.

21 Q. He said that he spoke to Janelle Belk?

22 A. Well, -- yes.

23 Q. And as a result of whoever was called on
24 October 2nd, Roper Home Health set up an
25 appointment for a nurse to come back and see

1 your husband on October 3rd; correct?

2 A. Yes.

3 Q. Do you think that was the appropriate
4 thing to do?

5 A. I don't think so, but then you probably
6 think otherwise. I don't know. I guess -- I
7 don't know how much -- I am not familiar with
8 something like that, sir.

9 Q. Do you think it was appropriate for them
10 to ---

11 A. No.

12 Q. Let me finish my question, please, and you
13 can have all the time in the world to respond.

14 A. I'm sorry.

15 Q. Do you think it was appropriate for Roper
16 Home Health to schedule an appointment the
17 very next day, the very next morning, when
18 your husband called and said that he was
19 experiencing pain?

20 A. No, I don't.

21 Q. What was your expectation?

22 A. I was expecting them to come out there
23 that day, that night, or whenever. They
24 didn't. They said that they couldn't get out
25 there, I guess. I don't know, I don't know

1 what was said in that phone call. But they
2 didn't think it was important, evidently.

3 Q. Did you get so concerned over this pain on
4 October 2nd that you called any of these
5 numbers on this booklet?

6 A. No, because I didn't think that we -- we
7 had to deal with her, is what I was thinking
8 of. I didn't think that we should call these
9 numbers. I didn't even think. I had the book
10 -- I had it there, but I didn't think.

11 Q. What time did Janelle Belk arrive on
12 October 3rd?

13 A. It was around lunch time.

14 Q. What is lunch time to you?

15 A. 11:00, 12:00, 1:00.

16 Q. 11:00, 12:00 or 1:00?

17 A. 11:00, 12:00 or 1:00 o'clock.

18 Q. Do you know what time you actually
19 arrived?

20 A. To be truthful and frank with you, I know
21 it was after 11:00 because my -- my stepson
22 was mowing the grass.

23 Q. Do you remember when my partner here, Ms.
24 Toporek, took your deposition on August 18th,
25 2010?

1 A. Yes, I do.

2 Q. Do you remember coming to our office?

3 A. Yes, sir.

4 Q. Being sworn under oath?

5 A. Yes, sir.

6 Q. Were you truthful on that day?

7 A. As much as I could be.

8 Q. Did you ever testify, on October 18th,

9 2010, as to the times Janelle Belk was

10 actually at your house?

11 A. I gave a rough estimation. I didn't know.

12 I tried to tell you that then. I know it was

13 close to noon because when I was sending him

14 there -- my stepson -- to get what she ordered

15 and Vitamin K, it was around noontime. I

16 couldn't swear as to the exact time. I wasn't

17 -- you don't -- you're not aware of things

18 like that, I'm not. But I know it was close

19 to lunch time.

20 Q. Did you testify on October 18th, 2010,

21 that Janelle Belk left your home to go to the

22 lab at about 11:20 a.m.?

23 A. I don't know what time it was when she

24 left, per se. I know that she left -- when

25 her shadow came in, she had taken the blood

1 and she was getting -- she was doing her
2 number with the wound vac. Then the shadow
3 was there.

4 MR. TIERNEY: Your Honor, I would
5 like to ask some questions about her
6 deposition transcript at this time. May I
7 give you the original? May I approach?

8 THE COURT: You may. I will give
9 our deposition instructions since we're going
10 to have some excerpts later this afternoon.

11 MR. TIERNEY: Thank you,
12 (tendering).

13 THE COURT: Ladies and Gentlemen,
14 you are getting ready to hear testimony from a
15 deposition and later this afternoon you will
16 also have some deposition excerpts from other
17 witnesses read into the record pursuant to the
18 court rules. A deposition is a document that
19 contains sworn testimony given by a witness
20 outside of court but in the presence of the
21 attorneys for each party, who are allowed to
22 ask questions of the witness. If objections
23 are made at the deposition or I need to handle
24 those, we will do those as they come along.
25 But in a deposition, a witness is under oath

1 just as they are here in court. There is just
2 not a judge present.

3 This witness is about to be
4 questioned about testimony from her
5 deposition. When you hear anything from a
6 deposition, it is up to you, the jury, as the
7 fact finder, to determine what effect and
8 value and truth you give that testimony, just
9 as you would here in court.

10 MR. TIERNEY: May I approach the
11 witness?

12 THE COURT: You may.

13 CROSS EXAMINATION CONTINUED

14 BY MR. TIERNEY:

15 Q. Ms. Evans, I am going to hand you a copy
16 of your deposition transcript that was taken
17 at a deposition in my office in August. I
18 want you to specifically look at Page 50, top
19 left-hand corner. Okay?

20 A. (Reviewing).

21 Q. On Page 50, Line 20, -- there is a little
22 designation on the left-hand side that tells
23 you what line. All right?

24 A. Okay.

25 Q. The question was asked of you: "And tell

1 me what you remember about that visit on
2 October 3rd?" What was your answer, please?

3 A. (Reading): "Well, she came in -- she
4 came in about ten after eleven. I walked back
5 to the bedroom and I figured, well, I had
6 better leave well, you know, enough alone. So
7 I am going to the kitchen because I was going
8 to go grocery shopping and get prescriptions
9 filled and everything that I needed to. Then
10 when I got back after it was done -- because I
11 had figured that I had been there, and my
12 stepson was mowing the grass..." ---

13 Q. You can stop right there. We've gone
14 beyond the question. Based on that question
15 that you were asked on October 18th of 2010,
16 what time did you tell me under oath, on
17 August 18th, 2010, that Janelle Belk arrived at
18 the house?

19 A. If I remember correctly, you were pushing
20 for the time and I told you that I wasn't sure
21 then.

22 MR. TIERNEY: Strike that as
23 nonresponsive, Your Honor. I am asking her
24 directly from the transcript.

25 THE COURT: Motion to strike is

1 granted. Ma'am, if you will, just answer the
2 question directly.

3 THE WITNESS: Around eleven,
4 eleven thirty.

5 CROSS EXAMINATION CONTINUED

6 BY MR. TIERNEY:

7 Q. My question was, based on my question to
8 you on August 18th, 2010, what did you respond
9 to as the time that Janelle Belk arrived at
10 your house?

11 A. Could you repeat that again, sir? I'm
12 sorry. I don't understand what you just said.

13 THE COURT: How about going ahead
14 and reading her Line 20 again and let her
15 respond just through the end of Line 23.

16 MR. TIERNEY: Thank you.

17 THE WITNESS: Thank you.

18 THE COURT: If you will, just
19 read it back directly as he reads it to you.

20 THE WITNESS: Okay.

21 CROSS EXAMINATION CONTINUED

22 BY MR. TIERNEY:

23 Q. Tell me what you remember about the visit
24 on October 3rd.

25 A. I read Line 20?

1 THE COURT: Read Line 22 and Line
2 23.

3 THE WITNESS: (Reading): "I
4 don't have any knowledge of that."

5 THE COURT: We might be on the
6 wrong page, Page 50, Lines 22 and 23.

7 THE WITNESS: Sorry. (Reading):
8 "Well, she came in about ten after 11:00. And
9 I walked back to the bedroom..." ---

10 THE COURT: That's far enough. I
11 think that's responsive to the question.

12 MR. TIERNEY: That's fine. Thank
13 you, Your Honor.

14 THE WITNESS: I'm sorry.

15 THE COURT: That's okay. We are
16 ready to move on to the next question.

17 CROSS EXAMINATION CONTINUED

18 BY MR. TIERNEY:

19 Q. Now, I believe that you testified that
20 Janelle Belk, at some point, took a blood
21 sample and left to go to the lab; is that
22 correct?

23 A. Approximately. I don't know. I know that
24 her shadow came in, she introduced me to the
25 shadow and I can't remember her name.

1 Q. Do you recall --

2 A. And she had drawn the blood and she said
3 that she had to go to Roper.

4 Q. Do you recall being asked, on August 18th,
5 2010, what time you believed that Janelle Belk
6 left for the lab?

7 A. I don't know. About 11:30. I don't know.
8 I don't know, I really don't.

9 Q. I would like to turn your attention,
10 please, to Page 57 of your deposition.

11 Q. And specifically, if you could read
12 for this jury, starting on Line 25 of Page
13 57 through the next page, Page 58, Line 4.
14 Starting with, "So she took the shadow ..."
15 ---

16 A. (Reading): "So she took the shadow. Now,
17 that was at 11:00, I'd say 11:30" -- or is it
18 11:20?

19 Q. Does it say 11:30 or 11:20 on there?

20 A. I'm sorry. I can't see it that well.

21 THE COURT: It says 11:20. If you
22 will, just keep reading.

23 THE WITNESS: (Reading): "And
24 went up to Stoney Landing and they refused to
25 do whatever she wanted done with the vial."

1 MR. TIERNEY: You can stop right
2 there.

3 CROSS EXAMINATION CONTINUED

4 BY MR. TIERNEY:

5 Q. So your testimony earlier, and based on
6 that portion of the transcript that you just
7 read was that at 11:20 that Janelle Belk left
8 your house with a blood sample and she went to
9 Stoney Landing and she took a vial of blood up
10 there and they refused to let her run the
11 vial. Is that correct?

12 A. Yes. That's what she told me when she
13 came back.

14 Q. Do you know what healthcare facility is
15 located on Stoney Landing?

16 A. Roper.

17 Q. Is it the Roper Berkeley Day Hospital?

18 A. Yes, that's it.

19 Q. And your testimony to this jury is that
20 Janelle Belk went to the Roper Berkeley Day
21 Hospital and -- let me backtrack just a
22 second. On direct examination by Ms. Deluca,
23 at the end of your examination, you were asked
24 some questions about who Janelle Belk works
25 for. Correct?

1 A. I beg your pardon?

2 Q. Were you asked by Ms. Deluca, at the end
3 of your direct examination about who Janelle
4 Belk works for?

5 A. Roper.

6 Q. She works for Roper, right?

7 A. Yes.

8 Q. And your testimony to the jury is that
9 Janelle Belk told you that as a Roper employee
10 that she went up to the Roper Berkeley lab and
11 the Roper Berkeley lab wouldn't accept the
12 vial of blood for her?

13 A. Hey, I'm sorry. I wasn't there. I don't
14 know why she went up there, except that I know
15 that she said that she had to take it there.
16 Since she worked for Roper, then I would
17 surmise that Roper would do it.

18 Q. Were you in the courtroom yesterday when
19 Lauren Cauwels was being examined?

20 A. Yes, sir.

21 MR. TIERNEY: May I approach the
22 witness, Your Honor?

23 THE COURT: You may.

24 CROSS EXAMINATION CONTINUED

25 BY MR. TIERNEY:

1 Q. Ms. Evans, I am going to hand you a copy
2 of what was previously admitted into evidence
3 and I will represent to you that that is a
4 copy of the lab sheet from the blood sample
5 that was taken by Ms. Belk at your home on
6 October 3rd. Can you tell the jury, based on
7 reviewing that document, where the lab was
8 from -- from the sample that was taken of your
9 husband on October 3rd?

10 A. Roper Hospital Department of Medicine,
11 Charleston, South Carolina.

12 Q. So your testimony is -- well, let me
13 backtrack. Do you know where the lab was
14 actually run?

15 A. No, I don't know. But she said that she
16 had to go to Roper, that she had to go to
17 Stoney Landing.

18 Q. Based on your review of that document, was
19 the lab actually run at Roper?

20 A. Evidently.

21 Q. If you would hand it back to me for one
22 second.

23 A. (Tenders). And it says Charleston. I
24 don't know. Is this Charleston?

25 Q. What lab did Janelle Belk tell you that

1 she was going to take the sample to in Goose
2 Creek?

3 A. I don't know. I don't know. I don't know
4 where they have the Trident Hospital here,
5 emergency room or whatever.

6 I don't know what you call Roper here. All I
7 know is that I go to them when I am in need.

8 Q. But your testimony to the jury is that
9 Janelle Belk actually left your house with the
10 blood sample,

11 A. Right.

12 Q. Went to the Roper Berkeley lab, they told
13 her that they wouldn't take the sample, then
14 she came back to our house?

15 A. Yes, ma'am (sic).

16 Q. Is that correct?

17 A. Yes, sir. Yes, sir, she did.

18 Q. And that's when she left to go to Goose
19 Creek?

20 A. That's when she said that she had to go to
21 Goose Creek. Now, I don't know what she was
22 going there for. I don't know what she
23 couldn't do, but she told me that she could
24 have the blood run there at that time.

25 Q. What time would she have left your house,

1 then to go to Goose Creek?

2 A. I really -- I really don't know,
3 specifically.

4 Q. Well, we have established based on your
5 testimony that it was 11:10, correct?

6 A. I was estimating. I didn't have a watch
7 up, I wasn't thinking -- I didn't have the
8 clock on the wall.

9 Q. Then you testified in August 2010 that she
10 left to go to the lab about 11:20; correct?

11 A. There again I'm guessing. Maybe.

12 Q. So then based on your testimony to this
13 jury that she went to the lab at Roper
14 Berkeley and then came back, and they didn't
15 take the sample, then had to go back to Goose
16 Creek, then what time did she ultimately leave
17 your house for good?

18 A. When she left to go to Goose Creek.

19 Q. What time was that?

20 A. I am guesstimating. I don't know. I do
21 not know. When she left, she left.

22 Q. When my partner took your deposition on
23 August 18, 2010, do you recall whether or not
24 you were asked what time Janelle Belk left for
25 Goose Creek?

1 A. No, I don't remember.

2 Q. Let me turn your attention, please to Page
3 62 of your deposition, specifically to my
4 question or my partner's question on Line 8.

5 I will read it for you and if you could please
6 read your answer to the question. Page 62,
7 Line 8, (reading): *"Do you know what time it*
8 *was when she left for Goose Creek?"* What is
9 your answer.

10 A. "Do you know what time it was when..." --
11 (Reading): "I would say about -- I think the
12 minute she got back from Stoney Landing,
13 Roper, she came in and it wasn't -- it was in
14 and out."

15 Q. Question, (reading): *"Do you have a*
16 *time?"* And what was your answer?

17 A. (Reading): "I would say less than --
18 11:30 or I'd say 11:20, 11:25, about 11:25."
19 Like I say, I was unsure, sir. I didn't have
20 a watch on.

21 Q. Well, let's be clear about ---

22 A. I didn't note the time.

23 Q. Let me ask my question. Let's be clear
24 about what you said in your deposition as
25 opposed to ---

1 A. I ---

2 Q. Let me finish my question. --- as opposed
3 to what you're saying here today, because you
4 didn't say in your deposition on October 18th,
5 2010, that you weren't sure about the times,
6 did you?

7 A. The thing was, you were asking me what
8 time it was. And I ---

9 Q. Please answer my question yes or no and
10 then you can explain yourself. On August 18th,
11 2010, did you say in your deposition that
12 you're sure about the time?

13 A. No, and it's my fault for not saying that.

14 Q. What time did you notice bleeding coming
15 from your husband on October 3rd, 2006?

16 A. After I had fed him lunch. He was eating
17 lunch. She had told me to get my husband
18 greens, to give him Vitamin K and all and I
19 said 'fine.' So I gave him his greens. We
20 sat there and we talked. We were talking and
21 he kept telling me that he felt like he was --
22 -

23 Q. I appreciate that and I don't mean to cut
24 you off, but my question was what time did you
25 notice the bleeding on October 3rd, 2006?

1 A. I don't know. All I know is that when he
2 started complaining, I started to look. Does
3 that make sense?

4 Q. Do you recall that when you were deposed
5 on August 18th, 2010, that you were asked the
6 question by my partner what kind of bleeding
7 actually occurred on October 3rd, 2006?

8 A. I don't -- I don't understand. I'm sorry.

9 Q. Do you have any recollection of that
10 question being asked and you giving a
11 response?

12 A. Yes, but I am not sure what you mean by
13 that.

14 Q. All right. Let's go to your transcript
15 again.

16 A. Is that when he is eating lunch and he
17 felt something tricking, tickling. I picked
18 up the towel and ---

19 Q. We are going to get to that. Let's go to
20 your transcript. I want you to look at Page
21 68, please, specifically at Line 19. I am
22 going to ask the question and then I want you
23 to give me your response. Okay? Line 19, "At
24 some point the bleed started, do you know at
25 what point the bleed started?" What is your

1 answer?

2 A. "I would say about a quarter of twelve. I
3 mean, that was when he was sitting there
4 eating and I was feeding him the greens and
5 chicken."

6 Q. So on August 18th you testified that the
7 bleeding started at a quarter of twelve, is
8 that correct?

9 A. That's when he started complaining, that
10 is exactly when he started complaining, when
11 the food and everything got there, he was
12 complaining. He was bleeding when the nurse
13 left, because he kept saying, "Am I bleeding?"

14 Q. You testified, in your direct examination
15 this morning, that Ben came back with the food
16 and then Janelle left, correct?

17 A. Yes. No. Janelle left before he came,
18 I'd say five or six minutes. They probably
19 could have met each other in the driveway.

20 Q. Your testimony this morning was,
21 regardless of whether or not Janelle left
22 before Ben came back, you testified that when
23 Ben came back with the food, and we can agree
24 or disagree when Janelle left, but your
25 testimony was that when Ben came back with the

1 food that then you pulled up the corner of the
2 towel and blood squirted out. Was that your
3 testimony?

4 A. The ---

5 MS. DELUCA: Objection. Misstates
6 prior testimony.

7 THE COURT: Okay. I am going to
8 overrule the objection. The jury knows what
9 the testimony was. So I am going to let them
10 make that determination.

11 MS. DELUCA: Yes, Your Honor.

12 THE COURT: Okay.

13 THE WITNESS: Do you mind
14 repeating the question again, sir?

15 CROSS EXAMINATION CONTINUED

16 BY MR. TIERNEY:

17 Q. My question was, you testified this
18 morning on direct examination that when Ben
19 came back with the food ---

20 A. Yes.

21 Q. --- you pulled up the corner of the towel
22 and blood spurted out. Is that correct?

23 A. When he was eating his food, he kept
24 complaining and ---

25 Q. My question is, is that what you testified

1 to this morning, that when you pulled up the
2 towel blood was spurting out?

3 A. After he got through eating and he still -
4 I pulled up the towel, yes, he was bleeding.

5 Q. Okay. And I am quoting you directly, from
6 your direct examination this morning, you said
7 that it was bleeding so fast that it was
8 horrendous.

9 A. It was profusely is what -- I don't know
10 what you'd call it. When you see blood
11 spurting, what do you think? I'm asking, I
12 don't know. To me that is profusely. It was
13 spraying up, yes.

14 Q. So at a quarter of twelve when your
15 husband was eating his lunch and you pulled up
16 the towel, blood was spurting, as you have
17 just described it, and it was bleeding so fast
18 to you that it seemed horrendous; is that
19 correct?

20 A. Yes, and I told you that I don't know what
21 time it was. I know that there was a time
22 but, as with anything else, I'm not -- all I
23 know is that the time was at that time, and
24 that's when I called Janelle on the phone and
25 she told me to call EMS.

1 Q. What time did you call EMS?

2 A. I don't know, sir. To tell you the truth,
3 you - all I know is that it was inbetween
4 there. It had to be -- I am glad to say that
5 they were there.

6 Q. I am going to hand you, since that, what
7 was previously marked into evidence as the
8 DHEC run sheet.

9 A. Thank you.

10 Q. I want you to look at the DHEC run sheet,
11 I want you to tell me, based on the run sheet,
12 what time you called EMS.

13 A. I don't know. Where is that?

14 THE COURT: If you could show her.

15 MR. TIERNEY: Yes, Your Honor, I
16 will.

17 THE COURT: Actually, if you want
18 to just lead her and say, "Does the record
19 show..." ---

20 MR. TIERNEY: Sure.

21 CROSS EXAMINATION CONTINUED

22 BY MR. TIERNEY:

23 Q. Does the EMS run sheet show that the call
24 to EMS was placed by you at 1340?

25 A. I guess, yes.

1 Q. And that would have been 1:40 p.m.,
2 correct?

3 A. Yes.

4 Q. And your testimony to this jury is that
5 when your husband was eating lunch, sometime
6 close to noon, he had blood spurting out so
7 fast -- I want to make sure that I've got this
8 correct -- that it was bleeding so fast that
9 it was horrendous. Is that correct?

10 A. You asked me the time. I tell you that I
11 wasn't sure what time it was, all I know is
12 that I was feeding him lunch. As for a
13 specific time, sir, I don't know. I'm telling
14 you that, and that is the god's truth, I don't
15 know what time exactly that we got through
16 eating.

17 Q. On October 18, 2010, you said that it was
18 a quarter of twelve; correct?

19 A. That was because she wanted a time. I
20 didn't have the time. I tried to tell you
21 that. It's my fault for making a time. I
22 know it was there. I'm sorry.

23 Q. Then when you said that you tried to tell
24 me that, you didn't tell me that in your
25 deposition transcript.

1 A. I'm sorry, I didn't know how to explain
2 it.

3 Q. But if we ---

4 A. It's my fault.

5 Q. That if we look at your deposition
6 testimony, not what you are saying here today,
7 but if we take it on your deposition
8 testimony, then your husband had a bleed
9 around noon. It was so horrific that it was
10 spurting, you didn't know what to do and you
11 waited until 1:40 to call EMS?

12 A. No, sir. I did -- I know that there
13 wasn't -- I didn't think it was that long,
14 because we were trying to get in touch with
15 Janelle. We got in touch with Janelle, she
16 told me to call EMS. I did it.

17 Q. You called her on her cell phone,
18 correct?

19 A. He had the number punched in his little
20 phone. He told me to call her. I did.

21 Q. She told you to call 911, didn't she?

22 A. At the time, yeah. She told me -- she
23 said -- I said, 'Are you coming back soon?'
24 Because I figured that she could help me with
25 whatever was happening at that time. I was

1 there. I didn't know what else to do.

2 Q. Did she ---

3 A. She told me to call EMS. I said, 'Thank
4 you.' I said, 'Could you help me?' I said,
5 'My hands are tied up here, I've got something
6 holding the wound -- the plastic bag with rice
7 on it.' I was holding him down and I asked
8 her if she would help me, if she would call
9 911 for me, and she said, "I can't do that,
10 you have to do it yourself." I did.

11 Q. Did you ever ---

12 A. But I called her a bitch. And I'm sorry.
13 I got that -- I think that was in my record,
14 too, but I -- I don't know. At least I
15 remember saying that because that's exactly
16 what I said, 'Thank you, bitch.'

17 Q. Did you ever notice any active bleeding
18 when Janelle Belk left the house?

19 A. No, because I thought she'd taken care of
20 it, sir.

21 Q. Your answer was no?

22 A. No, I didn't see any. So I'm not sure.

23 MR. TIERNEY: No further
24 questions, Your Honor.

25 THE COURT: Thank you, sir.

1 THE WITNESS: I just heard ---

2 MR. TIERNEY: No further
3 questions.

4 THE COURT: Redirect?

5 MS. DELUCA: Thank you, Your Honor.

6 REDIRECT EXAMINATION

7 BY MS. DELUCA:

8 Q. Ms. Evans, do you remember giving your
9 deposition?

10 A. Yes, ma'am.

11 Q. Had you ever given a deposition before?

12 A. No, ma'am.

13 Q. How were you feeling about given the
14 deposition of that day?

15 A. I was nervous because I did not know what
16 to expect. I'm sorry. Like I am now.

17 Q. At your deposition, did you testify
18 honestly?

19 A. Yes, ma'am, as far as I can remember.

20 Q. At your deposition, did you testify
21 truthfully and to the best of your ability
22 and recollection?

23 A. I did.

24 Q. And are you doing that here today?

25 A. Yes.

1 MS. DELUCA: That is all the
2 questions that I have.

3 THE COURT: Thank you. May the
4 witness step down?

5 MR. TIERNEY: Yes, Your Honor.

6 THE COURT: Ma'am, you may step
7 down.

8 (WITNESS STEPS DOWN)

9 THE COURT: Who is your next
10 witness and how long will it be?

11 MS. DELUCA: Mr. Evans.

12 THE COURT: Normally we do not
13 break for lunch this early, however I think
14 everybody could probably use a break. We
15 have some matters of law to take up with the
16 attorneys that may streamline the testimony
17 and shorten it a little bit this afternoon.
18 I want to get those excerpts dealt with. So
19 let's take a break. Y'all come back at 2:00
20 o'clock and that will give them all a chance
21 to get some lunch and also work with me on the
22 deposition excerpts.

23 Okay, Ladies and Gentlemen, please
24 do not discuss the case yet. We need to wait
25 until all the evidence comes in. Thank you.

1 (JURY OUT @ 11:44 A.M.)

2 THE COURT: I thought you might
3 need a chance to look at the excerpts that he
4 provided. I know that there are four
5 different depositions that we need to look at
6 the excerpts for. Do you want to take a break
7 and do that before we go to lunch, then go to
8 lunch. Or do you want to come back at 1:00
9 and start working on those? You tell me.

10 MR. TIERNEY: I will leave that
11 up to Christy since she is the one that has
12 got them. We had look through them now and
13 maybe knock that out and you will have a
14 longer break for lunch.

15 THE COURT: Why don't we take about
16 fifteen minutes now for you to take a look at
17 what they have given you this morning. It's
18 not a lot. Then we can go ahead and get those
19 cranked out. Then everybody had can a nice
20 lunch. Thank you. I'll see you back in here
21 right about noon.

22 (BRIEF RECESS)

23 (OFF RECORD DISCUSSION RE: SCHEDULE)

24 THE COURT: Let's get all of this
25 on the record -- and the clients aren't here.

1 I've given you a lot of leeway when we are
2 running late and I am sitting on the bench,
3 waiting for us to get started. I'm not going
4 to force you to let them take him out of
5 order, but it was my understanding yesterday
6 that we'd agreed to do that. If I am wrong,
7 and I don't know if we have that on the record
8 or not, then I will correct it. But it is a
9 matter of courtesy, generally, to do that. I
10 certainly am not going to interrupt your case.
11 But think hard on that.

12 MS. DELUCA: I know, and I don't
13 want to put anyone to any extra trouble but if
14 I could at least put Mr. Evans up and then you
15 could have the end of the day to ---

16 THE COURT: How long is Mr.
17 Widenhouse going to take?

18 MR. TIERNEY: My examination
19 will probably be thirty minutes, at most.

20 THE COURT: Have him here at 4:00
21 o'clock.

22 MR. TIERNEY: Yes, Your Honor.

23 THE COURT: How long are you going
24 to have him on cross?

25 MS. DELUCA: Not ---

1 THE COURT: Not long?

2 MS. DELUCA: No.

3 THE COURT: Then let's do that.

4 We'll get your fellow up -- I can't imagine
5 that he would be up longer than that. Like I
6 said, I am not going to make you do it but I
7 am going to stop being so nice about every-
8 thing else, is my point.

9 MS. DELUCA: No, I don't think like
10 that. You said you didn't have a problem with
11 that. I was hoping that it would never come
12 up, because I thought that I would be done.
13 So -- but I would at least like to get Mr.
14 Evans in.

15 THE COURT: I understand.

16 MS. DELUCA: I think that ---

17 THE COURT: That's fine. Y'all
18 need to look at those depo excerpts, because I
19 want to get that done before we go to lunch.
20 All right?

21 MS. DELUCA: Thank you, Your Honor.

22 THE COURT: Do you have a lot of
23 objections?

24 MR. TIERNEY: My objections are
25 general, actually. I can tell you what they

1 are right now. So if Christy wants to think
2 about it, that's fine with me.

3 THE COURT: Yeah, let's do that.

4 MR. TIERNEY: The first is her
5 expert who is a physician, Dr. Gezen.

6 THE COURT: I've got his.

7 MR. TIERNEY: He was never
8 qualified in any field in his discovery
9 deposition.

10 THE COURT: Okay.

11 MR. TIERNEY: I have an
12 objection to what she has designated to be his
13 testimony, because he was never qualified
14 under Rule 702 necessary for a witness to be
15 qualified as an expert. There was not any
16 background questions asking him as to what his
17 specialty was, what areas that he practiced
18 in. She does have a portion where I said 'I
19 understand that you have been designated as an
20 expert', which is exactly what I said, that he
21 had been designated but that does not qualify
22 him. So I have an objection to her being able
23 to let him offer any opinion by way of
24 deposition testimony, when he was not
25 qualified under Rule 702.

1 THE COURT: Does he have -- is he
2 coming tomorrow?

3 MS. DELUCA: No, ma'am, I was going
4 to present his testimony by deposition.

5 THE COURT: Okay. I will read the
6 transcript, the whole thing, at lunch; because
7 I need to if that is going to be an issue. I
8 will hear from you.

9 MS. DELUCA: Your Honor, I would
10 think that all that was contained with in his
11 deposition. I did not specifically offer that
12 because all the background information was set
13 forth in his deposition. So if I did not
14 designate it, I could designate it -- or, I
15 have not read their designations. Perhaps
16 that nullifies the issue also.

17 THE COURT: I will read the
18 deposition. Then I think that you better have
19 some law for me, at least for tomorrow, on
20 whether we can qualify him. I mean, I can see
21 how that could go either way. So, just know -
22 - we are not going to get to this anyway
23 because we have the plaintiff and then we have
24 Dr. Widenhouse at 4:00. If we have to adjourn
25 a little bit early, that's fine.

1 MR. TIERNEY: Okay.

2 THE COURT: I'm glad that you
3 brought that up because that's going to
4 something that I've got to look at.

5 MR. TIERNEY: Yes.

6 THE COURT: Then I will be happy to
7 hear any arguments that you might have about
8 why it is not prejudicial to them or why that
9 is a technicality, why that might be okay to
10 do. Then we can deal with his -- let's let me
11 rule on that before we go piecemeal through
12 what the specific objections are to his
13 testimony. We can do that in the morning.

14 MR. TIERNEY: Thank you.

15 MS. DELUCA: Your Honor, this is the
16 first time that I've heard this objection, so
17 I would like some opportunity to perhaps
18 respond to it.

19 THE COURT: We will argue that in
20 the morning, for sure.

21 MS. DELUCA: Okay, Your Honor.

22 MR. TIERNEY: As a roadmap, my
23 other concerns are with my fact witnesses,
24 Judy Burbage and Janelle Belk, who she
25 designated certain excerpts from them. She

1 asked them standard of care questions, which I
2 objected to form, during the discovery
3 deposition. They were never offered as an
4 expert. They were fact witnesses only. I
5 have an objection to her being able to ask
6 standard of care questions when they were
7 never offered as experts, simply fact
8 witnesses. They were never qualified as
9 experts.

10 THE COURT: Are you offering them
11 as experts, asking them standard of care
12 questions in your case in chief?

13 MR. TIERNEY: No. I am strictly
14 treating them as a fact witness. They will
15 testify only to their role in the treatment of
16 Finley Evans.

17 THE COURT: Okay.

18 MS. DELUCA: Your Honor, I guess
19 with that in mind, I can go back and revisit
20 my designations and ---

21 THE COURT: Here -- this is what I
22 think that we need to do. This makes the
23 timing work out well. I need to look at some
24 law on that, and I think that you probably do
25 too, and then we can argue that. I would

1 prefer not to go through the designations
2 right now. That will give you more time with
3 them. Okay? If I don't know what the answer
4 to that question is, I have not had that come
5 up before, so I need to look at the law. What
6 else?

7 MS. DELUCA: Well, I think that
8 takes care of Dr. Gezen, we can address that
9 in the morning.

10 THE COURT: Okay.

11 MS. DELUCA: That takes care of Belk
12 and Burbage, that we will address in the
13 morning.

14 I have gone through Renee Epting's
15 deposition, if you do want to address that
16 now.

17 THE COURT: I would love to. Are
18 you ready to go ahead and do that.

19 MR. TIERNEY: She was our
20 expert, we offered her as our expert. We
21 don't have any issues with what she has been
22 designated as, she's going to be here.

23 THE COURT: Do you have any
24 objections to what they have designated?

25 MS. DELUCA: I had objections to a

1 couple of their designations.

2 THE COURT: This is Ms. Epting?

3 MS. DELUCA: Yes. The designations
4 numbered two and three that refer to Page 73
5 of her deposition. It touches on the issue
6 that we've previously talked about, that she
7 has no home healthcare experience, only wound
8 care. Those designations go to healthcare. I
9 would argue that she is not qualified to
10 render opinions. The first designation, I
11 would argue that she is not qualified to
12 render an opinion as to the care provided by a
13 home health agency.

14 THE COURT: Mr. Tierney? Or Ms.
15 Toporek?

16 MR. TIERNEY: I thought we
17 covered that in the Motions in limine. It's a
18 credibility issue in front of the jury. She's
19 going to be here.

20 THE COURT: I think we covered the
21 issue of general wound care in the Motions in
22 limine.

23 MR. TIERNEY: Right.

24 THE COURT: But I did say that I
25 was going to have to revisit it once I looked

1 at the testimony in full. I am going to read
2 all four of these depositions.

3 My inclination would be -- and I
4 think that it can come in under general
5 nursing practices, but I want to be fair to
6 both sides and make sure that I look at her
7 qualifications. Like I said, my inclination
8 is probably to let that in since I think it
9 goes more to the weight than to the
10 admissibility of the actual testimony. Also,
11 since she is coming, you can cross examine her
12 strenuously about if you like, and I am sure
13 you will.

14 So that will likely come in, but I
15 will rule on that when we address all of these
16 with finality in the morning.

17 What I am taking right now, we will
18 go to 5:00 today and we'll come back at 9:30
19 in the morning and argue whatever needs to be
20 argued with respect to these issues, because I
21 want you all to have a chance to look at the
22 law and be fully prepared on it. I want to be
23 prepared on it, too. Then we will go from
24 there. How about that?

25 MR. TIERNEY: Thank you, Your

1 Honor. That sounds good.

2 THE COURT: In the meantime, if you
3 have any jury charges that are separate from
4 what has been submitted please e-mail ---

5 MS. DELUCA: If I can e-mail them in
6 Word?

7 THE COURT: E-mail them in Word.
8 If you want to do it this afternoon or
9 tonight, you can.

10 MS. DELUCA: I will send it now.

11 THE COURT: Let's go off the record
12 for a minute because I am finished with that
13 is on the record.

14 (OFF RECORD DISCUSSION)

15 (LUNCH RECESS)

16 THE COURT: Do y'all have anything
17 before we get started?

18 MR. TIERNEY: I've just got
19 those exhibits to move in.

20 THE COURT: All right.

21 MS. DELUCA: Yes, Your Honor.

22 MS. DELUCA: Your Honor, Plaintiff
23 would move Exhibits 2 and 3 into evidence at
24 this time.

25 THE COURT: Okay.

1 MR. TIERNEY: Your Honor,
2 Defendants would move Defendant's Exhibit 1,
3 RSFH-73, into evidence at this time;

4
5 Defendant's Exhibit 2, which is
6 RSFH-72, into evidence at this time;

7 Defendant's Exhibit 3, Widenhouse
8 25, into evidence at this time;

9 Defendant's Exhibit 4, Widenhouse
10 050, into evidence at this time;

11 Defendant's Exhibit 5, which is
12 Widenhouse 098, into evidence at this time;

13 Defendant's Exhibit 6, RSFH-0064,
14 into evidence at this time, by consent of both
15 parties.

16 THE COURT: Are Plaintiff's 2 and 3
17 also entered without objection?

18 MR. TIERNEY: Without objection.

19 MS. DELUCA: Your Honor, as to the
20 first two exhibits of the defense, I have no
21 objection. The other ones, I have no
22 objection subject to them coming in through
23 Dr. Widenhouse laying the foundation for them.

24 MR. TIERNEY: I thought we'd
25 stipulated Widenhouse's records come in?

1 MS. DELUCA: Yes. Sorry about that.

2 THE COURT: Okay. Plaintiff

3 Exhibits 2 and 3 are admitted without
4 objection. Defendant's Exhibit 1 through 6
5 are admitted without objection.

6 (SO ENTERED AS PLAINTIFF'S EXHIBIT 2)

7 (SO ENTERED AS PLAINTIFF'S EXHIBIT 3)

8 (SO ENTERED AS DEFENSE EXHIBIT 1)

9 (SO ENTERED AS DEFENSE EXHIBIT 2)

10 (SO ENTERED AS DEFENSE EXHIBIT 3)

11 (SO ENTERED AS DEFENSE EXHIBIT 4)

12 (SO ENTERED AS DEFENSE EXHIBIT 5)

13 (SO ENTERED AS DEFENSE EXHIBIT 6)

14 MR. TIERNEY: Judge McDonald, I
15 don't know if this is the right time to
16 mention this but we had our expert ---

17 THE COURT: Wait a minute. She's
18 got to take this down and I think they're
19 (Court Reporter and Ms. Deluca) are chatting.

20 MR. TIERNEY: Sorry. Our expert
21 is schedule to be here tomorrow afternoon. I
22 am anticipating now that we probably wouldn't
23 be able to put her up until Thursday. She's
24 got to come from Columbia. For scheduling
25 reasons, uh, -- do I need to have her here

1 tomorrow afternoon, just in case?

2 THE COURT: I am not going to make
3 her come twice. I don't want to do that. I
4 think today that we will probably be lucky to
5 get through the plaintiff and Dr. Widenhouse
6 and then we will get started back in the
7 morning. We are going to have to take some
8 evidentiary issues up in the morning. How
9 many witnesses do you have tomorrow?

10 MS. DELUCA: This is my last live
11 witness. The rest will be depositions. I
12 want to read in portions of some pleadings,
13 and I think that will be it.

14 THE COURT: Okay. So probably Mr.
15 Tierney will be able to start by Wednesday
16 after lunch, it looks like?

17 MS. DELUCA: Yes.

18 THE COURT: Okay.

19 MR. TIERNEY: So Thursday is
20 fine?

21 THE COURT: That's fine. I am
22 probably going to go again and cut loose the
23 rest of the trials for the week. I just don't
24 see how that we can get this to the jury in
25 time, if you've got another witness coming

1 Thursday morning. We probably won't be able
2 to argue and charge until Thursday afternoon,
3 maybe Friday morning.

4 MR. TIERNEY: I was thinking
5 that, too, because of the designations they
6 might -- two witnesses on Thursday. I can
7 tell you that I will be done by lunchtime on
8 Thursday with those two witnesses, depending
9 on cross examinations.

10 THE COURT: Let's do this. If by
11 some reason we run out of witnesses tomorrow
12 before your expert is ready to go -- because I
13 am not going to make her come from Columbia
14 twice, or spend the night, we can go ahead and
15 have the charge conference and get that work
16 done. Y'all can probably agree to most of the
17 charges. What Ms. Deluca submitted was good
18 law, and I didn't see a whole lot
19 objectionable to it subsequent to the evidence
20 coming in to justify the charge. Yours is
21 probably the same. We can just move that up
22 and we will keep court time but not keep
23 witnesses here any longer than they need to
24 be. Does that work for you?

25 MS. DELUCA: Yes, Your Honor. The

1 only thing that I would address as far as
2 scheduling is if Dr. Widenhouse was available
3 on Thursday -- I know he was declared
4 unavailable on Monday and Wednesday, but if he
5 is available Thursday, then he's -- he's in
6 the portion of their case.

7 MR. TIERNEY: His office,
8 Tuesday was the only day that he was
9 available. I would much rather ---

10 THE COURT: I know. He'd rather it
11 be in his case, too.

12 MR. TIERNEY: Right.

13 THE COURT: Okay. Let's go ahead
14 and move forward. I've already said that we
15 would take him out of order and I truly
16 thought that we had an agreement on that
17 yesterday. Normally that is the kind of thing
18 that we agree on. We need to get moving so
19 that we can get him up at 4:00 and get him out
20 of here. Anything else, matters of law-wise,
21 before we bring in the jury?

22 MS. DELUCA: No, Your Honor.

23 MR. TIERNEY: I don't think so.

24 THE COURT: Bring in the jury.

25 (JURY IN @ 2:09 P.M.)

1 THE COURT: Thank you, Ladies and
2 Gentlemen. I hope that you all had a nice
3 extended lunch. We took a little longer than
4 we normally do, today, but the attorneys are
5 ready to proceed with the trial of the case.
6 So I would ask Ms. Deluca to call her next
7 witness.

8 MS. DELUCA: Your Honor, the
9 plaintiff calls Mr. Evans.

10 (WITNESS TAKES STAND)

11 FINLEY C. EVANS, being duly sworn to
12 tell the truth, the whole truth and nothing
13 but the truth, testified, as follows:

14 DIRECT EXAMINATION

15 BY MS. DELUCA:

16 Q. Mr. Evans, where do you live?

17 A. 119 Land of Pines in Moncks Corner.

18 Q. How long have you lived there?

19 A. Since July of '01.

20 Q. Are you currently working?

21 A. No, ma'am. I'm retired now.

22 Q. When did you retire?

23 A. July 1, 2010.

24 Q. What did you do prior to your retirement?

25 A. I was a welder for about forty-five

1 years. I had to retire due to problems that I
2 had.

3 Q. Did you enjoy your work as a welder?

4 A. Loved it.

5 Q. Did you do that locally?

6 A. No, ma'am. I can't -- as far as the
7 shipyard?

8 Q. Well, as far as where your work took you
9 in those forty-five years.

10 A. It was the Charleston Navy Shipyard and
11 then the last seventeen-and-a-half years, I
12 traveled all over the world working on ships.

13 Q. And do you have any children?

14 A. I have two sons.

15 Q. How old are they?

16 A. The oldest one is forty years old as of
17 January 5th, and my youngest son is thirty-
18 five years old -- thirty-four years old as of
19 July 18th, '76.

20 Q. How long have you been married to Jane
21 Evans?

22 A. Fifteen years as of December 23rd, 1997.

23 Q. And have you ever worked in the medical
24 or nursing field?

25 A. Never have.

1 Q. Have you ever had any medical or nursing
2 education or training?

3 A. The only thing I had, and I am not
4 qualified in it now be you have to go every
5 year, my company in '09 required all of us to
6 have CPR classes. I no longer need it, so I
7 haven't requalified.

8 Q. That is only medical training that you
9 have had?

10 A. Yes, ma'am.

11 Q. All right, Mr. Evans. I am going to
12 bring you to what brings us here in the
13 courtroom today. I want to ask you to tell me
14 what you remember about the first Roper Home
15 Health visit.

16 A. It was by -- I forgot her name. But, uh,
17 the -- the first nurse that came in, she and
18 my wife discussed it and -- I don't remember
19 what, much, was said but I know that when she
20 applied it that it was comfortable, it didn't
21 bother me, didn't hurt at all.

22 Q. When you say she applied "it", what are
23 you referring to?

24 A. The wound vac. She applied it very well,
25 no problem with her.

1 Q. And would you please tell me what you
2 remember about the second Roper Home Health
3 visit.

4 A. It was by -- what's her name again? Ms.
5 Belk? She came in and the first thing that
6 she started -- the first thing she said when
7 she saw the wound vac, she started ranting and
8 raving about Dr. Widenhouse having it on
9 there. She couldn't see no reason why it was
10 on there.

11 My wife told her about why he put it on
12 there. She ignored what we said. She kinda
13 talked like she had no experience doing it,
14 the way she sounded. I don't remember the
15 exact words the conversation was about, but --
16 we told her that we had a VCR and a TV right
17 there if she was unsure about it. She didn't
18 even answer our question. She just ignored
19 what we said. We went and put it on.

20 And at the time -- no. She went to
21 take it off, because she had to examine me
22 fist. When she took it off, I had no pain --
23 I mean, it was painful enough but not near as
24 bad as it was when she had to take it off
25 after she had put it on there herself, the

1 first time. She put it on the first time and
2 it kinda felt uncomfortable. But I said,
3 'well, she knows what she is doing. I don't
4 know anything about it.'

5 Q. I just want to make sure that I
6 understand. Did you have pain from the wound
7 vac prior to the nurse taking it off on the
8 second visit?

9 A. From the first nurse, after she put it
10 on, (negative gesture). She put it on, it was
11 very comfortable.

12 When Ms. Belk came in to take it off of
13 me after the first nurse had put it on, it
14 didn't hurt that much. I mean, it's going to
15 hurt a little bit. I can understand that, but
16 it didn't hurt that much.

17 Q. Did it hurt when on that second visit the
18 nurse took off the wound vac dressing?

19 A. When Ms. Belk took the first nurse's
20 dressing off?

21 Q. Yes.

22 A. It hurt a little bit but that was
23 understood. I experienced that in 2000 when
24 they took it off me before I left the
25 hospital. They took that same kind of wound

1 vac off and it hurt a little bit then, but
2 that was understandable.

3 Q. Did it hurt when she put the wound vac
4 back on, on that second visit?

5 A. When Ms. Belk put it on, it kinda felt
6 uncomfortable when she was putting it on.
7 I don't know what it was all about, maybe it
8 was me, maybe it was her -- I don't know. I
9 couldn't determine at the time, but it began
10 to get more and more uncomfortable as time
11 went on.

12 By that evening, I called for her to come
13 back. She showed up the next morning, which
14 was the third.

15 Q. Were you in pain until ---

16 A. I was in pain just about the whole time.

17 Q. And do you remember anything else about
18 that second visit by Roper Home Health?

19 A. As far as the third of October, or the
20 second.

21 Q. On the 2nd was the second visit.

22 On the 3rd was the third visit.

23 So I want to make sure if there is
24 anything else that you remember about the
25 second before I move on to the third?

1 A. No, it's all -- after she left, you know,
2 it just got to hurting worse and worse. As
3 time went by, that's when I called for her to
4 come back in.

5 Q. Now talking about the third visit by
6 Roper Home Health, which was on October 3rd,
7 what do you remember about that?

8 A. Well, she came in and she, of course, had
9 to take the thing back off -- the wound vac
10 back off. And when she did, man, that last
11 time it hurt like you wouldn't believe. I
12 almost passed out from the pain. I don't know
13 whether she used more glue, or whatever it is
14 that they use to hold it down, but I could
15 feel my skin stretching like that -- (gesture)
16 -- and my mind was livid with pain. It took a
17 long time for the pain to go away the rest of
18 that day, just from her taking it off.

19 Q. During that third/last Roper Home Health
20 visit, do you remember anything else that was
21 done or said by the nurse and you?

22 A. After she took it off, I think that she
23 was going to stick a needle in me -- for
24 whatever reason, I don't know. She said, 'I
25 know that I shouldn't be doing this.' I

1 remember my wife asking her, 'why are you
2 doing it then?' She didn't answer my wife
3 about that, she just went ahead and did it,
4 she drew blood from me. I was so in pain at
5 the time that there is a lot that I don't
6 remember, I just can't remember.

7 Q. Do you recall if your wound was bleeding
8 after she took off the dressing?

9 A. Well, I heard her say, after she took the
10 dressing off, that I was bleeding. From what
11 I saw the look on her face, you know, she
12 acted like she was kinda surprised,
13 frightened; I don't know, but her face didn't
14 look very good.

15 Q. When she is doing the dressing change,
16 can you see what she is doing?

17 A. No, I didn't look down. I felt a lot.
18 The pain was so -- I mean, the after effects
19 of the pain that it was taking a long time for
20 the pain to subside and I was just trying to
21 get my mind under control, get away from the
22 pain. I was in a lot of pain after she took
23 it off, probably for a pretty good while after
24 that.

25 Q. And do you recall what happened after the

1 nurse took your blood, drew a blood sample?

2 A. I think she told me that she was going to
3 Stoney Landing Park, I think, where Roper is,
4 to get the vial -- to have my blood checked,
5 my Coumadin level, whatever. She came back.

6 I don't know exactly when she came back, but
7 there's -- like I said, there is a lot that I
8 don't remember. She came back and she said
9 that they rejected her there, so she was going
10 to Goose Creek. I don't know when it was when
11 she left. I don't even know what time of day
12 it was when she got there. Time was of no
13 essence to me at the time.

14 Q. So after she came back and told you that
15 she couldn't take your blood sample to the
16 Stoney Landing lab, then what happened?

17 A. I think she talked about that she was
18 going to Goose Creek or something like that.
19 When she came back the second time, I think
20 that there was a girl with her -- what she
21 called a shadow. When she came in for the
22 first visit on the 3rd, she didn't have
23 anybody with her, I don't think. The second
24 visit, when she came back from Stoney Landing,
25 she had what she called a shadow with her.

1 Q. And did she come back pretty quickly or
2 how much time was there between the visits?

3 A. I can't remember how much time there was.

4 Q. And ---

5 A. Actually I was still in pain at the time
6 from her taking that wound vac off.

7 Q. What happened after she told you that she
8 was going to go to Goose Creek?

9 A. Well, I remember her putting weights on
10 me. Where she put them, it didn't feel like
11 they were doing any good. I don't know
12 anything about medicine, but I know my body.
13 Nobody knows my body better than I do. I
14 couldn't feel any effects as far as where it
15 was in relation to where my wound was. My
16 wound was in the forward -- between my femoral
17 arteries and my foot -- and she put the
18 weights on the top. I just couldn't figure
19 out why she was doing that. I didn't ask her
20 why she was doing that.

21 Q. You talk about weights, what are you
22 referring to?

23 A. Well, she called out to my wife for some
24 beans or rice or something like that. I think
25 she had -- she had a plastic bag to put them

1 on. It didn't seem like it was doing any
2 good. I couldn't do anything to help myself
3 and I figured she knew what she was doing. I
4 trusted her.

5 Q. Were you still in pain at that time?

6 A. Yeah.

7 Q. And did you have any further discussion
8 before she left your home that day, for the
9 final time?

10 A. If it was -- if she had any with me, like
11 I said, I don't remember much. She might have
12 had some conversation with my wife.

13 Q. Do you recall whether the nurse talked to
14 you about going to the hospital or to the
15 emergency room?

16 A. Well, I would have known if she had,
17 because that would have stood out to me. That
18 would have stood out if she had mentioned
19 anything about carrying me to the hospital.
20 To my knowledge, she never said anything to me
21 about - or to my wife, that I know of.

22 Q. Do you know whether - do you recall the
23 nurse talking to you about calling 911?

24 A. Not at all.

25 Q. Did you ever refuse or state that you did

1 not want to go to the hospital or for her to
2 call 911?

3 A. No, I never made that statement.

4 Q. How would you describe the nurse's
5 demeanor on that last visit?

6 A. Well, the impression that I got from her
7 was that we didn't know what we were doing,
8 'You're stupid and I am not, I know what I am
9 doing.' And that was the impression I got
10 from her on the first visit, too.

11 Q. Did you defer to her as far as nursing
12 care?

13 A. Defer?

14 Q. Trust and rely on her for ---

15 A. Yes.

16 Q. --- providing appropriate nursing care?

17 A. Yes. Well, I don't know anything about
18 medicine so I trust a nurse, I trust the
19 doctors. They know, I don't.

20 Q. Do you remember anything else about that
21 last visit at the home health nurse?

22 A. Before she left?

23 Q. Right.

24 A. I can't remember right now.

25 Q. Do you remember EMS coming to your house?

1 A. I do.

2 Q. Let me back up. Do you recall what went
3 on between the time that the nurse left and
4 EMS arrived?

5 A. Well, I said in my original deposition
6 that I didn't feel anything until I was eating
7 lunch but I do remember feeling it before
8 then, right after she left, and with my son
9 got there with my meal, I was eating it and I
10 could really start feeling the tickling then.
11 I told my wife, 'something is bothering me
12 under there, see what it is.' When she lifted
13 it up, there was blood that started coming
14 out.

15 I didn't. There was no bandage on it,
16 just a towel laying over it and then the bag
17 laying on it. The place where the wound was,
18 was down in front and the bag was laying on
19 top of it. I can't remember whether the towel
20 was laying -- in my opinion, I think the
21 weight might have been on the wound and then
22 towel laying over there. I think. I'm not
23 sure.

24 Anyway, I do remember that when my wife
25 lifted it up that blood started spurting over

1 the top and running down the side onto the
2 mattress.

3 Q. The do you remember anything else prior
4 to EMS arriving?

5 A. Well, my wife wanted to call her.

6 Q. When you say "her", who do you mean?

7 A. Ms. Belk. I found the number on my
8 phone. In the meantime, my wife had her hand
9 pressing down on the wound. She called with
10 her other hand, got her. And I don't recall
11 all the conversation because I was getting a
12 little bit woozy at the time -- I don't know
13 whether I passed out or not, I am sure.

14 Then -- but, anyway, my wife called her
15 and she told -- she told her to call 911. So
16 my wife hung up and called 911.

17 Between those times, her calling Ms. Belk
18 and 911, I don't recall all that was said. I
19 do remember she said, 'Well, I am going to
20 have to call 911.'

21 She called 911. I don't know how long it
22 was before they got here. But when they come
23 in there, I remember that it was a female who
24 said, 'Who the hell did this to you?'

25 MR. TIERNEY: Objection.

1 THE COURT: Sustained.

2 THE WITNESS: Well, I know what
3 I heard.

4 DIRECT EXAMINATION CONTINUED

5 BY MS. DELUCA:

6 Q. Mr. Evans, if you could tell me without
7 saying what they said, what was the impression
8 that you got from the EMS workers when they
9 arrived?

10 A. A look of surprise and wonderment on
11 their faces. So the EMS female, she reached
12 over on top of the chest of drawers, asked
13 where the bandages were for the nurse to
14 rebandage me, a lot of them was -- anyhow, we
15 grabbed a handful of gauze, held my legs up
16 and shoved it in my groin, closed my legs
17 together.

18 Then they lifted me up and when they
19 lifted me up, there was blood on that mat --
20 it looked like it was an inch deep and about
21 that big around, as my hands (gesturing). I
22 knew then that I had lost a lot of blood.

23 I was sitting up at first, on the gurney,
24 and I got real woozy and sick on my stomach -
25 very sick on my stomach. I was seasick, that

1 kind of feeling.

2 On the way out, I looked out in the trees
3 and the leaves on the trees looked very fuzzy
4 and everything looked yellow. I told my son,
5 before they put me on the gurney, I said,
6 "Son, I don't think that I am going to make
7 it."

8 Q. Do you need a break, Mr. Evans?

9 A. I will be all right.

10 Q. You need a break?

11 A. I will be okay.

12 Q. All right. Okay, then what happened
13 after that?

14 A. I said, uh, "Anything happens to me, look
15 after Janie. She's the world to me." That's
16 all that I said. They put me on the gurney
17 and -- it was about an eighth of a mile from
18 there to Pinopolis Road. I don't remember
19 making it to Pinopolis Road. I passed out.

20 I don't remember anything until we got to
21 Trident there on 17, the emergency room. They
22 swung me around front and when they opened the
23 doors, there was a loud noise of the doors
24 opening and they pulled me out. I saw my wife
25 standing right here. She had this look on her

1 face wondering -- that's what I thought at the
2 time, 'what's going on?' That's the first
3 question I asked myself. Where am I and
4 what's going on?

5 The took me on into the emergency room.
6 I think they shot me with some kind of
7 medicine. I don't know what it was.

8 Q. Do you have any recollection of the care
9 that was provided to you in the ambulance?

10 A. Not at the time that I was in the
11 ambulance, no. I remember that they put me on
12 a gurney, put me in an ambulance, and I was
13 just laying there -- I don't remember about
14 anything being said. I was on there about ten
15 seconds before I passed out. I didn't wake up
16 until we got to Trident's emergency care
17 section.

18 Q. What thoughts or concerns did you have
19 when you are still back at your home, before
20 EMS was even called?

21 A. What concerns?

22 Q. Did you have any concerns?

23 A. After I discovered that I was bleeding?

24 Q. Yes.

25 A. I look back on that situation, intently,

1 and from what I -- just my opinion, I think I
2 was bleeding all along. That's my opinion.
3 Even though I don't know anything about
4 medicine, I know what I feel.

5 As far as concerns, I was -- well, at
6 that time I was eating lunch and I thought
7 everything was cool. The tickling kept
8 bothering me, kept bothering me, to the point
9 that it was really bothering me. That's when
10 I started getting frightened, scared. I said,
11 'maybe I have lost a lot more blood than I
12 think I have.' Sure enough, I did.

13 Q. You talked earlier about calling the
14 nurse on your cell phone.

15 A. Right.

16 Q. Or your wife doing it. Do you know what
17 number that you were calling her at?

18 A. Well, I had her number already punched
19 in. I had her name and her phone number there
20 and I had already punched it in, so it
21 automatically called her.

22 Q. I am not asking you for the exact phone
23 number, but do you know whether it was a
24 mobile number, a work number, or ---

25 A. I think that it was her mobile number.

1 MR. TIERNEY: Objection, Your
2 Honor.

3 THE COURT: Sustained.

4 MR. TIERNEY: Speculation.

5 THE COURT: Sustained.

6 DIRECT EXAMINATION CONTINUED

7 BY MS. DELUCA:

8 Q. Do you recall what number that you dialed
9 to reach the nurse that day?

10 MR. TIERNEY: Objection. Asked
11 and answered.

12 THE COURT: If he recalls it, he
13 can answer.

14 THE WITNESS: I recall the name
15 on my phone.

16 DIRECT EXAMINATION CONTINUED

17 BY MS. DELUCA:

18 Q. You don't recall the specific number that
19 you called?

20 A. I don't even know my wife's number on the
21 phone. I just go to her name. I mean, you.
22 I don't even know her number.

23 On the same hand, just about everybody
24 that I normally call my cell phone, even
25 today, I don't know a lot of their numbers.

1 Not even my wife's, like I said. Ms. Belk,
2 she is not as important, of course, as my wife
3 is so why should I remember her phone number?
4 Just the name.

5 Q. Had you previously entered her number
6 into your phone?

7 A. I don't remember when I did it, but I
8 know that I did it. I know her name was on
9 the phone, because I distinctly remember going
10 to her name -- amongst all those people, I
11 found it -- and I punched her name and it
12 automatically dialed her number.

13 Q. Were you the one that programed it into
14 the phone, do you recall?

15 A. I was.

16 Q. Did the nurse instruct you to call her at
17 that number, either that day or the previous
18 day?

19 A. I think that she gave it to us the first
20 day, on the 2nd, before she left. I think
21 that she gave us that number and I punched it
22 in then.

23 Q. Okay. Then you woke up when you arrived
24 at the hospital?

25 A. When I arrived at the emergency room.

1 Q. Do you recall what happened after that?

2 A. Well, they took me into the room and put
3 an IV in my arm. I don't know what it was
4 they gave me, but they gave me something to
5 revive me, I'm sure. I've forgot -- I don't
6 know how long I was there but after I left
7 there, they put me in Trident Hospital for an
8 overnight stay. Once they got me stabilized
9 at the emergency room, they put me in Trident
10 Hospital.

11 Q. Trident Hospital in Summerville or Moncks
12 Corner?

13 A. North Trident. Highway 78, North
14 Trident.

15 Q. Then after you were discharged from the
16 hospital, where did you go?

17 A. I think that I went back home. I am not
18 sure.

19 Q. Did you receive any health care services
20 in your home after that?

21 A. Not in my home, no.

22 Q. Did any wound care nurses treat your
23 wound following that hospitalization?

24 A. Not that I know of. I know that I went
25 to see Dr. Widenhouse after that, when they

1 had me make an appointment. I went to see him
2 for follow up.

3 Q. Did you use a wound vac after that?

4 A. Never did again.

5 Q. So what kind of treatment was used on
6 your wound after that?

7 A. Bandage.

8 Q. Do you recall how long it took for your
9 wound to heal?

10 A. No, ma'am, I don't.

11 Q. After -- were you working at the time
12 that all of this happened?

13 A. No, I wasn't. I couldn't.

14 Q. Did ---

15 A. I know this -- I can't explain it, I just
16 know what happened to me. After seeing all
17 that blood, it took me a while to remember
18 things. For about two weeks, I had trouble
19 remembering events. I had trouble. I didn't
20 put that in my deposition either, when I was
21 interviewed by Mr. -- can I ask your name
22 again, sir?

23 THE COURT: Mr. Tierney.

24 MR. TIERNEY: Joe Tierney.

25 THE WITNESS: I'm sorry. I

1 didn't ---

2 MR. TIERNEY: That's okay. I
3 didn't -- my partner took your deposition.

4 DIRECT EXAMINATION CONTINUED

5 BY MS. DELUCA:

6 Q. Mr. Evans, at your deposition, did you
7 testify truthfully and to the best of your
8 ability?

9 A. As far as I can.

10 Q. Today, are you testifying truthfully and
11 to the best ---

12 A. (Affirmative nod), to the best of my
13 ability. There are a lot of things that I
14 didn't remember when it covered with me in the
15 deposition. I remember some of them now,
16 which I didn't at the time that she was
17 interviewing me.

18 Q. Had you given a deposition prior to
19 giving one in this case?

20 A. She's the only one that I know that I
21 gave a deposition to.

22 Q. And how were you feeling the day of your
23 deposition?

24 A. Nervous. Very nervous. I'd never
25 experienced anything like that before, or with

1 the law.

2 Q. After your wounds healed, did you return
3 to work or were you not working at that time?

4 A. After my wound healed, I went back to
5 work.

6 Q. Do you recall how long you were out of
7 work for?

8 A. I think I went back to work about the
9 first week in December of that same year.
10 Taking it easy.

11 Q. Were you happy with the care that you
12 received from Dr. Widenhouse?

13 A. Very happy.

14 Q. Were you happy with the care that you
15 received at Trident emergency room and
16 hospital?

17 A. With the first nurse, yes.

18 Q. I'm sorry. I said at Trident?

19 A. Oh, at Trident?

20 Q. (Affirmative nod).

21 A. They have always treated me well. Great
22 people there.

23 Q. And how do you feel about the Roper Home
24 Health services that were provided?

25 A. The first nurse was great. Ms. Belk, I

1 have very serious questions about her
2 abilities.

3 Q. Did you talk to anyone about the care
4 that she provided?

5 A. That Ms. Belk provided?

6 Q. (Affirmative nod).

7 A. Only to my wife.

8 MS. DELUCA: That's all the
9 questions that I have, Your Honor.

10 THE COURT: Thank you, ma'am. Sir,
11 do you need a break before we begin the cross-
12 examination or are you well enough to go
13 forward?

14 THE WITNESS: I'm good, Your
15 Honor.

16 THE COURT: Mr. Tierney.

17 MR. TIERNEY: Thank you, Your
18 Honor.

19 CROSS EXAMINATION

20 BY MR. TIERNEY:

21 Q. Mr. Evans, my name is Joe Tierney. We
22 haven't met prior to being here today.

23 Just a few follow ups.

24 I believe earlier that you testified that
25 there was no shadow present originally when

1 Janelle Belk came in the home, but that when
2 she returned from the lab that the shadow was
3 with her; is that correct?

4 A. That was on the 3rd of October? Is that
5 the date that you are referring to?

6 Q. I am assuming the, based on your
7 testimony.

8 A. She came in on the 3rd of October, she had
9 no one with her. When she got back from the
10 lab, Roper Emergency Care where they normally
11 test the blood for Coumadin, she had a shadow
12 with her then.

13 Q. And you were here for your wife's
14 testimony earlier this morning, correct?

15 A. Yes.

16 Q. Were you here when your wife testified
17 that she wondered why the shadow didn't stay
18 there when Janelle Belk went to the lab?

19 A. (No verbal response).

20 Q. Do you remember that testimony?

21 A. Well, when Ms. Belk went to the lab for
22 the second time, after she was rejected, she
23 took the shadow with her -- that last time she
24 left out of my door, and I never saw her
25 again.

1 Q. When you say that she left for the second
2 time, ---

3 A. Well, Ms. Belk came from Roper when they
4 rejected the vial of blood that she had out of
5 me and she had a shadow with her then. When
6 she left to go -- like she told us, to go to
7 Goose Creek, she had the shadow with her and
8 she took her with her. She never left the
9 shadow at my house alone.

10 Q. Do you have an understanding here today
11 that you vial of blood that was taken to the
12 lab, that that lab was run at Roper/Berkeley
13 lab. Do you know that today?

14 A. No, but she told -- Ms. Belk told us that
15 they turned her down and that that is why she
16 was going to Goose Creek.

17 Q. Did she give you any explanation ---

18 A. Nope.

19 Q. --- as to why Roper Hospital would turn
20 down a Roper nurse, to run a lab?

21 A. She didn't give us any explanation. She
22 just told us that she couldn't get it done
23 there and that's why she was going to Goose
24 Creek. That's why she left the second time,
25 to go to Goose Creek. She took the shadow

1 with her. I never saw her again.

2 Q. Where was she going to in Goose Creek?

3 A. You tell me. I don't know.

4 Q. Do you know that there wasn't a lab run
5 anywhere in Goose Creek?

6 A. I don't know.

7 Q. Do you need to see the lab report for me
8 to show me where the lab was run?

9 A. I wouldn't say that you're lying but if
10 you want to show me the report, I will look at
11 it.

12 Q. Sure, I'd love to show it to you.

13 A. Could I have my glasses there on the
14 desk, Janie?

15 MS. EVANS: (Tenders glasses).

16 MR. TIERNEY: May I approach the
17 witness?

18 THE COURT: You may.

19 CROSS EXAMINATION CONTINUED

20 BY MR. TIERNEY:

21 Q. Mr. Evans, I am going to hand you a piece
22 of paper which is a Roper St. Francis
23 admission record. Are you able to read that?

24 A. Yes.

25 Q. Can you tell me who the patient is on

1 that Roper St. Francis admission record?

2 A. That's me.

3 Q. Can you tell me where that admission
4 takes place, what facility?

5 A. Roper St. Francis Healthcare.

6 Q. Let me see the document for just a
7 second?

8 A. (Tenders).

9 Q. We're looking for a copy right now. I
10 apologize for having to take it.

11 A. That's all right. Can I say this to the
12 court? That's new to me. My question is, why
13 did she say that ---

14 THE COURT: Sir, if you would hold
15 on until he asks you a question. Then you're
16 welcome to explain your answer.

17 THE WITNESS: Yes, ma'am.

18 CROSS EXAMINATION CONTINUED

19 BY MR. TIERNEY:

20 Q. What is new to you, Mr. Evans?

21 A. Come again?

22 Q. What is new to you?

23 A. Your report there.

24 Q. I will represent that this report was
25 produced to me by your lawyer. Okay?

1 A. (Affirmative nod).

2 Q. Bear with me one second -- what is the
3 admitting or presenting complaint, which is
4 under the Miscellaneous category of the
5 admission record?

6 A. (Reviewing).

7 Q. Can you see that, over on the left hand -
8 - the middle of the left-hand column?

9 MR. TIERNEY: May I approach the
10 witness?

11 THE COURT: You may.

12 CROSS EXAMINATION CONTINUED

13 BY MR. TIERNEY:

14 Q. I will help you out. I'm sorry that we
15 don't have a better copy or a blowup -- right
16 here (indicating).

17 A. "In case of emergency, notify..." -- can
18 I ask whose number that is?

19 Q. Whose number that is? Oh, it's under
20 that. Not the emergency. I am just wondering
21 what the admitting -- it says DX/Presenting
22 Complaint is?

23 A. Oh.

24 Q. Can you read that for the jury?

25 A. I'm trying to see it.

1 Q. I'll read it for you. Does it say,
2 "Long-term use of anticoagulant."

3 A. Right.

4 Q. Is that what it says?

5 A. Right.

6 Q. All right. In fact, previously marked --
7 and I will hold this up for you, -- I am going
8 to hand you what has previously been marked,
9 and I will represent to you, Mr. Evans, that
10 this is the actual lab slip that Janelle Belk
11 fills out when she wants to get a lab run.
12 Okay?

13 A. Hummm.

14 Q. Can you tell me what time that the lab
15 slip shows that the collection was done, under
16 "Specimen Collection Information."

17 A. At 11:45.

18 Q. 11:45 p.m. (sic)?

19 A. Yes. October 3rd, '06.

20 Q. Does that sound close in time and
21 proximity to when she drew the blood from you
22 at your house?

23 A. Yeah. It does.

24 Q. And then I am going to show you the
25 actual lab run report. Does that lab run

1 report also show that the specimen was
2 collected at 11:45 a.m.?

3 A. Yes, it does.

4 Q. Getting back to the original record that
5 I handed you, which is the actual face sheet
6 that they ran the anticoagulant on, I will
7 represent to you that it says that that lab
8 was run at 12:36 p.m.

9 A. Well, there is no time on there according
10 to this. But my question is, why did she tell
11 us that they rejected her? That's what she
12 told my wife and me, that they wouldn't take
13 it.

14 Q. And she gave you no explanation ---

15 A. None.

16 Q. --- for that?

17 A. No.

18 Q. And it is your testimony that she left
19 your house, went to the Roper Berkeley lab,
20 the lab was rejected, came back, then went to
21 Goose Creek; is that correct?

22 A. That's what Ms. Belk told us.

23 Q. Well, how is it that the lab received the
24 blood between -- it appears that it was
25 dropped off sometime between 11:45 and the run

1 time of 12:36; correct?

2 A. Mr. Tierney, that's my question also.

3 Why would she tell us that, if the evidence is
4 right here that it'd been accepted?

5 Q. If Ms. Belk testifies that she only went
6 to the lab one time and that she never made
7 any trip to Goose Creek, do you have any
8 reason to dispute that?

9 A. Yes, I do, because she told us -- my wife
10 and me -- before she left to go to Goose
11 Creek, after she got back from Roper over
12 there on Stoney Landing, she told us when she
13 got back that they rejected -- that they
14 wouldn't do it and that she was going to Goose
15 Creek to have it done. That is exactly what
16 she told us, sir.

17 Q. How long does it take to get from your
18 house to Goose Creek?

19 A. I would say about twenty minutes.

20 Q. About twenty minutes?

21 A. Yes, sir.

22 Q. Do you know that based on my family logs
23 that your attorney has already introduced into
24 evidence that Janelle Belk left your house at
25 12:18, correct?

1 A. I don't have any idea what time she left.

2 Q. Do you believe that she could have left
3 your house, gone to Goose Creek and taken a
4 lab to some other place and had a lab run by
5 the 12:36 time that is indicated on the Roper
6 sheet?

7 A. I have no idea.

8 Q. And is it your testimony here today that
9 -- well, let me backtrack a second. You went
10 to -- you made a big point of saying that you
11 were a little nervous before your deposition
12 was taken. Is that correct?

13 A. I was pretty nervous, yes, sir.

14 Q. And there were things ---

15 A. I'm nervous now.

16 Q. Right. But there's things that you
17 couldn't remember in your deposition, I
18 believe, that you remember today?

19 A. I might.

20 Q. Is that right?

21 A. It depends on what you ask me, sir.

22 Q. Well, I think the specific question that
23 I would like to ask you is that you testified
24 in your deposition that you didn't feel any
25 bleeding when Janelle Belk left your house,

1 didn't you?

2 A. If I said that in my deposition, I said
3 it.

4 Q. Is that the truth?

5 A. I don't know.

6 Q. You don't know what the truth is?

7 A. I know what the truth is, but I remember
8 some times since then that I didn't remember
9 at the time. I don't want to -- I don't want
10 to tell a lie, and I don't want to be confused
11 either. I'm trying to tell the truth to the
12 best of my ability, sir.

13 Q. Did you testify under oath in your
14 deposition that when Janelle Belk left your
15 house that you didn't feel any bleeding?

16 A. Yes, sir, I did.

17 Q. And didn't you testify, as well, that it
18 wasn't until you were eating lunch that you
19 felt that ---

20 A. That's what I said in the deposition,
21 yes, sir.

22 Q. Is that what you said here today, though,
23 that you didn't feel the tickling until you
24 ate lunch?

25 A. In my deposition, I said -- and I will

1 stick by it -- that I did not feel any
2 bleeding until around -- right -- it was
3 around lunch time, yes, sir.

4 Q. What is lunch time to you?

5 A. Well, anywhere from -- the way she and I
6 are, anywhere from 11:00 to 1:00, anytime
7 during the middle of the day.

8 Q. What about on October 3rd, 2006. What
9 time did you eat lunch on October 3rd, 2006?

10 A. Around that time. I don't know the exact
11 minute.

12 Q. Your wife testified earlier this morning
13 that your son went to go get you lunch either
14 right -- either while Janelle Belk or that he
15 came back right after she left, but at some
16 point close to when Janelle Belk left your
17 house, he went to go get lunch. Did you hear
18 that testimony today?

19 A. I believe -- whatever my wife said, I
20 believe it. I had no idea of the time. I
21 just knew that it was in the middle of the
22 day.

23 Q. All right. When you son brought your
24 lunch back, did you eat it?

25 A. Yes.

1 Q. All right. If Janelle Belk, according to
2 the records, left your house at 12:18 p.m. on
3 October 3rd, would you have been eating lunch
4 sometime close to 12:18 on that day?

5 A. It was after she left.

6 Q. You can't give an exact time?

7 A. I can't give an exact time, but not long
8 after that my son came in with my lunch and I
9 ate it. That's when I really started feeling
10 the tickling in my groin.

11 Q. Even in the light most favorable to you,
12 if y'all were eating lunch sometime between
13 12:00 and 1:00 -- let's say that you ate lunch
14 at 1:00 that day. Okay?

15 A. Okay.

16 Q. Your wife testified today that when she
17 picked up the towel that blood was spurting
18 everywhere. Do you recall that?

19 A. Yes.

20 Q. If you ate lunch, even in the light most
21 favorable to you, at 1:00 o'clock, why did
22 y'all wait until 1:40 to call EMS?

23 A. I have no idea of the time. Whatever she
24 said, I have to go by what she said.

25 Q. Who is "she"?

1 A. My wife.

2 Q. Do you have any recollection of the
3 events that day?

4 A. Somewhat but -- at times, I don't. If
5 you're referring to the exact times, I know it
6 was close to the middle of the day.

7 As far as after that or as far as during
8 that time, what happened between the time that
9 Ms. Belk got there and the time that she left,
10 I know what happened but I don't know exactly
11 when things happened. Like when she pulled
12 the wound vac off, I don't know exactly when
13 that happened.

14 When she saw the bleeding, I don't know
15 exactly when that happened.

16 As far as the time, I can't give you an
17 exact time, sir.

18 Q. Mr. Evans, didn't you say that you didn't
19 look ---

20 A. I wouldn't look.

21 Q. --- when Janelle was changing the
22 bandage?

23 A. No.

24 Q. Do I understand your testimony correctly
25 that you told me that your wound was open and

1 there was nothing over it except for a towel?

2 A. That's all.

3 Q. If you didn't look, how did you know that
4 there wasn't anything other ---

5 A. When I did look down and saw the blood,
6 that's the only time that I ever looked.

7 Q. And when was that?

8 A. That was after she left, after Ms. Belk
9 left.

10 Q. And when you looked down, the only thing
11 there was a towel over the wound?

12 A. It has the weights on it also.

13 Q. Where were the weights?

14 A. I think they were on top of the towel,
15 either they were under the towel. I can't
16 remember exactly. When we got it all out of
17 the way, my wife lifted it up and that's when
18 I looked down and I saw the blood squirting
19 out.

20 Q. Well, if they were under the towel, then
21 you would have had this five-pound bag of rice
22 just sitting on your open wound; is that
23 correct?

24 A. Pretty much. Yes, sir.

25 Q. All right. The ---

1 A. I know this, she didn't bandage me. I
2 know that she didn't bandage me, because if
3 she had bandaged me I would have seen it when
4 I looked down -- because all my wife had to do
5 was lift the towel and my bare skin was right
6 there.

7 Q. Did y'all save the bag of rice -- well,
8 presumably if you had the bag of rice with the
9 towel on top, there would be blood on the bag
10 of rice; right?

11 A. Right.

12 Q. Did y'all save the bag of rice?

13 A. No, sir. We didn't. We didn't know that
14 we was supposed to do things like that for
15 evidence, we didn't think about that. She
16 washed the clothes, whatever.

17 Q. But y'all were thinking about litigation
18 that day, weren't you?

19 A. No.

20 Q. Does your wife have a daughter in
21 California?

22 A. Yes, she does.

23 Q. Do you know if your wife's daughter in
24 California called Roper Home Health?

25 A. I heard about it.

1 Q. What did you hear that she called her
2 about?

3 A. I just heard what was told to me by my
4 wife at that time, that she made -- that she
5 wanted to make a complaint against the nurse,
6 against Ms. Belk. That's all that I heard. I
7 never talked to her about it until long after,
8 and it was only in passing. It never was
9 discussed between my stepdaughter and me. The
10 only one that I ever discussed that with was
11 my wife. That's it. And my lawyer.

12 Q. And it is your testimony here today that
13 when Janelle Belk left for the last time, you
14 didn't know if she was coming back; is that
15 right?

16 A. She said that she was coming back.

17 Q. Did she tell you what time that she was
18 coming back?

19 A. When she left that last time, she said
20 that she was going to come back after Goose
21 Creek.

22 Q. And when she left the house, the only
23 thing that you had on the wound was the towel
24 and the bag of rice?

25 A. Well, I think it was beans and powdered

1 sugar, something like that. But what it was,
2 it didn't amount to the weight of that rice or
3 whatever. It wasn't that big.

4 MR. TIERNEY: That's all the
5 questions that I have. Thank you.

6 THE COURT: Thank you, sir.
7 Redirect?

8 REDIRECT EXAMINATION

9 BY MS. DELUCA:

10 Q. Mr. Evans, I am going to show you what
11 has been marked as Defendant's Exhibit 1. Mr.
12 Tierney was talking with you about that
13 document. Who signed that document at the
14 bottom?

15 A. Janelle Belk.

16 Q. What time did she indicate on there that
17 she drew the blood sample?

18 A. 11:45. Is that correct, did I read that
19 right?

20 Q. I believe that is what you and Mr.
21 Tierney previously discussed. So Janelle Belk
22 supplied the information on Defendant's
23 Exhibit 1?

24 A. Ma'am?

25 Q. Janelle Belk signed at the bottom, as

1 providing the information on Defendant's
2 Exhibit 1?

3 A. Yes, ma'am.

4 Q. Do you know which Roper location that
5 your blood work was processed at?

6 A. Well, according to what I understand, it
7 was supposed to be over there on Stoney
8 Landing Road. Am I correct in that?

9 Q. And the Stoney Landing location, what
10 city is that in?

11 A. Moncks Corner.

12 Q. I am showing you what has been marked as
13 Defendant's Exhibit 2. Looking at the very
14 top where it says Roper Hospital, what
15 location is stated for the lab?

16 A. Charleston, South Carolina.

17 Q. Do you see any reference to Moncks Corner
18 on this lab report?

19 A. No, ma'am. Not that I can see.

20 MS. DELUCA: That's all the
21 questions that I have.

22 THE COURT: Thank you, ma'am.

23 MR. TIERNEY: Just a brief
24 follow up.

25 THE COURT: Sure.

1 RECROSS EXAMINATION

2 BY MR. TIERNEY:

3 Q. Do you think that Janelle Belk drove your
4 blood downtown to Roper Hospital on Calhoun
5 Street?

6 A. I have no idea what she did with it.

7 Q. Have you ever been to downtown Charleston
8 from your house in Moncks Corner?

9 A. Yes, sir.

10 Q. How long does it take to get there?

11 A. I'd say about fifty minutes.

12 MR. TIERNEY: That's all the
13 questions that I have.

14 THE COURT: Thank you. May he
15 step down? Are we finished?

16 MS. DELUCA: Yes, Your Honor.

17 THE COURT: Thank you, sir. You
18 may step down.

19 (WITNESS STEPS DOWN)

20 THE COURT: Ladies and Gentlemen, I
21 am going to ask you to return to your jury
22 room for a brief minute while we work on some
23 issues of law and get ready for the remaining
24 testimony for this afternoon. Please do not
25 discuss the case yet.

1 (JURY OUT @ 3:03 P.M.)

2 THE COURT: When is Dr. Widenhouse
3 getting here?

4 MR. TIERNEY: 3:45.

5 THE COURT: Do we have somebody
6 else to put up in the interim or are there
7 some Deposition excerpts that we can read in?

8 MS. DELUCA: I have no other live
9 witnesses. There is the deposition testimony
10 of Epting. I think that we just had the one
11 issue that we talked about, she rendered
12 opinions on home health and my objection was
13 that she wasn't qualified.

14 THE COURT: Okay.

15 MS. DELUCA: The other ones we had
16 more substantive issues with.

17 THE COURT: I think we can go ahead
18 and do Epting. I am going to allow that
19 portion to be read in. My preliminary
20 research that I've been doing on the
21 qualification issue, not having finished
22 reading everything yet, is that it is
23 completely discretionary in the gate-keeping
24 function, under 701 and 702. But also under
25 32(a), which is highly discretionary about the

1 use of depositions in court proceedings.
2 So when I read the deposition, later this
3 afternoon or this evening, a big issue is
4 going to be how y'all would have been
5 prejudiced and how fully you got to cross-
6 examine -- is it Dr. Gezen? I keep
7 pronouncing that wrong. I will let y'all
8 argue that fully in the morning, but there is
9 not a lot of law -- you know, everything about
10 whether an expert is qualified enough is
11 really whether he possesses the
12 qualifications, not whether he was offered
13 specifically. As you know, even when you
14 offer somebody in a deposition, there is no
15 judge there to rule on it at that time. So
16 that's where I am right now. I will be happy
17 to hear from you all on anything else, or are
18 we ready to go ahead and read the Epting?

19 MR. TIERNEY: You don't want to
20 hear that until in the morning?

21 THE COURT: Let's do it in the
22 morning.

23 MR. TIERNEY: All right.

24 THE COURT: I want to look at some
25 law and I'm happy to listen to both of you. I

1 just honestly have never had that come up
2 before.

3 MR. TIERNEY: That's fine. We
4 will be ready in the morning.

5 THE COURT: Okay. We will do that
6 at 9:30. So Epting -- did you decide whether
7 we're going to read it in order or whether you
8 are going to read yours first and then have
9 Mr. Tierney read him? Makes no difference to
10 me.

11 MS. DELUCA: I've always read them
12 together.

13 THE COURT: I think that makes more
14 sense.

15 MR. TIERNEY: That's fine.

16 THE COURT: Let's let the jury have
17 about five more minutes. You can take a quick
18 break. We will read those in and then we will
19 wait on Dr. Widenhouse to get here. Does that
20 sound good?

21 MR. TIERNEY: Yeah.

22 THE COURT: I will give them the
23 instruction that we're taking the witness out
24 of order.

25 MS. DELUCA: Thank you.

1 MR. TIERNEY: Thank you, Your
2 Honor.

3 (BRIEF RECESS)

4 THE COURT: Ms. Toporek, you were
5 going to e-mail me those jury charges -- or
6 you may have e-mailed them to Tom.

7 MS. TOPOREK: I think I e-mailed
8 them to both of you. I have a hard copy.

9 THE COURT: If you have an extra
10 hard copy, that would be great but I really
11 need an e-mail.

12 MS. TOPOREK: I'll send it, in
13 Word format.

14 THE COURT: That's fine. Thank
15 you.

16 THE COURT: Are you ready? Ready
17 for the jury.

18 (JURY IN @ 3:15 P.M.)

19 THE COURT: Please be seated.
20 Ladies and Gentlemen, we are now going to hear
21 some excerpts from a deposition that was
22 previously taken, that will be read into the
23 record. As I told you before, a deposition is
24 sworn testimony taken with a court reporter
25 and the attorneys and the witness, and parties

1 if they choose to be there, outside the
2 presence of the court. It is to be given as
3 much weight as you deem fit, just like any
4 other testimony that you would hear from here
5 in the courtroom.

6 I believe that Ms. Deluca is going
7 to play the role of the questioner and the
8 answerer, ---

9 MS. DELUCA: Yes, Your Honor.

10 THE COURT: So I will allow you to
11 proceed.

12 MS. DELUCA: Thank you, Your Honor
13 This is the deposition designations of the
14 plaintiff and the defendant from the
15 deposition of Alma Renee Epting, R.N. taken on
16 August 11, 2011, (reading):

17 Q. And I understand that you have
18 been retained as an expert by the defendants
19 in this action. Is that correct?

20 A. Yes.

21 THE COURT: Wait a minute.

22 COURT REPORTER: Page and line?

23 MS. DELUCA: I'm sorry. I started
24 on Page ---

25 THE COURT: I've got Page 9. I may

1 have an old designation but I've got Page 9,
2 Lines 18 through 19.

3 MS. DELUCA: Okay. I apologize.

4 THE COURT: Do we need to get
5 together to make sure that we all have the
6 same designations?

7 MS. DELUCA: I think we do. If not,
8 please stop me.

9 THE COURT: Okay.

10 MS. DELUCA: (Reading, no page or
11 line numbers given, no identification as to
12 question or answer):

13 *Have you ever done home health?*

14 *No.*

15 *What qualifications do you have to*
16 *render expert opinion in this case?*

17 *I have worked in the field of wound*
18 *care for fourteen years. I am nationally*
19 *certified in that field. I have done the*
20 *majority of my working experience in the wound*
21 *care field. I have done wound vac dressing,*
22 *still continue to do wound vac dressing. I*
23 *have been trained by K.C.I., who is the*
24 *manufacturer of the wound vac. I have been*
25 *bedside trained by their representative to put*

1 the dressings on. I have also been at their
2 daycare program -- they call it "Wound Vac
3 Tech" -- where they go through different
4 methods of doing different variations of the
5 same dressing.

6 Have you treated surgical wounds in
7 your experience?

8 Yes.

9 And have you treated surgical wounds
10 with a wound vac?

11 Yes.

12 Okay, and then what would you do
13 after you were able to stop the bleeding with
14 pressure from your hand?

15 I would monitor the site and if the
16 bleeding continued, I would notify the surgeon
17 or the physician who was in charge of ordering
18 the wound care.

19 Okay, how would you monitor the
20 site?

21 I would monitor the site. I would
22 watch the dressing for a period of time to see
23 if bleeding had stopped. Or if I felt
24 comfortable that it had stopped, I may ask a

1 *patient's nurse to monitor the thing while I*
2 *move on and see another patient. Then,*
3 *depending on if I felt that the wound vac*
4 *needed to be reapplied, I would come back and*
5 *reapply the vac.*

6 *For what amount of time did you*
7 *monitor that dressing?*

8 *Depending on the amount of bleeding*
9 *-- if it was minor bleeding and I was watching*
10 *it and I felt comfortable with it, I would*
11 *probably go ahead and set up my dressing, my*
12 *wound vac dressing, and watch the wound to see*
13 *if bleeding restarted. If it did, I would*
14 *wait. I would get the bleeding stopped again,*
15 *wait probably at least an hour before I came*
16 *back and re-evaluated just to see if it was*
17 *safe to put the wound vac back on at that*
18 *time.*

19 *And if you are unable to reapply the*
20 *wound vac, in which event contact the doctor.*

21 *Yes.*

22 *And would you obtain orders from him*
23 *as to what dressing to apply instead of the*
24 *wound vac?*

1 Yes. To take a dressing off, you
2 have to work backwards. You have to
3 disconnect the transparent dressing from the
4 skin, very gently because it is a fairly
5 aggressive adhesive. You remove that. Then
6 you try to wet the sponge on the inside,
7 particularly if the dressing has been in there
8 for several days. That helps ease the removal
9 of the dressing and make it less traumatic for
10 the removal of the dressing. So we take the
11 dressing out, clean up the wound, inspect the
12 wound.

13 So if it was still bleeding after
14 five minutes, would you consult the physician?

15 Yes.

16 Do you know why you highlighted
17 that?

18 That was basically for my knowledge,
19 because I have not worked in home health, so
20 that gives me an idea of what's expected
21 during the visit.

22 Yes, all of the procedures helped me
23 get an idea of what they should be doing when
24 they go in the house and what and how they

1 *work with the physicians in the home, because*
2 *that is not an area that I have done*
3 *personally in the past.*

4 *Would you agree that it is a home*
5 *health nurse's duty to report any concerns to*
6 *the doctor?*

7 *Yes.*

8 *I don't know what their expectations*
9 *are in home health. You would have to ask the*
10 *home health agency.*

11 *And I would have to depend on what*
12 *they have on the records that I have, because*
13 *I have no home health experience.*

14 *It is a home health nurse's duty to*
15 *report to the doctor if a patient is actively*
16 *bleeding?*

17 *Yes, if the bleeding cannot be*
18 *stopped.*

19 *Okay. You stated if it cannot be*
20 *stopped, do you mean by hand pressure within*
21 *five minutes or so as we discussed before?*

22 *Yes.*

23 *Do the doctors rely on the home*
24 *health nurse's firsthand observations of the*

1 *patient?*

2 *Yes.*

3 *Do the doctors rely on the home*
4 *health nurses to relay that information to the*
5 *doctor?*

6 *Yes.*

7 *Would you agree that proper*
8 *documentation is important?*

9 *Yes.*

10 *With regard to the home health*
11 *nurse's care of Mr. Evans, I found no problems*
12 *with her care.*

13 *Do you have any criticisms of the*
14 *care that was provided by the home health*
15 *agency, not based on the documentation?*

16 *No.*

17 *From reading the depositions of Mr.*
18 *and Mrs. Evans, it seems to me that their main*
19 *concern was that they felt abandoned by the*
20 *nurse. I did not get that impression from the*
21 *documentation. It seems to be that she did*
22 *the appropriate things, that when she left the*
23 *home that the wound was not bleeding. When*
24 *they called her and told her that the wound*

1 *was bleeding, she responded appropriately and*
2 *told them to call 911, which was the only*
3 *thing that she could do at that point.*

4 *Why do you believe that the wound*
5 *was not bleeding when she left?*

6 *She said that there was no bleeding,*
7 *in her documentation.*

8 *You have never worked in home*
9 *health, right?*

10 *No.*

11 *How do you define the standard of*
12 *care?*

13 *The manufacture's guidelines for use*
14 *of the wound vac.*

15 *That would be K.C.I.*

16 *What do you understand the term*
17 *"standard of care" to mean?*

18 *That is what is expected -- that is*
19 *what is expected a nurse to perform, the very*
20 *basic case. The very basic expectations of*
21 *care.*

22 *So other than the guidelines for the*
23 *use of the wound vac, what are the other*
24 *applicable standards of care in this case?*

1 It would be the laws and regulations
2 governing nurses in South Carolina, the State
3 Board of Nursing regulations.

4 So would you agree that nurses must
5 comply with State statutes in order to meet
6 the standard of care?

7 Yes.

8 What does the standard of care
9 require for nurses to do with regard to
10 documentation?

11 Nurses are to document their
12 assessment, patient status, any interventions,
13 and any responses to the care delivered,
14 anyone that they consulted or talked to
15 regarding the patient -- physician-wise or
16 superiors. I guess not necessarily a superior
17 but a physician, whether they talked to a
18 physician.

19 Does the standard of care require a
20 nurse to continue or transfer the care of a
21 patient until the patient is in a safe, stable
22 condition?

23 If it is a situation that she cannot
24 correct, then yes.

1 *Would you agree that it is*
2 *appropriate to get timely and appropriate*
3 *treatment for a bleeding wound?*

4 *Yes.*

5 *What are the consequences of a delay*
6 *in treatment of a bleeding wound?*

7 *Blood loss, potentially death if it*
8 *were not corrected or stopped.*

9 *Is it a nurse's duty to properly*
10 *rely the doctor's orders to other nurses?*

11 *Yes.*

12 *Then regarding the pressure setting,*
13 *is it possible to set it at 125 to 150?*

14 *No, it would be one or the other.*

15

16 *So we don't know what she set it at*
17 *that day?*

18 *Not from this documentation.*

19 *Is there any documentation that*
20 *tells us what she set it at that day?*

21 *No.*

22 *And which wound or wounds was*
23 *leaking and had pressure applied to it?*

24 *Well, it looks like both of them*

1 were bleeding. You would have to ask her
2 which one was the -- to which the pressure was
3 applied. And I would think it would be both of
4 them, but you'd have to ask her.

5 And if the wound was bleeding, I
6 believe that you said that you would not
7 remove the dressing.

8 If the wound vac dressing was and
9 there was blood in the cannister, no, I would
10 not remove the dressing. I would turn the
11 machine off, pull pressure and notify the
12 physician.

13 Okay. And what would you do if
14 there is bleeding when you're removing the
15 sponge?

16 I would -- in the process of doing
17 the dressing change, is that what you're
18 referring to?

19 Yes.

20 I would go ahead and remove the
21 sponge. We see bleeding when we remove the
22 sponge. The way the wound vac works is that
23 it applies suction to the wound bed and it
24 makes scar tissue form, also known as

1 granulation, but it also makes new blood
2 vessels form in the area, so you have new
3 blood vessels coming to that area. So if the
4 therapy is working, the sponge actually will
5 stick in the wound bed itself. That causes
6 pain. It also causes bleeding when you remove
7 the sponge off the wound bed. So if I were in
8 the process of taking the sponge out and I
9 encountered some bleeding, I would continue to
10 go ahead and remove the sponge. If I
11 encountered something that I thought was an
12 arterial bleed, I would put the sponge down,
13 pull pressure and contact the physician
14 because that would - I would need the
15 physician to come and help me with that.

16 Was this an arterial bleed?

17 I don't think so, based on my
18 experience.

19 Are you able to quantify the amount
20 or the level of the blood loss here?

21

22 No, I can just simply say that if it
23 were an arterial bleed, that it would have
24 saturated the four by four immediately, very

1 *quickly. It would have soaked through to the*
2 *outer dressing.*

3 *And in this situation, would it be*
4 *appropriate to do a PT/INR?*

5 *Yes.*

6 *And what is that going to do to the*
7 *bleed?*

8 *It will not alleviate the bleeding,*
9 *but it will let the healthcare worker know how*
10 *thick or thin the blood is and whether it is*
11 *appropriate to put the wound VAC back on it at*
12 *that time. Whether adjustments need to be*
13 *made in the Coumadin dosage, the decision*
14 *would have to be made by a physician.*

15 *In this case, can you say whether it*
16 *was safe to put the wound vac back on?*

17 *If that blood level were too high,*
18 *you would not want to put it back on.*

19 *How did Janelle Belk - what did she*
20 *do to the wound before leaving?*

21 *It says that she applied five eight-*
22 *ply four by fours and then she said somewhere*
23 *she applied a pressure dressing and then she*
24 *put a five-pound bag of rice on top of the*

1 *pressure dressing.*

2 *Did she have doctor's orders to*
3 *apply that type of dressing?*

4 *I don't think so, no, but that would*
5 *be a -- to apply a gauze dressing is within*
6 *the standard from K.C.I.*

7 *If there is a problem with the wound*
8 *vac, that's the only other alternative that*
9 *they really recommend. So she was following*
10 *the recommendation of the manufacturer of the*
11 *machine.*

12 *Given the bleeding that Mr. Evans*
13 *experienced, should his vitals have been taken*
14 *prior to Ms. Belk's departure?*

15 *Yes.*

16 *But at a minimum, you would assess*
17 *the wound, the wound vac dressing and drainage*
18 *before you jumped right into your dressing*
19 *change?*

20 *Yes.*

21 *And when you do the dressing change,*
22 *you would include any amount of drainage,*
23 *color, any odor, pain, wound edges, all that*
24 *type of information should be noted?*

1 Yes.

2 So there is no notation of what was
3 contained in the canister or the tubing?

4 No, that that would be a significant
5 finding.

6 If there was blood in the canister
7 or in the tube, I would think that that would
8 be --I know that I would note that to be very
9 significant.

10 And if she noted that the wound was
11 bleeding when she removes the dressing, I
12 would -- I would -- I would think that she
13 would note that prior to removing the
14 dressing, as well.

15 So can you tell if the wound was
16 bleeding? From her notes, can you tell if the
17 wound was bleeding prior to her removing that
18 dressing?

19 No.

20 You can't tell one way or the other?

21 No.

22 So then it's clearly bleeding when
23 she removes that dressing?

24 Yes.

1 And is that true for both wounds?

2 Yes.

3 Given that you treat wounds in the
4 middle setting, are you able to comment on the
5 appropriateness or the lack thereof of Ms.
6 Belk leaving Mr. Evans in his home under those
7 circumstances?

8 No.

9 Does the fact that she took extra
10 precautions indicate to you that she had
11 concerns about the bleeding continuing?

12 Yes.

13 Would you agree that Ms. Belk's
14 documentation needs improvement?

15 Yes, but I would not agree that that
16 caused the problem.

17 Would you agree that you need a
18 proper assessment to get an effective plan of
19 care and to achieve good healing results?

20 Yes.

21 Would you agree that patients
22 deserve to receive the best care from doctors
23 and nurses?

24 Yes.

1 *Would you agree that a nurse must*
2 *always be vigilant?*

3 *Yes.*

4 *Would you agree that Mr. Evans has a*
5 *right to expect to receive good quality care?*

6 *Yes.*

7 *Would you agree that the first*
8 *priority of medical nursing should be the*
9 *safety of the patient?*

10 *Yes.*

11 *Would you agree that the risk of*
12 *serious harm is unacceptable if reasonable*
13 *means could have eliminated it?*

14 *Yes.*

15 *Would you agree that nurses should*
16 *never needlessly endanger a patient?*

17 *Yes.*

18 *Would you agree that the earlier the*
19 *treatment the better for a bleeding wound?*

20 *Yes.*

21 *What are the duties of the home*
22 *health nurses?*

23 *They have -- I don't know --*
24 *specific duties.*

1 *Would you agree that the home health*
2 *nurses have a duty to accurately perform*
3 *thorough assessments?*

4 *Yes.*

5 *Would you agree that home health*
6 *nurses have a duty to accurately report the*
7 *results of their assessment?*

8 *To report to who?*

9 *Either in the record or to a doctor*
10 *or supervisor?*

11 *Yes, that would be any nurse. Yes.*

12 *And would you be able to give me an*
13 *estimate for the time that wound would take,*
14 *or wounds would take, to heal without a wound*
15 *vac?*

16 *I would very -- feel very*
17 *comfortable in saying that it would take*
18 *longer.*

19 *Can you tell me what the difference*
20 *in time would be -- either, you know, by days*
21 *or weeks or months?*

22 *No, not officially. No. I could*
23 *make a guess but it would be strictly a guess.*

24 *Can you make an educated guess? For*

1 example, does it take twice as long without a
2 wound vac? Three times as long?

3 K.C.I. will not say that in their
4 literature anywhere and their reps will not
5 tell you that. In my experience, it can -- I
6 can see it a third, I can see it cut out a
7 third of the wound healing. Any time cut out
8 of a -- any time that you can expedite wound
9 healing is always better for the patient,
10 because the longer that the patient has an
11 open wound, the more chance of infection, the
12 more chance of complication with the wound,
13 the slower that it heals. So any time that
14 you can expedite that, especially if the wound
15 says open for a long time, then it becomes a
16 chronic wound and it is very hard for those to
17 heal.

18 But, for example, when Ms. Belk
19 wrote that she set it at one twenty-five to
20 one fifty, that doesn't indicate to us what
21 she really set it at?

22 That doesn't tell me, no.

23 Are all of the opinions that you've
24 given here today to a reasonable degree of

1 *nursing certainty.*

2 *Yes.*

3 *And although you don't practice in*
4 *the home health setting, am I correct that the*
5 *care that you would provide to a wound such as*
6 *this with a wound vac is the same?*

7 *Yes. The basic dressing change is*
8 *the same.*

9 *Well, I just -- I asked you -- there*
10 *was some discussion about home health nursing*
11 *and some differences, but in terms of the*
12 *direct patient care, the standard of care for*
13 *treating wounds is the same?*

14 *Yes.*

15 *Is that correct?*

16 *Yes.*

17 *And then you had discussed how*
18 *dressing changes are preformed the same,*
19 *regardless of where they are done, I believe.*
20 *Is that correct?*

21 *Yes.*

22 *But you would agree that there are*
23 *differences between the care of the patients*
24 *and the hospital setting and at home as far as*

1 *the supervision, the monitoring, the*
2 *accessibility of care should something arise?*

3 *Yes, I would agree with that.*

4 *But Janelle Belk knew or had*
5 *available to her the information regarding the*
6 *condition of the dressing and drainage,*
7 *correct?*

8 *Yes.*

9 *And Janelle Belk failed to put in*
10 *the record any information regarding the*
11 *condition of the dressing and the drainage and*
12 *other characteristics of the wound? Correct?*

13 *There were none in that*
14 *documentation.*

15 *And she comments on what's in the*
16 *wound bed but not in the cannister?*

17 *Yes.*

18 *But the day before she does comment*
19 *on what's in the cannister?*

20 *Yes.*

21 *And the amount and color of the*
22 *drainage should be noted under any*
23 *circumstances, correct?*

24 *I would agree with that, yes.*

1 And that was not done on October 3rd?

2 The drainage in the cannister. She
3 talked about the problems about the wound bed,
4 with the bleeding at the wound bed.

5 Correct. She does talk about the
6 wound bed and there being blood in there?

7 Yes.

8 But she does not talk about the
9 drainage in the cannister?

10 Not that I remember seeing.

11 But on October 3rd, Ms. Belk did not
12 note the condition of the dressing or the
13 color and amount of the drainage in the
14 cannister, correct?

15 Correct.

16 (READING OF EXCEPTS CONCLUDED)

17 MS. DELUCA: Your Honor, that's the
18 end of the designations.

19 THE COURT: Thank you. Ladies and
20 Gentlemen, that concludes the reading of the
21 deposition portions of Renee Epting in
22 plaintiff's case. We have one last witness
23 that we are going to hear today. My
24 understanding is that he is expected to be

1 here at 3:45, so we will be able to begin his
2 testimony.

3 We are going to take this witness
4 out of order. Normally you would hear all of
5 the testimony in the plaintiff's case and then
6 they would rest and then you would hear the
7 defendant's case. Sometimes there are
8 situations with witnesses and work schedules
9 or that are out of town commitment and we pull
10 a witness out of order. So the next witness
11 that you are going to hear is a physician who
12 would normally be testifying in the defense's
13 case, but we're going to take him out of order
14 so that we can get him back to his office.

15 Thank you. You all may return to
16 your jury room. I'll see if the lawyers have
17 any matters of law to take up, that we can get
18 out the way. Soon as the Dr. Widenhouse is
19 here and ready, we will go ahead and get that
20 testimony and finish up for the day. Thank
21 you.

22 (JURY OUT @ 3:37 P.M.)

23 THE COURT: Anything from the
24 plaintiff?

25 MS. DELUCA: Nothing, Your Honor.

1 THE COURT: Anything from the
2 defense?

3 MR. TIERNEY: Nothing, Your
4 Honor.

5 THE COURT: All right. We will be
6 at-ease until Dr. Widenhouse gets here.

7 (RECESS 3:37 - 3:50 P.M.)

8 THE COURT: Let's bring the jury
9 in.

10 (JURY IN @ 3:50 P.M.)

11 THE COURT: Thank you, ladies and
12 gentlemen, for your flexibility and patience.
13 We are ready to proceed. Mr. Tierney.

14 MR. TIERNEY: At this time the
15 defense would call Dr. Brian Widenhouse.

16 (WITNESS TAKES STAND)

17 BRIAN WIDENHOUSE, being duly sworn
18 to tell the truth, the whole truth and nothing
19 but the truth, testified, as follows:

20 DIRECT EXAMINATION

21 BY MR. TIERNEY:

22 Q. Good afternoon, Dr. Widenhouse. Thank
23 you for being here today. Doctor, could you
24 take the jury through your educational
25 background, to include your medical degree and

1 any residency that you did, or fellowships?

2 A. Okay. I graduated from medical school, I
3 did a full residency in general surgeon in
4 Connecticut for five years, then I did a
5 plastic and reconstructive surgery fellowship
6 at Wake Forest University. I have been in
7 practice here in Charleston for fourteen
8 years, and I'm affiliated with the Medical
9 University as an associate professor.

10 Q. Are you currently in private practice?

11 A. Yes.

12 Q. How long have you been in private
13 practice?

14 A. I'm in my fourteenth year.

15 Q. As part of your residency, did you round
16 on patients and do surgical rotations?

17 A. Yes.

18 Q. Would you have done an internal medicine
19 rotation during your residency?

20 A. Not during my residency.

21 Q. At some point during medical school, I
22 assume?

23 A. Yes.

24 Q. Tell me what your private practice
25 consists of from a clinical standpoint?

1 A. Plastic surgery involves the combination
2 of aesthetic surgery and reconstructive
3 surgery, dealing with diseases of the skin,
4 wound care, hand surgery, breast surgery,
5 cosmetic surgery of the body and face, facial
6 rejuvenation, body contouring. Reconstructive
7 surgery from trauma, cancer reconstruction,
8 that kind of thing.

9 Q. During your general residency, would you
10 have learned how to diagnose and to treat
11 wounds?

12 A. Yes.

13 Q. Would that have also been part of your
14 training when you completed your fellowship?

15

16 A. Yes. I received the majority of my wound
17 care training in plastics residency.

18 Q. As a part of your practice today, do you
19 treat patients who require surgery and then
20 have open wounds as a result of the surgery?

21 A. Yes.

22 Q. Do you in fact diagnose plans -- or I
23 should say do you order plans of care for
24 treatment of open wounds?

25 A. Yes.

1 MR. TIERNEY: Your Honor, at
2 this time, pursuant to Rule 702, I would like
3 to offer Dr. Widenhouse as an expert as a
4 medical doctor and also in the field of
5 general surgery, plastic surgeon as well as
6 qualified to speak on wound care and treatment
7 of the same.

8 THE COURT: Anything from the
9 plaintiff?

10 MS. DELUCA: Could you ---

11 THE COURT: If you would repeat
12 that for us.

13 MS. DELUCA: --- repeat for me the
14 areas.

15 MR. TIERNEY: General surgery,
16 plastic surgery, and obviously as a component
17 of general surgery and plastic surgery his
18 qualifications as an expert to discuss the
19 plan and treatment for the care of wounds and
20 wound care itself.

21 THE COURT: That's about the same
22 thing, wouldn't you say, wound care and the
23 plan and treatment of wounds?

24 MR. TIERNEY: I think it's the
25 same thing, Your Honor.

1 THE COURT: Okay.

2 MS. DELUCA: No objection, Your
3 Honor.

4 THE COURT: Okay, I will so qualify
5 Dr. Widenhouse in the fields of general
6 surgery, plastic surgery, and that will
7 include the planning, treatment and care of
8 wounds -- planning for wound care.

9 COURT'S EXHIBIT

10 BY Mr. TIERNEY:

11 Q. Dr. Widenhouse, in your private practice
12 here in the tricounty area, did you have an
13 occasion to treat a patient by the name of Mr.
14 Finley Evans?

15 A. Yes.

16 Q. Is Mr. Finley Evans here in the courtroom
17 today?

18 A. Yes.

19 Q. Do you recall when the first time that
20 you came into contact with Mr. Evans was?

21 A. It was in the year 2000.

22 Q. Do you recall specifically why he came to
23 see you and what you were treating him for?

24 A. He was referred by his general surgeon,
25 Dr. Gezen, for evaluation and management of

1 hydradenitis.

2 Q. Could you tell the jury, please, what
3 hydradenitis is?

4 A. Hydradenitis is a really severe form of
5 infection in the sweat glands. It occurs --
6 it is like a really severe form of acne. It
7 occurs in areas where there are a lot of sweat
8 glands, like the armpit, the groin, the
9 buttocks, sometimes underneath the breasts.
10 It can range from something that is mild and
11 goes away with antibiotics to something that
12 requires surgery.

13 Q. In your treatment of Mr. Evans in 2000,
14 did treatment of him come to the point where
15 it required surgery?

16 A. Yes.

17 Q. And, Doctor, we have placed a copy of
18 your medical records in front of you, for --
19 if you need to refer to those, please feel
20 free to do so. Do you recall specifically
21 what surgery was required in 2000?

22 A. His main problem was in the area of the
23 buttocks. My job, as the plastic surgeon, was
24 to remove the deceased tissue from the
25 buttocks region and to reconstruct the area.

1 Q. As a result of the reconstruction surgery
2 in 2000, did Mr. Evans had any complications
3 from a wound standpoint? Healing?

4 A. Yes. It was - the first operation was
5 just an excision of all of the affected
6 tissue. He was -- during the same
7 hospitalization, he was taken back to the
8 operating room where a split-thickness skin
9 graft was performed. Split thickness just
10 means that partial skin is taken from another
11 part of the body and placed on the wound to
12 try to get it to stick and heal. That's what
13 was done in the second operation.

14 The complication from that surgery is that a
15 portion of the skin graft did not survive. A
16 portion of graft did and a portion of it did
17 not. So he did not have complete healing of
18 this skin graft and he had a residual wound.

19 Q. As a plastic surgeon, how do you address
20 a wound that won't heal?

21 A. Well, it depends on the reasoning behind
22 the failure of the graft. Depending on the
23 size of the wound, dependent on what the
24 patient's wishes are and what the options are,
25 there are usually several different paths that

1 we could go down.

2 I initially treated the non-infected
3 areas with low wound care in an outpatient
4 wound clinic. Mr. Evans was kind of tired of
5 having surgery and wanted to see if these
6 could heal on their own and I thought that was
7 a reasonable approach, so we did.

8 Conservative management with dressing changes.
9

10 Then at some point he had returned back.
11 His wound was improving but was still slow to
12 heal, so he agreed to another skin graft;
13 which I then performed, and we had partial
14 success with that. A portion of the graft
15 survived and then a portion of it did not. We
16 still had to do some additional dressing
17 changes for a period of time.

18 Q. What concerns do you have about an open
19 wound?

20 A. And open wound is a break in the skin
21 barrier, so one of the primary concerns is
22 infection. In the case of hydradenitis, the
23 disease process is already present before you
24 do anything to it, so you are trying to get
25 rid of the infection. That's why the initial

1 surgery was done in two stages: one, where you
2 excise the deceased/infected material to get
3 rid of the infection and, two, then you do the
4 reconstruction.

5 Q. Are the vessels, for lack of a better
6 word, in the open wound?

7 A. Not large vessels. I mean, no major
8 arteries or veins that are exposed. But part
9 of the healing process is granulation tissue
10 that the body makes, new tissue that fills in
11 a hole, that very pink, granular, highly
12 vascular tissue. That is a healthy wound and
13 that is the way that you want to see a wound
14 when healing. That issue is vascular.

15 Q. When you say "vascular", does that imply,
16 does that imply that there is blood flow
17 through that region?

18 A. Yes.

19 MS. DELUCA: Objection.

20 THE COURT: Sustained.

21 MR. TIERNEY: I will restate the
22 question.

23 DIRECT EXAMINATION CONTINUED

24 BY MR. TIERNEY:

25 Q. What does vascular mean?

1 A. The way that I mean it, is alive. When I
2 discuss the appearance of a wound with a
3 patient, I talk about tissue that appears
4 healthy. Yes, every wound looks horrible to
5 the patient if it is open. But there are
6 healthy wounds and then there are wounds that
7 have bad tissue, or discolored tissue that is
8 not healthy. A vascular granulating wound is
9 a healthy wound. It has healthy/alive tissue
10 that is the body's way of healing a wound.

11 Q. Is there a potential for bleeding to
12 occur with an open wound that have a vascular
13 component to it?

14 A. Yes.

15 Q. Do you recall if Mr. Evans required a
16 wound vac as result of procedures that he
17 underwent in 2000?

18 A. Yes.

19 Q. Did you see Mr. Evans at any point after
20 the 2000, for subsequent treatment?

21 A. Not that I remember.

22 Q. Do you recall if you had an occasion to
23 see Mr. Evans in the year of 2006?

24 A. Yes.

25 Q. What did you see Mr. Evans for in 2006?

1 A. He had the same disease process,
2 hydradenitis, in a different part of his body.

3 Q. What area, in 2006?

4 A. In his groin and scrotal area.

5 Q. What treatment plan did you put in place
6 to address the issue that he had in 2006?

7 A. Usually by the time that a patient with
8 hydradenitis comes to see me, they have
9 exhausted all of their conservative options:
10 like good hygiene, skin care, oral antibiotics
11 to suppress the infection. By the time that I
12 see them, it is usually severe enough that
13 they are ready to have surgery. The patients
14 are generally pretty visible with purulent
15 drainage, it hurts, it smells bad, it
16 contaminates clothing, it is difficult to
17 control. So they are ready to go and have it
18 taken care of as soon as possible.

19 Mr. Evans had exhausted his medical
20 management, conservative management, in the
21 groin area and was ready to have it excised.
22 So that's - you know, we discussed doing that
23 and we did it.

24 Q. You when you say excise, I assume you are
25 saying that you perform surgery and you excise

1 the affected area?

2 A. Yes. Cut out all of the infected
3 material.

4 Q. Did you cut out the infected material on
5 his scrotum?

6 A. Yes. The majority of it.

7 Q. Did you also cut out infected material on
8 his groin?

9 A. Yes.

10 Q. Is there - is that a particularly
11 sensitive area to perform surgery on?

12 A. Yes.

13 Q. Does the body's ability to heal differ at
14 all if there is a wound in that area?

15 A. I think that the groin is particularly
16 difficult. It is easily traumatized by
17 ambulation. It is hard to have no tension on
18 it. If you are trying to close the area, it
19 is hard to keep it closed without tension on
20 it. It is hard to keep it clean, it is hard
21 to control stretching, it is a difficult place
22 to heal. That is the nature of the disease
23 process with hydradenitis, it's difficult to
24 heal in every area, but that's a particular
25 difficult area.

1 Q. In case the jury doesn't know, tell them
2 what ambulation is.

3 A. Ambulation is walking. So, you know, if
4 you have -- say that you have someone, that it
5 is impractical to have someone lying in bed
6 and not move for six weeks. And it's healing,
7 so that every time that you would transfer out
8 of bed to a chair or to walk, to go to the
9 bathroom, to get dressed, to get in and out of
10 the shower, or any activity in daily living,
11 it can potentially put stress on a suture
12 line. There are multiple places of the body,
13 but the groin is a tricky area.

14 Q. I may have asked you this, so I apologize
15 if I am being repetitive. This may be an
16 obvious question. That did you in fact do the
17 excision surgery?

18 A. Yes, I did. In 2000, I just excised the
19 tissue and then I went back later to do a skin
20 graft. In 2006, I was able to excise tissue
21 and close the groin area -- the area is -- I
22 closed the area using tissue that was locally
23 available.

24 Q. Prior to performing the skin surgery in
25 2006, did you ever have to cancel that planned

1 surgery in 2006?

2 A. Yes. The first time he was scheduled,
3 they checked his blood work and found that his
4 coagulation factors were too low. We canceled
5 the surgery for that day and adjusted his
6 Coumadin and then brought him back a few days
7 later, the next week or so.

8 Q. Was he on Coumadin prior to you
9 performing surgery in 2006?

10 A. Yes.

11 Q. How does Coumadin affect coagulation?

12 A. It decreases the blood's ability to clot.

13 Q. Was the initial surgery in 2006 canceled
14 because there was a concern that his blood
15 would not be able to clot?

16 A. Yes.

17 Q. Did Mr. Evans have any complications
18 post-surgery, after the surgery, in 2006?

19 A. Yes, his incision opened up.

20 Q. How to the incision opened up?

21 A. I wasn't there when it happened but I
22 think that it happened spontaneously.

23 Q. Doctor, I want you to look in your
24 medical records.

25 A. Okay.

1 Q. Specifically if you could, could you look
2 at the bottom right hand corner and there's a
3 number -- we call that a Bates numbers. It's
4 got your name on there.

5 A. Okay.

6 Q. If you could flip to what has been marked
7 as Widenhouse 98, please. Let me know when
8 you get there.

9 A. Okay.

10 Q. Could you tell the jury what Widenhouse
11 98 is, Doctor?

12 A. What the document is?

13 Q. Yes.

14 A. This is my office note. For every
15 patient that I see every day, I have a note
16 talking about my evaluation of the patient and
17 what my plan is.

18 Q. Could you please read the note to the
19 jury?

20 A. Yes. (Reading): "Mr. Evans is here for
21 follow up for the hydradenitis incision in his
22 groin and scrotum. He has had further suture
23 line dehiscence of the scrotal area. The
24 wound is clean and without evidence of
25 infection.

1 I think that he would benefit from the
2 vac therapy as he demonstrates a poor
3 understanding of his necessary local wound
4 care. The complete scrotal suture line is
5 open at this time, as well as the groin area.
6 We will submit for out patient vac management.

7
8 The scrotal wound is superficial with
9 only maybe five to ten millimeters of depth
10 but eight to ten centimeters in length. The
11 groin wounds is one to two centimeters in
12 depth and approximately three to four
13 centimeters in diameter."

14 Q. Do you recall why you noted in your
15 9/27/06 note that Mr. Evans demonstrated poor
16 understanding of his necessary local wound
17 care?

18 A. I believe that I had -- when he first had
19 a problem with healing, we instituted a simple
20 type of dressing change which was very common,
21 wet to dry dressing, where you moisten gauze
22 and put in the open wound. The goal of wound
23 healing is to keep the open part of the wound
24 moist, whether you do with a gel or

25 Like I have already said, the groin is a

1 difficult place to have a wound and it is a
2 difficult place to have the dressing changed.
3 So when I would see Mr. Evans in follow up in
4 my office, when I would take his dressing off,
5 I did not like the way it had been done. It
6 wasn't really compromising anything, it just
7 wasn't ideal.

8 Q. Is that why you thought a wound vac would
9 be a good idea?

10 A. The wound vac is a more complicated
11 dressing but it is thought to expedite
12 healing. It's supposed to make healing occur
13 faster, and it's also usually performed with
14 the assistance of a nurse. You can go to an
15 outpatient wound clinic and have dressing
16 changes done or you can have nurses come into
17 the home. That sort of takes some of the
18 dressing responsibility away from the patient.

19 Q. To please tell the jury what happens when
20 a scrotal suture line opens?

21 A. When a suture line opens, it just means
22 that the skin edges come part so that the
23 deeper levels of tissue are exposed. Right
24 underneath the skin is fat. Depending on what
25 area of the body it is, you can see the muscle

1 but normally the first thing that you see is
2 fatty tissue. So that is just when a suture
3 line, where you've brought two skin edges
4 together, comes apart.

5 Q. Does that create an open wound?

6 A. Yes.

7 Q. Did Mr. Evans have an open wound on his
8 scrotum afer surgery in September of 2006?

9 A. Yes. According to this note that I read,
10 I said that it was superficial, so it wasn't a
11 deep wound that went to where it -- it was
12 more like an ulceration where you could see
13 the bottom of it and it was not, it didn't
14 have much depth to it. More like a deep
15 abrasion or a burn.

16 Q. Is there a potential for a superficial
17 open wound to bleed?

18 A. Yes.

19 Q. Do you know if Mr. Evans continued to be
20 on Coumadin post-surgery in September and
21 October of 2006?

22 A. Yes, I believe that he was.

23 Q. What effect can the Coumadin have with
24 respect to that open wound?

25 A. A patient on Coumadin is more susceptible

1

2 to bleeding. If patient cuts himself shaving,
3 it is going to bleed longer than somebody who
4 is not on Coumadin. So if you have a wound,
5 it would be more susceptible to bleed than --
6 if the patient is on Coumadin versus not on
7 Coumadin.

8 Q. I asked you this but just to keep things
9 chronologically flowing, did you order a wound
10 vac as result of your 9/27/06 visit?

11 A. Yes.

12 Q. Bear with me one second, please.

13 MR. TIERNEY: Your Honor, for
14 identification purposes, I would like to show
15 the doctor a copy of his wound vac order.

16 THE COURT: For identification.

17 MR. TIERNEY: I will show the
18 blowup for the jury, as well.

19 THE COURT: You may.

20 DIRECT EXAMINATION CONTINUED

21 BY MR. TIERNEY:

22 Q. Doctor, I am handing you what has been
23 marked for identification purposes as
24 Defendant's Exhibit 7. Could you please tell
25 the jury what that is, Doctor?

1 A. It is an order for a vac.

2 Q. Does a physician actually have to place
3 an order for the home health nurses to be able
4 to order and place the wound vac?

5 A. Yes.

6 Q. Is this the order that starts that
7 process?

8 A. Yes.

9 Q. Could you tell the jury, please, what
10 pressure setting you wanted for the wound vac?

11 A. According to this order, it's a hundred
12 twenty-five millimeters -- the type of
13 dressing that it is, it's negative pressure,
14 so the only variable is how many millimeters
15 of mercury, so it's a hundred twenty-five. The
16 CONT. means continuous pressure. There are
17 two settings of pressure on the vac machine,
18 one for continuous pressure and one for
19 intermittent. I choose continuous.

20 Q. Do you, as the physician, order the
21 pressure setting?

22 A. Yes.

23 Q. And have you had experience in the past
24 with ordering wound vac pressure settings?

25 A. Yes.

1 Q. You talked a little bit earlier, I
2 believe that you mentioned the word "the
3 natural disease process". Could you tell the
4 jury, please, how Mr. Evans' natural disease
5 process would have contributed to the ability
6 for his wounds to heal on his scrotum and his
7 groin?

8 A. It's very difficult for patients with
9 hydradenitis to heal. I tell every patient
10 before surgery that there is a very good
11 chance that they are going to have a wound
12 healing complication. I think it is
13 multifactoral: the location of where the
14 disease is -- you know, one of the most common
15 complications of surgery is infection, and we
16 already have infection before we ever get
17 started. That complicates things. So I tell
18 every patient that there is a good chance that
19 they are going to have complications with
20 healing that with require additional surgery
21 or prolonged wound care.

22 Q. Could one of the complications that could
23 be experienced be a bleed from the wound?

24 A. Yes.

25 Q. Does that particular complication -- is

1 that particular complication heightened with
2 this type of disease?

3 A. I don't think it matters about the
4 disease but the wound from the surgery to
5 correct the disease. This -- a granulating
6 wound is susceptible to bleeding, no matter
7 what the source of it is.

8 Q. Do you know what a PT/INR test is?

9 A. PT stands for prothrombin time. It is a
10 measure of time of blood -- the length of time
11 for blood to clot. It's something that is
12 done in a lab.

13 INR, I forget exactly what that is but
14 they have numbers that show what is a normal
15 time for that and then things that -- the
16 longer that it takes blood to clot, the higher
17 the INR is. So people that are using blood
18 thinners are trying to find a therapeutic
19 level depending on the reason a person is on
20 the blood thinner.

21 Q. You may have just stated this, but what
22 is the purpose of an PT/INR?

23 A. It's to evaluate the level of -- if a
24 patient is on Coumadin, it is to determine the
25 level of effectiveness. If someone is taking

1 too much Coumadin, their PT/INR are going to
2 be too high and then they would be more
3 susceptible to bleeding.

4 Q. Does a nurse normally institute the
5 PT/INR tests?

6 A. That is a doctor's order.

7 Q. Does it take a doctor's order for a nurse
8 to be able to do a PT/INR test?

9 A. Yes.

10 MR. TIERNEY: May I approach the
11 witness, Your Honor?

12 THE COURT: You may.

13 DIRECT EXAMINATION CONTINUED

14 BY MR. TIERNEY:

15 Q. Doctor, I am going to hand you what has
16 already been entered into evidence as
17 Defendant's Exhibit 6.

18 MR. TIERNEY: Your Honor, may I
19 publish a blowup of this to the jury?

20 THE COURT: Yes.

21 DIRECT EXAMINATION CONTINUED

22 BY MR. TIERNEY:

23 Q. Doctor, what is Defendant's Exhibit 6,
24 please?

25 A. Excuse me?

1 Q. Could you tell the jury what Defendant's
2 Exhibit 6 is, please?

3 A. Yes, it's a copy of a doctor's order for
4 a blood draw to obtain a PT/INR on Mr. Evans
5 due to bleeding with a dressing change.

6 Q. Could you please read the order to the
7 jury?

8 A. (Reading): "October 3, 2006, blood draw.
9 SN may obtain PT/INR due to bleeding with
10 dressing change and notify Dr. J. Campbell of
11 results. This order begins 10/3/06.
12 Discipline SN Janelle Belk, R.N." It has my
13 signature at the bottom.

14 Q. That is your signature at the bottom
15 right-hand corner?

16 A. Yes.

17 Q. I note that it is not dated until October
18 5th, 2006. Can a nurse perform an order based
19 on a verbal order that you give without having
20 the signed order?

21 A. Yes.

22 Q. Then can you, as a physician, come back
23 and dictate that order and sign it at a later
24 date?

25 A. What usually happens is that the order is

1 faxed to my office, I sign it and fax it back.

2 Q. But without having the piece of paper, as
3 long as you give the verbal order, ---

4 A. Right.

5 Q. --- can the nurse perform whatever it is
6 that you ordered?

7 A. Yes.

8 Q. All right. Does it appear from your
9 review of Defendant's Exhibit 6, and I will
10 represent to you that "SN" means "skilled
11 nurse."

12 A. (Affirmative nod)

13 Q. Would it appear to you that the nurse
14 informed your office prior to getting the
15 order that the patient was bleeding with the
16 dressing change?

17 A. Yes.

18 Q. So your office would have been aware of
19 that fact when this order was dictated?

20 A. Yes.

21 Q. Are you aware of the fact that Mr. Finley
22 Evans did have an active bleed on October 3rd,
23 2006?

24 A. Yes.

25 Q. Do you recall seeing him in the hospital

1 at some point that day?

2 A. Yes.

3 Q. Do you know if he had to be transported
4 by EMS to the hospital that day?

5 A. Yes.

6 Q. Have you ever seen the actual DHEC
7 transport note?

8 A. Yes.

9 Q. Bear with me one second, I'll get you a
10 copy of it. I am going to hand you a copy of
11 the actual DHEC transfer note, (tendering).

12 A. Okay.

13 Q. Do you recall exactly when you would have
14 seen Mr. Evans in the hospital that day?

15 A. I recall seeing Mr. Evans after he was
16 admitted to Trident Medical Center.

17 Q. Would you have dictated an admission note
18 as the result of caring for him when he was
19 admitted to Trident?

20 A. Yes.

21 Q. I am going to hand you a copy now,
22 Doctor, of what has been previously admitted
23 as Defendant's Exhibit 3. Could you please
24 identify that document for the jury?

25 MR. TIERNEY: Your Honor, could

1 I publish that to the jury in the form of a
2 blowup?

3 THE COURT: You may.

4 THE WITNESS: This document is
5 an admission history and physical for October
6 3rd, for Mr. Evans.

7 DIRECT EXAMINATION CONTINUED

8 BY MR. TIERNEY:

9 Q. Could you please read that note for the
10 jury?

11 A. (Reading): "History of present illness.
12 The patient is a sixty-one year old male
13 admitted today with an open wound of his left
14 groin and scrotum. He is status post-excision
15 of hydradenitis in his left groin and scrotum
16 on September 21, this year. His post-
17 operative course was remarkable for a suture
18 line dehiscence and he has been undergoing
19 outpatient wound care with home health
20 assistance. On the date of admission, he was
21 reportedly having active bleeding from his
22 wound and was brought into the emergency room
23 for evaluation and management, where he was
24 found to be hemo-dynamically stable but will
25 be admitted for observance and local wound

1 care. Past medical history is significant for
2 hypertension, atrial fibrillation and
3 hydradenitis."

4 Q. Let me interrupt you there for one
5 second, Doctor. Please tell the jury from a
6 medical standpoint when a patient is
7 hemodynamically stable.

8 A. For my purposes it means that their vital
9 signs are stable, their heart rate and blood
10 pressure are within normal limits.

11 Q. What is hemorrhagic shock?

12 A. Hemorrhagic shock is a drop in blood
13 pressure or a change in hemodynamic stability
14 based on blood loss.

15 Q. Do you recall if, based on your encounter
16 with Mr. Evans on October 3rd, 2006, if he
17 required any transfusions or blood product
18 given to him?

19 A. No.

20 Q. Do you have any recollection from your
21 treatment on October 3rd as to how much blood
22 he lost when you saw him?

23 A. I didn't see any blood loss. So I am not
24 aware of exactly how much blood he lost.

25 Q. All right.

1 A. I was -- I had communication with the
2 emergency room physician in Moncks Corner, who
3 said that the wound was not bleeding at the
4 time of that doctor's assessment. The -- I
5 made the decision to transfer him and to admit
6 him for overnight observation. When I saw him
7 on admission, I did not see any active
8 bleeding from his wound either.

9 Q. Do you recall how you knew that he was at
10 the emergency department in Moncks Corner?

11 A. Not specifically. I know that I talked
12 to the doctor that treated him, but I don't
13 recall that -- I mean, I feel like I knew that
14 he was en route to an emergency room but I
15 don't remember exactly how I found that out.

16 Q. Would someone have had to call your
17 office and tell you that he was en route to an
18 emergency room for you to know that
19 information?

20 A. Yes.

21 Q. All right.

22 A. In a lot of cases, whoever -- if I am in
23 surgery or if I'm seeing patients, the message
24 will be relayed through another staff member.

25 Q. Do you know what hypovolemic shock is?

1 A. That is a change in vital signs or shock,
2 low blood pressure secondary to loss of blood
3 volume.

4 Q. Based on -- well, let's finish your note,
5 actually.

6 A. Okay.

7 Q. I think that we can skip over the
8 medications portion of the note.

9 A. Okay.

10 Q. Can you get to your physical examination,
11 please.

12 A. (Reading): "Patient is a well-developed
13 male in no distress. His HENT..." -- head,
14 ears, eyes, nose and throat -- "... is
15 unremarkable. Lungs are clear. Abdomen is
16 benign. Examination of the groin and scrotum,
17 he has an open wound from recent surgery. The
18 wound base is clean, there is no evidence of
19 infection and there is no active bleeding.
20 Other extremities exam is within normal
21 limits."

22 So my impression was, "Suture line
23 dehiscence of left groin and scrotum with
24 reported active bleeding."

25 The plan was for "Hospital admission

1 *for observation and local wound care."*

2 Q. Do you know, based on your review of the
3 EMS report, whether or not Mr. Evans lost any
4 blood on October 3rd, 2006?

5 A. There is an entry on this sheet, this
6 report, that says that there was blood loss.

7 Q. All right. What did you do when you saw
8 Mr. Evans, to address the blood loss?

9 A. By the time that I saw Mr. Evans, he was
10 lying comfortably in his hospital bed, awake,
11 alert and oriented. I just checked his wound
12 to see how it looked.

13 Q. Do you know if, in the review of the
14 records, you noted that the emergency room at
15 Moncks Corner or the emergency room at Trident
16 had to give him any blood transfusion?

17 A. The only entry that I saw on the -- I
18 certainly did not get the -- the report that I
19 got, talking to the emergency room physician
20 was that the patient was stable. When I
21 reviewed that note, I just saw that the
22 patient had received some IV fluids. Not
23 blood product, just saline.

24 Q. And what can saline do as far as blood
25 pressure?

1 A. If someone is hypovolemic, if they've
2 lost blood or they are dehydrated because they
3 have horrible nausea and vomiting or diarrhea,
4 the flu or they've been stabbed or shot, it's
5 the first way that you replace fluids to
6 somebody. Saline is called crystalloid and it
7 is the first thing that you do to resuscitate
8 somebody.

9 Q. Based on your conversation with the
10 emergency room doctor, and what you saw in the
11 records, was the saline the only thing that he
12 needed to get his blood pressure back up?

13 A. Yes.

14 Q. Did you keep Mr. Evans or did you admit
15 Mr. Evans to the hospital that evening?

16 A. Yes, he was under my care.

17 Q. And did you admit him overnight for
18 observation?

19 A. Yes.

20 Q. Was that to be cautious?

21 A. Yes.

22 Q. Could he have been discharged home that
23 day without being admitted overnight?

24 A. Yes.

25 Q. Did you see anywhere in the medical

1 record where Mr. Evans experienced a syncopal
2 episode?

3 A. That was the diagnosis given by the
4 emergency room physician, or at least one of
5 the diagnoses given by the emergency room
6 physician on their report.

7 Q. What is a syncopal episode, Doctor?

8 A. A syncopal episode is -- the global term
9 means a loss of blood flow to the brain. It
10 can happen -- basically syncope is passing
11 out.

12 If someone sees a needle coming at them
13 and they fall to the floor, that's a syncopal
14 episode.

15 If every time you see a scary movie you
16 fall over, that's a syncopal episode.

17 If you have a bad heart, that can cause a
18 syncopal episode, as well.

19 There are a lot of different causes.

20 Q. Can panic trigger a syncopal episode?

21 A. That can trigger a syncopal episode.

22 Q. It's a complicated response that I am not
23 qualified to explain, but I don't know -- I
24 don't know if anybody understands it
25 completely. But if someone has anxiety,

1 they're -- their sympathetic nervous system
2 increases the heart rate, increases the -- you
3 may have heard of the fight-or-flight response
4 when you get wound up and then your body
5 cannot respond appropriately to that increase
6 in heart rate, so it wrongly causes dilation
7 of your blood vessels and your blood pressure
8 actually drops. You lose blood flow to your
9 head for three to five seconds and then you
10 pass out. That's a defense mechanism of the
11 body. When you pass out, you fall down, blood
12 goes to your head and you wake back up.

13 Q. Doctor, I am now going to hand you what
14 has previously been marked into evidence as
15 Plaintiff's (sic) Exhibit 4.

16 MR. TIERNEY: Your Honor, may I
17 publish this to the jury.

18 THE COURT: You may.

19 MS. DELUCA: If I may, it's
20 Defendant's Exhibit 4.

21 MR. TIERNEY: Defense, (affirmative
22 nod). I'm sorry.

23 THE COURT: Thank you.

24 DIRECT EXAMINATION CONTINUED

25 BY MR. TIERNEY:

1 Q. Doctor, could you identify what
2 Defendant's Exhibit 4 is for the jury, please?

3 A. This is my hospital note for Mr. Evans
4 for the following day. He was admitted to the
5 hospital on October 3rd, and this is October
6 4th, the following day. This is my note.

7 Q. Would this have been when you rounded on
8 him prior to his discharge?

9 A. Yes.

10 Q. Can you just run through this note for
11 the jury, please.

12 A. The top line is an abbreviation. It
13 means "no complaints, the patient was
14 afebrile, hemodynamically stable" -- meaning
15 that his heart rate and blood pressure were
16 within normal limits.

17 I repeated his hemoglobin. He had a
18 hemoglobin drawn -- I don't know when. I --
19 there was one in the emergency room maybe
20 prior to his transfer, or en route -- I don't
21 know when, but probably when he got to the
22 emergency room. So I repeated it. The number
23 was 11.8 and ---

24 Q. I am sorry to interrupt you, but do you
25 recall what it was when it was done in the

1 emergency room?

2 A. I think it was 14. I'm not sure.

3 Q. Okay. Can you tell the jury what a
4 hemoglobin level represents, please?

5 A. Those are molecules that carry oxygen in
6 the blood, so the hemoglobin is a measurement
7 to determine the blood volume. If your
8 hemoglobin is high, that's good. If it is
9 low, you've lost blood or you're anemic.

10 Q. All right. I believe that you said that
11 his hemoglobin was in the 14 range when he got
12 to the emergency room?-----

13 A. Right.

14 Q. Then o discharge it was 11.8, is that
15 right.

16 A. Right.

17 Q. Are those all acceptable levels?

18 A. Yes. Any -- as a surgeon, anything --
19 everybody is a little bit different. Like a
20 woman in her menstrual cycle may have a drop
21 in hemoglobin, that will come back up.
22 Anything above ten is considered safe for
23 surgery. Generally speaking, you don't
24 consider transfusing somebody until it gets to
25 seven.

1 Q. If you could, just finish your note
2 please?

3 A. I also commented that the wound was
4 clean. I said that the vac was poorly
5 tolerated, secondary to pain, and that we
6 would "discharge home today with an alternate
7 dressing."

8 Q. Do you recall what your mindset was when
9 you make the entry about the vac poorly
10 tolerated due to pain?

11 A. I actually don't. I don't think that a
12 vac was entertained during the overnight
13 admission, so I think that I was just
14 commenting that he had not done well with vac
15 therapy and we were going to come up with an
16 alternative plan for wound care.

17 Q. Okay.

18 A. And I had the wound care nurses at the
19 hospital evaluate him and come up with -- the
20 problem was his comfort level, one of the
21 complaints was the vac. So we were looking
22 for something that was more comfortable for
23 him but still effective.

24 Q. That's a difficult place to put a wound
25 vac, in the scrotal area; correct?

1 A. It is, yes.

2 Q. Was his healing time for the wounds that
3 he had on his scrotum and his groin delayed at
4 all by the events of October 3rd, 2006?

5 A. No.

6 Q. Was his recovery delayed at all by the
7 events of October 3rd, 2006?

8 A. No.

9 MR. TIERNEY: Thank you, Doctor,
10 for your time today. That's all the questions
11 that I have.

12 THE COURT: Thank you. Cross
13 examination?

14 MS. DELUCA: Thank you, Your Honor.

15 CROSS EXAMINATION

16 BY MS. DELUCA:

17 Q. Good afternoon, Dr. Widenhouse.

18 A. Hi.

19 Q. I wanted to follow up on a few things
20 that you discussed with Mr. Tierney. Talking
21 about the hemoglobin levels the day that Mr.
22 Evans presented to the emergency room and then
23 the next day, which was the day of discharge,
24 did you do any laboratory testing to determine
25 what Mr. Evans' baseline hemoglobin level was

- 1 prior to that?
- 2 A. No.
- 3 Q. Do you have a copy of your office
- 4 records?
- 5 A. Yes.
- 6 Q. Do you have them up there?
- 7 A. Yes.
- 8 Q. I can give you a copy if you prefer. I'm
- 9 looking at what's labeled Widenhouse 130.
- 10 A. Okay.
- 11 Q. Can you tell me what this is?
- 12 A. That is a printout of lab work from Mr.
- 13 Evans from Trident. It says that it was
- 14 performed at Summerville Medical Center
- 15 Laboratory.
- 16 Q. What does that list -- what is the date
- 17 of this record?
- 18 A. I believe September 8th, 2006.
- 19 Q. Looking at the heading on that second
- 20 column, I see that it says September 7th.
- 21 A. Okay. Yeah, over in the ---
- 22 Q. So does that indicate the date that the
- 23 lab sample was run?
- 24 A. Probably so, yes. September 7th.
- 25 Q. And can you tell me what Mr. Evans'

1 hemoglobin was on that day?

2 A. Sixteen-point-four, (16.4).

3 Q. And that was about a month before he
4 presented to the emergency room on October
5 3rd?

6 A. Yes.

7 Q. And what was his level when he presented
8 to the emergency room?

9 A. Fourteen (14).

10 Q. And then it was even lower the next day,
11 is that correct?

12 A. Yes, 11.8.

13 Q. What would cause him to continue -- his
14 hemoglobin level to continue to decrease
15 throughout the hospitalization?

16 A. Well, you can lose blood with surgery,
17 excising infected tissue. Certainly there was
18 blood loss with surgery. After the suture
19 line opened up and dressing changes were being
20 done on a daily basis, several times a day for
21 the saline dressing changes, uh, there's
22 usually -- when you see a gauze being pulled
23 out, you usually see a little bit of blood in
24 it. So just having an open wound can cause a
25 slight drop in the hemoglobin.

1 Q. What do you attribute the drop in
2 hemoglobin to between when he arrived by EMS
3 and you discharged him the next day?

4 A. He could have lost some blood from the
5 wound vac change. He also received a
6 significant amount of crystalloid IV fluids in
7 his resuscitation, both by EMS and in the
8 emergency room. That -- depending on, you
9 know, if he had been dehydrated -- I don't
10 know what his status was, but if he had been
11 dehydrated and received three liters of fluid,
12 that could dilute the hemoglobin levels all by
13 itself.

14 Q. So blood loss could cause a drop in
15 hemoglobin, correct?

16 A. Yes.

17 Q. And the saline that was given in the
18 ambulance and in the hospital could have
19 dropped the hemoglobin level; correct?

20 A. Yes.

21 Q. I wanted to look at Defendant's Exhibit
22 6. I don't know if you still have that up
23 there. It's the orders ---

24 A. Yes, I have it.

25 Q. Who dictated or created this order?

1 A. I believe that it came from the nurse to
2 myself.

3 Q. So they would have drafted it and sent it
4 over to you for signature?

5 A. Yes.

6 Q. Does it indicate, by Janelle Belk's name
7 being listed on the last line in that box,
8 that she was the one that drafted the order?

9 A. That would be my assumption.

10 Q. That's your understanding?

11 A. Yes.

12 Q. But you agree that nurses should always
13 follow the rule "it's better to be safe than
14 sorry" ---

15 MR. TIERNEY: Objection, Your
16 Honor. He hasn't been qualified as a nurse.
17 He's not qualified to give opinions in the
18 field of nursing. He's been qualified as a
19 general surgeon and as a plastic surgeon.

20 THE COURT: Sustained.

21 MS. DELUCA: Your Honor, I ---

22 THE COURT: Just rephrase your
23 question.

24 CROSS EXAMINATION CONTINUED

25 BY MS. DELUCA:

1 Q. Doctor, would you agree that the medical
2 profession should always follow the rule that
3 it is better to be safe than sorry?

4 A. That's not an expression that we often
5 use in medicine, but I would say yes.

6 Q. Would you agree that any risk of serious
7 bodily injury or death is unacceptable if
8 reasonable means could have been used to
9 minimize or eliminate the risk?

10 A. Yes.

11 Q. Would you agree that the first priority
12 of medicine should be the safety of the
13 patient?

14 A. Yes.

15 Q. Would you agree that patients have the
16 right to expect to receive good quality
17 medical and nursing care?

18 A. Yes.

19 MR. TIERNEY: Objection, Your
20 Honor. As to nursing care.

21 THE COURT: Overruled. I think the
22 jury can make their own conclusions.

23 MR. TIERNEY: Thank you, Your
24 Honor.

25 CROSS EXAMINATION CONTINUED

1 BY MS. DELUCA:

2 Q. Would you agree that a medical
3 professional should never need to slander a
4 patient?

5 A. Yes.

6 Q. Who is Jenny at your office?

7 A. Jenny is a registered nurse at my former
8 practice.

9 Q. Back in the 2006 timeframe?

10 A. Yes.

11 Q. Can blood loss cause a syncopal episode?

12 A. I don't know the answer to that. I am
13 not sure.

14 Q. Can a number of things cause a syncopal
15 episode?

16 A. Yes.

17 Q. In talking about the hospitalization, why
18 did you order Mr. Evans to stay overnight in
19 the hospital?

20 A. I thought, based on the experience that
21 he'd had that day, that that was the safest
22 thing to do.

23 Q. Looking at Defendant's Exhibit 3, which
24 is also page twenty-five of your records, ---

25 A. Yes.

1 Q. --- towards the bottom there, under your
2 Impression, you told about "suture line
3 dehiscence".

4 A. Yes.

5 Q. And then in the History you talk about
6 "active bleeding" from a wound.

7 A. Yes.

8 Q. Do you see that?

9 A. (Affirmative nod).

10 Q. Which wound are you referencing there?

11 A. The left groin.

12 Q. Do you recall that it was the left groin
13 wound that dehiscenced?

14 A. Yes.

15 Q. How can you tell which one?

16 A. Well, there was only one wound, I
17 believe.

18 Q. So -- because the scrotal incision was
19 superficial, you're not ---

20 A. The scrotum and the groin were adjacent
21 to each other, so they -- I don't remember
22 specifically if there were two suture lines or
23 if it was one suture line. I would think that
24 there were two suture lines where the diseased
25 tissue on the scrotum was excised and that

1 area was closed, and the area in the groin
2 crease was excised and closed as a separate
3 suture line. But both of them had difficulty
4 healing, so there was a separation in both.

5 What I do recall is that the scrotal area
6 was superficial, so it was not -- it was not
7 deep. It was more like a deep abrasion where
8 the skin level -- the base of the wound was
9 near the surface of the skin.

10 Q. So that one, the scrotal wound would not
11 be -- so how did you surmise that it was the
12 groin wound that was ~~actively bleeding~~?

13 A. I didn't surmise that either -- you know,
14 that either one of them was actively bleeding.
15 They're right next to each other, they're in
16 the same area, so they would be assessed
17 simultaneously.

18 Q. In your impression of the suture line
19 dehiscence, which suture line?

20 A. Both of those suture lines opened up.

21 Q. And you were aware that Mr. Evans was on
22 Coumadin during your treatment of him,
23 correct?

24 A. Yes.

25 Q. And you would order him when to start and

1 stop the Coumadin in coordination with
2 scheduled treatment and surgeries, correct?

3 A. Well, no exactly because his initial date
4 for that was -- the Coumadin was not stopped.
5 I don't manage his Coumadin, so it was a slip
6 that it was not stopped prior to surgery.
7 That was picked up preoperatively and that's
8 why the surgery was delayed.

9 Q. And prior to the next surgery, you
10 instructed him not to take Coumadin for a
11 certain period?

12 A. I don't recall any specific instructions.
13 As many surgeries as we had had together, it
14 was sort of routine that you had to stop your
15 Coumadin. Most patients that are on Coumadin
16 chronically know how to do that without any
17 prompting from their physician. I don't like
18 to manage that specifically. If I am
19 operating on a patient on Coumadin, I ask them
20 to let their medical doctor manage their
21 Coumadin level.

22 Q. Is there a general protocol that is
23 followed, that you would stop taking Coumadin
24 a certain amount of days prior to surgery?

25 A. It depends on why they are on Coumadin,

1 how much they are taking and how -- some
2 people just take the low dose for a little bit
3 and some people are fully anticoagulated and
4 they would have to be off of it longer. So
5 depending on why somebody is on it, I like to
6 let the medical doctor who is treating that
7 make that decision. The medical doctors know
8 their bleeding time -- well, "bleeding time"
9 is not the correct term. But they know how
10 long to be off before it's safe to have
11 surgery.

12 Q. What do you consider a low dose of
13 Coumadin?

14 A. I -- a couple of milligrams up to maybe
15 three to five. Coumadin is hard to regulate.
16 There is not one dose that works for each
17 person. When somebody is on Coumadin, they're
18 trying to achieve a certain level of their
19 PT/INR and -- and, so, that's what the doctors
20 look at, not the specific number of grams,
21 milligrams.

22 Q. Are you aware of any Roper Home Health
23 nurse having any criticisms regarding your
24 care of Mr. Evans?

25 A. No.

1 Q. Are you aware of any Roper Home Health
2 nurse discussing with Mr. Evans that he should
3 seek treatment by another doctor?

4 A. I think I did read that in the record.

5 Q. What records did you review?

6 A. I -- you know, I was initially named in
7 this lawsuit and when that -- in some of that
8 material, I read and saw that that was
9 written.

10 Q. Were you quickly dropped from this
11 lawsuit once we had time to investigate it?

12 MR. TIERNEY: Objection, Your
13 Honor. That's an improper question.

14 MS. DELUCA: Your Honor, he brought
15 up initially being named and I'm cross-
16 examining him.

17 MR. TIERNEY: She asked what
18 records.

19 THE COURT: Overruled. Go ahead
20 and tie that up.

21 CROSS EXAMINATION CONTINUED

22 BY MS. DELUCA:

23 Q. Dr. Widenhouse, were you dismissed from
24 this lawsuit?

25 A. Yes.

- 1 Q. Were you dismissed early on?
- 2 A. Not early enough.
- 3 Q. Were you ever deposed?
- 4 A. No.
- 5 Q. Did you ever answer any pleadings?
- 6 A. No.
- 7 Q. Do you recall what the timeframe was?
- 8 A. No.
- 9 Q. And were you completely dropped from the
- 10 lawsuit?
- 11 THE COURT: That's far afield. I
- 12 am going to now sustain the objection.
- 13 CROSS EXAMINATION CONTINUED
- 14 BY MS. DELUCA:
- 15 Q. You provided the order for the wound vac
- 16 usage, correct?
- 17 A. Yes.
- 18 Q. And you ordered the pressure to be set at
- 19 one twenty-five millimeters of mercury, I
- 20 believe?
- 21 A. Millimeters, yes.
- 22 Q. Millimeters?
- 23 A. (Affirmative nod).
- 24 Q. Is your knowledge of the care provided by
- 25 Roper Home Health all provided by Roper Home

1 Health nurses?

2 MR. TIERNEY: Objection, Your
3 Honor.

4 THE WITNESS: I didn't
5 understand.

6 THE COURT: Sustained. Rephrase it
7 please.

8 CROSS EXAMINATION CONTINUED

9 BY MS. DELUCA:

10 Q. Were Roper Home Health nurses the source
11 of your information regarding Mr. Evans' home
12 healthcare?

13 A. Yes.

14 Q. Were they the sole source of that
15 information?

16 A. I think so.

17 MS. DELUCA: That's all the
18 questions that I have for you, Dr. Widenhouse.
19 Thank you.

20 THE COURT: Thank you. Any
21 redirect?

22 MR. TIERNEY: Briefly on
23 redirect.

24 May I approach the witness, Your Honor?

25 THE COURT: You may.

1 REDIRECT EXAMINATION

2 BY MR. TIERNEY:

3 Q. Doctor, I am going to hand you what has
4 already been marked into evidence as
5 Defendant's Exhibit 2. I will represent to
6 you that that is a laboratory report based on
7 your order for the nurse to do the PT/INR.
8 Would you take a minute to look at that
9 report, please?

10 A. (Upon review), okay.

11 Q. Does this lab report actually give a
12 range of what the patient's Warfarin or
13 Coumadin level is as of October 3rd, 2006?

14 A. Yes.

15 Q. Does that in fact show that the patient
16 was on Coumadin on October 3rd, 2006?

17 A. Yes.

18 MR. TIERNEY: No further
19 questions. Thank you.

20 THE COURT: Thank you. Any follow
21 up?

22 MS. DELUCA: Nothing.

23 THE COURT: Thank you.

24 MR. TIERNEY: May this witness
25 be excused?

1 THE COURT: Any objection to us
2 excusing Dr Widenhouse?

3 MS. DELUCA: None.

4 THE COURT: Sir, you may be
5 excused. Thank you.

6 (WITNESS STEPS DOWN)

7 THE COURT: Ladies and Gentlemen,
8 that will be our final witness for today. I
9 am going to ask you to go ahead and adjourn
10 for the evening. Again, please don't discuss
11 the case or do any other research.

12 In the morning, when you get here,
13 I'd like for you to select a foreman for your
14 jury. You can't discuss the case, but y'all
15 might know each other a little bit by now, so
16 go ahead and pick a foreman. He will need to
17 sit in this front chair to your immediate
18 left.

19 We have some matters of law to take
20 up in the morning, so why don't you all come
21 in, be here by 9:45 and we will try to get
22 everything out of the way before we get
23 started. Thank you.

24 (JURY OUT @ 4:59 P.M.)

25 THE COURT: Anything from the

1 plaintiff before we adjourn for the evening?

2 MS. DELUCA: Nothing, Your Honor.

3 THE COURT: From the defense?

4 MR. TIERNEY: Nothing, Your
5 Honor.

6 THE COURT: If you will re-email me
7 the charges ---

8 MS. TOPOREK: I've resent it.

9 THE COURT: Thank you. In the
10 morning we will take a look at whatever law
11 you have or whatever arguments that you want
12 to make as to the deposition excerpts.

13 I am going to read the other three
14 depositions, finish them tonight. I will tell
15 you that if these people were not listed as
16 experts, I am not inclined to let opinion
17 testimony on their behalf in. Now, if he did
18 list them as experts or do as we used to do --
19 say, you know, that they are fact witnesses or
20 expert witnesses, or you listed them in your
21 own interrogatory responses, show me that
22 tomorrow. I will take a look at it. But I
23 don't have any of those materials. They
24 obviously are not in the court's file.

25 MR. TIERNEY: Let me represent

1 to the court right now that our standard
2 response, I am sure, was that we reserve the
3 right to ask expert questions of these
4 witnesses. I am sure we put that in the
5 pleadings. But we did not ask them any expert
6 questions.

7 THE COURT: Okay.

8 MR. TIERNEY: I want you to know
9 that.

10 THE COURT: I appreciate that.
11 That will help me as I finish reading with
12 what I am looking for. Just letting you know,
13 that if you have any discovery responses that
14 you need me to look at in the morning, go
15 ahead and have that ready.

16 MR. TIERNEY: We could probably
17 -- yes, briefly, because I know we're trying
18 to get out of here.

19 THE COURT: I'm okay.

20 MR. TIERNEY: Defendants
21 reserved its right to supplement its response.
22 Additionally defendants reserved its right to
23 call as witnesses any of the witnesses listed
24 by the plaintiff in their discovery responses
25 or supplements thereto. Defendants further

1 reserve the right to call as witnesses any of
2 the physicians, nurses or other healthcare
3 providers identified in the medical record.

4 THE COURT: Okay. That's helpful.
5 I am just letting you all know what I might
6 need in the morning. I've kinda figured out
7 what I am going to do, but I want to hear you
8 all argue and ---

9 MR. TIERNEY: We have the
10 pleadings, so if you need something, we've got
11 it.

12 THE COURT: I've got all the plead-
13 ings. That's in the court file. I just don't
14 have the discovery. But I do have the
15 depositions that you gave me and the excerpt,
16 so anything else? (No response). All right.
17 Have a good evening. If you will, be here
18 right at 9:30 in the morning, so that we can
19 try to get that worked out.

20 MR. TIERNEY: Yes, ma'am.

21 THE COURT: That might give you a
22 little more guidance as to what to look for.
23 I mean, she can obviously put in factual
24 statements if she wants to, from your case in
25 chief.

1 MR. TIERNEY: Yes.

2 THE COURT: Probably not their
3 opinions, so you might want to be ready to
4 redact those. I'll hear you on it in the
5 morning and let you make your record.

6 MS. DELUCA: Thank you.

7 THE COURT: Thank you. Have a good
8 evening.

9 (COURT IN RECESS)

10 (TRANSCRIPT CONTINUED NEXT PAGE)

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2 JANUARY 11, 2012

9:30 A.M.

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(OFF RECORD DISCUSSION)

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THE COURT: All right. I think
that we have to deal with the expert witness
issue, then any of the deposition excerpts.

Then, Mr. Tierney, I think you just
said that you have another matter. So I am
happy to hear from y'all.

MR. TIERNEY: Thank you, Your
Honor.

MS. DELUCA: All right. Your Honor,
if I may start with the issue with regard to
the nurses, standard of care. Based on Mr.
Tierney's representation that he is not going
to qualify them as experts or ask standard of
care or opinion questions of them, I would
agree not to designate the standard of care --
I would agree to withdraw those designations.
In fact, I would withdraw Judy Burbage's in
its entirety.

THE COURT: Anything on Ms.
Burbage?

MR. TIERNEY: No. No issue.

1 The only issue that I may have is that what I
2 counter-designated for Janelle, because we
3 just had an agreement -- I don't know if my
4 counter-designations raise the standard of
5 care questions, but we could skip over those
6 when reading that if that is agreeable. I
7 have no problem with that.

8 THE COURT: Okay.

9 MR. TIERNEY: The questions were
10 very succinct by Ms. Deluca as to what is the
11 standard of care.

12 THE COURT: I'm fine with that,
13 obviously if y'all have come to an agreement.

14 MS. DELUCA: Yes.

15 THE COURT: But I'll give you a
16 minute to get that straight.

17 MS. DELUCA: I'll make notations
18 just to keep that straight.

19 THE COURT: Let's doublecheck it
20 this morning before we bring them in, just
21 because -- I think, if I'm not incorrect, the
22 designations are the last part of your case
23 this morning, the various ones. Correct?

24 MS. DELUCA: I may read in a little
25 bit and that will be it.

1 THE COURT: Fine. I'd just as soon
2 -- I told them to be here at 9:45, so when we
3 finish with the next argument -- we'll get
4 everything on the record that y'all need on
5 the record, let's get it all straight, and
6 then hopefully we can bring them in on time
7 and then take our morning break later.

8 MR. TIERNEY: Okay.

9 THE COURT: Okay. What's next?

10 MR. TIERNEY: I guess would be
11 the designations for Dr. Gezen. We did this
12 -- our research is geared more towards the
13 standard of care for the -- the standard of
14 care questions for the nurses.

15 THE COURT: Okay.

16 MR. TIERNEY: As far as Dr.
17 Gezen is concerned, we didn't find any case
18 law other than what is in 702, the Rules of
19 Evidence. I believe that, Your Honor, it is a
20 discretionary matter for you.

21 THE COURT: It's a gatekeeping
22 function under 702 and, as I understood the
23 argument yesterday, it was a discovery
24 deposition taken and that he was never
25 actually offered as an expert.

1 MR. TIERNEY: Right.

2 THE COURT: So my issue is whether
3 under 42 you're allowed to use the deposition
4 at trial, which is generally fairly lenient --
5 if there is a question as to whether he is
6 qualified to render an opinion, I will hear
7 that. But I am not going to -- I am not going
8 to disallow just because at the discovery
9 deposition she didn't make the offer. There
10 is no judge there to accept the offer anyway.
11 So that's the way that I fall on that one.

12 MR. TIERNEY: There was only one
13 -- actually ---

14 MS. DELUCA: I asked questions of
15 him as to whether or not he was qualified to
16 answer questions on -- (inaudible, attorney
17 with back to bench, searching in bankers
18 boxes).

19 COURT REPORTER: Your Honor, ---

20 THE COURT: I am going to need to
21 get you to speak up just a little bit.

22 MS. DELUCA: I'm sorry. It's on
23 Page 48, starting at Line 23, and she asked
24 him if he would deem all of the subsequent
25 treatment by Ms. Belk reasonable and

1 necessary. We don't believe that he is
2 qualified to do that. The question is broad,
3 it doesn't clearly state exactly what
4 treatment that it was.

5 THE COURT: It's also pretty
6 leading. What is your position on that?

7 MS. DELUCA: Your Honor, I could go
8 back. I have that in my designations, what
9 his qualifications are. But he, uh, he works
10 in a hospital, he works in a home health
11 agency. He works in hospice. He's been
12 practicing for a number of years. I can give
13 you the exact cite in a moment. But based on
14 his training, education and experience, I
15 think that he is qualified to testify to the
16 subsequent hospitalization, -- well, the
17 ambulance ride, the hospitalization and wound
18 care that followed, Ms. Belk's treatment.

19 THE COURT: It's probably not
20 appropriate for me to consider Dr.
21 Widenhouse's testimony at this time because it
22 is technically a part of the defendant's case.
23 But that seems like a pretty innocuous
24 question to me and, as a medical doctor, I
25 think that he is qualified to render that

1 opinion. I am allowing them to ask that, Line
2 23, -- those questions on Page 48, I think are
3 fine.

4 MR. TIERNEY: Thank you, Your
5 Honor.

6 THE COURT: Anything else?

7 MS. DELUCA: I had a couple of
8 objections to the counter-designations to Dr.
9 Gezen.

10 THE COURT: Okay.

11 MS. DELUCA: The one numbered eight
12 discusses an arrest that was in 1999. So it -
13 - I don't think that it should come in because
14 of the age of it, it is not a crime that was
15 punishable by death or imprisonment greater
16 than a year, it is not a dishonest or a false
17 -- it was an arrest for possession of ---

18 THE COURT: I see it. Cocaine,
19 first offender, one year probation, five year
20 monitoring, his license was not suspended at
21 the time. That's probably would be too old,
22 because of the type of conviction that it is.

23 MR. TIERNEY: That would be our
24 only argument, the type of conviction, because
25 -- whether or not -- if it is -- I am not a

1 criminal lawyer, but if it is a crime against
2 moral ---

3 THE COURT: It's not.

4 MR. TIERNEY: Okay.

5 MS. DELUCA: Your Honor, I was
6 looking at South Carolina Rule of Evidence
7 609.

8 THE COURT: Right.

9 MS. DELUCA: I don't think it
10 affects his credibility, it's not relevant. I
11 think the probative value substantially is
12 outweighed by the danger of any prejudice.

13 THE COURT: I think that is clearly
14 barred under 609(b), so I am going to strike
15 that designation, number eight, of the
16 defendant's deposition -- designation,
17 defendant's designations. Okay.

18 MS. DELUCA: The other one is number
19 seven. The question is phrased "represent to
20 you that" and the facts that follow include
21 "to ensure that the bleeding would not
22 restart."

23 I think that assumes facts not in evidence.

24 MR. TIERNEY: It's a
25 hypothetical. It's just not as well as I

1 should have formed it for a hypothetical, but

2 ---

3 MS. DELUCA: It says that he is
4 representing that. It's not phrased in the
5 form of a hypothetical. It says, "if I
6 represent to you" that "these facts" -- and
7 those are not facts that are in evidence.

8 THE COURT: I agree that there
9 might be a problem with the foundation but
10 because it's technically, in my mind, cross-
11 examination on a counter-designation, I am
12 going to allow that.

13 Then the jury -- they are pretty
14 smart, I think. They can figure out once we
15 hear Ms. Belk's designations and then the
16 defendant's case, once they hear her
17 testimony, whether that's accurate or not. I
18 think that they will hold it against Mr.
19 Tierney if he makes a representation that he
20 doesn't tie up.

21 I overrule that objection. That
22 will be allowed, number seven.

23 MS. DELUCA: That's all the
24 objections.

25 THE COURT: Anything further on the

1 designations from the defendant?

2 MR. TIERNEY: Nothing, Your
3 Honor.

4 THE COURT: All right. Then I
5 think that you said that you have a production
6 matter?

7 MR. TIERNEY: I do. As a result
8 of yesterday's testimony with the labs and the
9 lab sheets not saying Roper Berkeley Hospital
10 on them, I asked the Hospital to do a computer
11 query this morning. They produced to me this
12 report. May I approach, Your Honor?

13 THE COURT: Yes.

14 MR. TIERNEY: (Tenders).

15 THE COURT: Thank you.

16 MR. TIERNEY: What this
17 represents is all of the same information that
18 was obtained in the actual lab report. It
19 just shows, on the right-hand side, where
20 services in the lab was actually run in
21 Berkeley County. I mean at Berkeley.

22 Obviously I am going to put Janelle
23 Belk on the stand to say where she ran the
24 lab. She did run the lab at Roper Berkeley.
25 There are other documents that also say it.

1 So I would like to, at least for ID
2 purposes, be able to use this document, even
3 though it wasn't produced until this morning,
4 to show the jury that in fact the lab was run
5 at Roper Berkeley Hospital there at Stoney
6 Landing.

7 THE COURT: I want to hear from you
8 but let me ask a question first. It was my
9 understanding from representations that were
10 made yesterday in some of the testimony, was
11 that she went to the first lab and they
12 refused to run it. She came back and was
13 going to run it again -- in Goose Creek, I
14 guess. So what happened and how does this
15 show that?

16 MR. TIERNEY: What you are going
17 to hear from Janelle Belk in my case, what
18 actually happened is that she never went to
19 any lab in Goose Creek. At 11:45 a.m., she
20 took the sample from Mr. Evans; at 12:18, she
21 left their house and went to the Roper
22 Berkeley Hospital; they ran the lab at 12:36.
23 That's what happened. Where this testimony
24 about her going to Goose Creek comes from, I
25 don't know. That's why I was asking what type

1 of lab -- there is no lab in Goose Creek that
2 Roper has.

3 THE COURT: Okay.

4 MR. TIERNEY: So unfortunately
5 for me, all of those reports are standard and
6 they all say "Roper St. Francis Healthcare."
7 They don't identify a particular lab. That's
8 why I asked them to do a query, to find any
9 definitive proof that it actually happened at
10 Berkeley other than what Janelle Belk is going
11 to say on the stand. She didn't run
12 downtown.

13 THE COURT: Right.

14 MR. TIERNEY: So it's one of
15 those things that ---

16 MS. DELUCA: Your Honor, I think
17 this is highly prejudicial that it is
18 disclosed at this point. I'd ask for this in
19 discovery months, if not years, ago. I've
20 presented testimony, I asked questions, and --
21 there is no foundation for this. I don't
22 know, you know, who produced this or where it
23 came from. Even though it is saying
24 "Berkeley", I don't know what that means.
25 It's highly prejudicial for this to come in

1 after I've already gone over what was
2 previously produced by witnesses, in front of
3 the jury.

4 THE COURT: There is an ongoing
5 duty to supplement discovery responses. I
6 think the door was opened on this yesterday.

7 Under 403, I really don't see how
8 the prejudice outweighs the probative value of
9 this, but if you need a minute to talk to your
10 witness or to figure out how you want to
11 follow up on it, I'm happy to give you that.

12 I think it's probative. I don't
13 find it prejudicial, because the testimony
14 could come from her. I think it's relative
15 and probative.

16 And I think he's supplementing it.
17 I am not sure how it prejudices your case.

18 MS. DELUCA: Because this has all
19 been asked for and they've produced other
20 portions, but this has never been produced.
21 This issue of where Ms. Belk went and what she
22 did has always been an issue.

23 THE COURT: What about that, Mr.
24 Tierney? It seems like that was an issue in
25 the deposition, that they were confused about

1 where she went and when.

2 MR. TIERNEY: It's been there.

3 I have no idea where it came from. There is
4 no lab in Goose Creek. That's why my point on
5 examination has been, why in the world would
6 Roper Hospital tell a Roper employee that they
7 won't accept a lab from her. It makes no
8 sense, and that's not what happened. She took
9 the lab to Roper Berkeley and that's where
10 they ran it.

11 I really didn't consider it to be
12 that big of an issue. It's my fault -- I
13 always assumed, actually, that somewhere on
14 these labs that it said Roper Berkeley. To
15 be candid with the court, I think you can
16 probably tell when I was looking for that
17 yesterday I was a little shocked to find out
18 that somewhere on there it didn't say it.

19 I can bring in the witness tomorrow
20 that ran this query for me if it is a
21 foundation question. I agree that she did ask
22 us, I didn't have and I didn't look for it
23 because I just simply never thought that there
24 was ever going to be any question that the lab
25 was run anyplace else than down the road.

1 THE COURT: Anything further on
2 that?

3 MS. DELUCA: Your Honor, it's always
4 been an issue. They had notice of it in the
5 depositions over a year ago, a year and a
6 half.

7 THE COURT: If you need a minute
8 with a records custodian witness or a computer
9 custodian witness, or someone, to talk about
10 this issue, I am happy to break early today or
11 to let you take anybody's deposition that you
12 need to take or interview -- at the
13 defendant's expense because they are the ones
14 supplementing now -- to protect your client.

15 Honestly, there was a lot of
16 hyperbole that came out yesterday from the
17 plaintiff's side. I think the jury gets that.
18 That's why I cautioned y'all after she
19 testified. I think you did the best that you
20 could with a very difficult witness. Some of
21 it, to me, was nonsensical -- not that you
22 elicited but she was just emotional, she
23 obviously was emotional.

24 But that door was opened. I think
25 the probative value under 403 clearly

1 outweighs any prejudice, particularly since
2 I'm willing to give you whatever leeway you
3 need to interview whoever you need to
4 interview. I just know from representing
5 these institutional defendants, and being on
6 the plaintiff's side, that sometimes they
7 don't know to even look for this type of thing
8 until a door like that gets opened. I think
9 he supplemented it as timely as it could be
10 supplemented.

11 Basically 403 is the basis for my
12 ruling. I do think the probative value
13 outweighs any prejudice, particularly in light
14 of the wife's testimony yesterday.

15 Whatever you need, whatever time you
16 need to meet with these folks, we will make it
17 happen. Okay?

18 MS. DELUCA: Thank you, Your Honor.

19 THE COURT: What else?

20 MS. DELUCA: I did have some
21 objections to the -- some of the designations
22 of Janelle Belk. Those are some of the
23 standard of care issues but there are some
24 other ones as well.

25 THE COURT: Okay. Judith Burbage,

1 we are taking out those designations. All
2 right. Ms. Belk. And you're going to go
3 through -- in a minute I'll give you some time
4 to get out any standard of care issues.

5 MS. DELUCA: Yes, Your Honor.

6 THE COURT: I've got the
7 deposition. Tell me your objection, please,
8 ma'am.

9 MS. DELUCA: Number twenty-two,
10 lines ---

11 THE COURT: Before you put these on
12 the record, can I just make a general comment?

13 MR. TIERNEY: Yes.

14 THE COURT: I know what you need to
15 get -- you're getting past directed verdict.
16 I am going to tell you that now. I think that
17 there is enough to create an issue of fact to
18 get this to the jury on some of the
19 contentions. I am going to let you argue but
20 that's just --

21 MR. TIERNEY: Okay.

22 THE COURT: They don't really pay
23 attention that much when you all are reading
24 these in. I know that there are some things
25 that you want to put in in your case. I think

1 it's more effective to call the defendant's
2 client in the plaintiff's case than to read
3 all this. But if you want to read all this
4 and put then put her up in Joe's case, that's
5 fine with me. I just offer that editorial
6 free legal advice. They were glazing over
7 yesterday. You were doing a fine job reading
8 it in, they just -- that's just a fact.

9 MS. DELUCA: Yes.

10 THE COURT: So proceed with these
11 multiple designations that you both have.

12 MS. DELUCA: Yes. Ms. Belk.. Number
13 twenty-two on Page 58, Line 13, within that
14 designation that appears to be testimony about
15 what Dr. Widenhouse said.

16 THE COURT: Page 58, Lines 1
17 through 25.

18 MS. DELUCA: Right, beginning at
19 Line 13, I believe, it's hearsay -- 13 through
20 25.

21 THE COURT: Mr. Tierney, anything
22 on that?

23 MR. TIERNEY: I would just say
24 that she was responding to the question asked
25 by Ms. Deluca, "You don't recall anything else

1 about Mr. Evans after you treated him on
2 October 3rd?" She went on to say what she
3 recalled.

4 MS. DELUCA: I think it is
5 really responsive and that it goes into what
6 is clearly hearsay.

7 THE COURT: It is not exactly
8 responsive. I think clearly under 803(4) that
9 it does not fall into statements for purposes
10 of medical diagnoses or treatment. It's a
11 very subjective opinion that he was, quote,
12 "perfectly satisfied with our services and
13 that we did nothing wrong."

14 I think you asked him his opinions
15 yesterday when he was on the stand. But
16 that's hearsay, that doesn't fall within any
17 exception.

18 That is a very good trial move.

19 MR. TIERNEY: Then, just so that
20 I can mark -- four through seventeen is out?

21 THE COURT: Well, no, I think that
22 starting on Line 13, that part is out. Bonnie
23 Mello works for your folks.

24 MR. TIERNEY: She does.

25 THE COURT: She was her director.

1 I think four through twelve is proper. I
2 think that Line 13 ongoing is struck.

3 MS. DELUCA: The next one is twenty-
4 three on Page 59, Lines 8 through 21.

5 THE COURT: That's the same ruling.
6 I mean, she can report that she called the
7 office to report that they were discharging
8 him from home health. Line 22 to 4 is fine.
9 But starting with "and" forward, through Line
10 8, that's not proper.

11 MR. TIERNEY: Okay.

12 MS. DELUCA: Sorry?

13 THE COURT: I think that the
14 designation, "So tell me about the
15 conversation between you and Dr. Widenhouse."
16 She reports, "I called their office to report
17 that we were discharging him from home health,
18 that we had a request. I don't even know who
19 I spoke with but she said, 'Hold on a second,
20 he wants to get on the phone with you'..." --
21 I think that's fine.
22 But starting with "and" that's improper -- or,
23 it's not improper. It just doesn't fall
24 within any hearsay exception.

25 MS. DELUCA: Page 60, Lines 4

1 through 20?

2 THE COURT: Yes. So probably, I
3 would imagine, that Lines 1 through 4 is not
4 really probative of anything but it's fine if
5 they want to read it. I think the most proper
6 part would be to read Line 22 through one,
7 ending with "which we always do." I certainly
8 would leave that up to the attorneys where to
9 stop. Does that make sense?

10 MR. TIERNEY: I don't have any
11 objection to that. If Christy is going to
12 read both parts, that's fine, we can scratch
13 that.

14 THE COURT: Just make sure she's
15 clear on where you want her to stop, stop at
16 the end of Line 1.

17 MR. TIERNEY: Top of (Page) 60,
18 "...which we always do."

19 MS. DELUCA: Okay. And then before
20 that, on Page 59, Lines 8 through 21, are
21 speculative. She states, "I am assuming, I am
22 totally assuming..." -- at the very end.

23 THE COURT: Mr. Tierney?

24 MR. TIERNEY: I would say that
25 designations are fraught with questions by Ms.

1 Deluca where she speculates and where she is
2 asking them to assume things. I do not
3 believe that is prejudicial based on the
4 question had Dr. Widenhouse reviewed the
5 records from Home Health.

6 THE COURT: Well, it is not
7 prejudicial but if she were on the stand and
8 she didn't know and she was assuming, that
9 would clearly be speculative.

10 MR. TIERNEY: I agree.

11 THE COURT: So that's out. It's
12 not hearsay, necessarily. It's just
13 speculative.

14 MR. TIERNEY: I agree.

15 THE COURT: Thank you.

16 MS. DELUCA: Number twenty-four,
17 Page 60.

18 THE COURT: I think we dealt with
19 that one.

20 MS. DELUCA: But I would ask about
21 the rest of that, starting with Line 21. That
22 is again talking about Dr. Widenhouse.

23 No, no, no. I'm sorry. Okay.

24 I think what we already did takes
25 care of that page. Sorry.

1 THE COURT: Okay.

2 MR. TIERNEY: But that, just to
3 be clear for the record, 9 through 25 is still
4 designated.

5 MS. DELUCA: Well, it is my
6 understanding from the prior ruling that we
7 were taking out ---

8 THE COURT: Through the end of Line
9 8.

10 MS. DELUCA: Okay.

11 THE COURT: I am not sure that she
12 is qualified to render opinions regarding Dr.
13 Widenhouse.

14 MR. TIERNEY: No, but they made
15 a big issue yesterday of whether or not the
16 nurses had criticisms of Dr. Widenhouse. In
17 fact, she opened the door on the fact that Dr.
18 Widenhouse was a defendant in this case on
19 that very issue. So I think now that door has
20 been opened and I think the jury needs to know
21 that she was asked in her discovery deposition
22 whether she had any criticisms of Dr.
23 Widenhouse's use of a wound vac and she said
24 'no.'

25 THE COURT: Okay. Ms. Deluca?

1 MS. DELUCA: I think it's completely
2 speculative when she talks about he looked at
3 and what his opinion is based on. So that
4 would be 9 through 14?

5 THE COURT: She says that she
6 doesn't know what he looked at. She doesn't
7 know what his opinion was based on. That she
8 had spoken with him directly and that she
9 didn't voice any criticisms; which is really a
10 statement of fact whether she voiced any
11 criticisms or not. It has nothing to do with
12 whether she was qualified to do so. That door
13 was opened. I am going to leave that in.
14 Objection is overruled on Page 60, Line
15 through Page 61, Line 2.

16 MS. DELUCA: Going to twenty-five,
17 Page 61. Specifically Lines 21 through 23,
18 she again says that she is speculating.

19 THE COURT: She is speculating on
20 what she thinks she's done before, is how I
21 understand that. She can make an estimate of
22 how many times she's used a wound vac.
23 Correct me if I am reading that wrong.

24 MS. DELUCA: No, that's what she --
25 she is speculating as to her experience.

1 THE COURT: She used the word
2 "speculating" but she's assuming three or four
3 times that she's used it before for fistulas.
4 I think that just because she uses the word
5 "speculating" -- I think she is estimating.
6 That is not speculative testimony about
7 somebody else. Objection overruled.

8 MS. DELUCA: Then looking at number
9 twenty-seven, Page 67, starting at Line 13,
10 just about the standard of care.

11 THE COURT: That's was your
12 objection, Mr. Tierney, I believe?

13 MR. TIERNEY: Yes.

14 THE COURT: You want to withdraw
15 that one?

16 MR. TIERNEY: I will withdraw
17 that designation.

18 THE COURT: Number twenty-seven is
19 withdrawn.

20 MS. DELUCA: Then thirty-three ---

21 MR. TIERNEY: Well, actually,
22 Your Honor, -- just to go back to Page 67

23 THE COURT: Okay.

24 MR. TIERNEY: I would like to --
25 I understand the standard of care questions.

1 THE COURT: You're correct. Line
2 19.

3 MR. TIERNEY: Lines 20 -- right,
4 Lines 19 through 25, where she continues the
5 response.

6 THE COURT: You're right.

7 MS. DELUCA: I take that to be her
8 continuing her answer as to what the standard
9 of care would require her to do.

10 THE COURT: Mr. Tierney?

11 MR. TIERNEY: Your Honor, if you
12 find that a continuation, I really don't have
13 a problem with it but Line 24 through Line 1
14 on the next page is what I want to keep in.

15 THE COURT: I agree. That's
16 objective observation. That's not standard
17 of care. I think through Line 23 is a
18 continuation of the previous line of
19 questioning on the standard of care. Since
20 that was your objection, I am going to strike
21 it.

22 But Page 67, Line 24, through to the
23 next one is your observation and what she
24 herself discussed. That's proper.

25 Start, Ms. Deluca, when you are

1 reading at Line 24.

2 MS. DELUCA: Thank you, Your Honor.
3 Just a couple more.

4 THE COURT: That's fine. Let's get
5 it straight before we bring them in.

6 MS. DELUCA: I actually think that
7 testimony is fine but I guess we have an issue
8 as to the policies because we got the index --
9 I think that's fine. It just reminded me that
10 we -- the policies. Do you all have ---

11 MR. TIERNEY: We served them on
12 April 26, 2011.

13 MS. DELUCA: The eight-page index?

14 MR. TIERNEY: No. We served all
15 the policies and procedures. We Bates them
16 001 through 0170.

17 MS. DELUCA: I know that you said
18 that but the only thing that I could find from
19 that day was the consent order that we worked
20 on and ---

21 THE COURT: If you need to review
22 them, that's fine.

23 MS. DELUCA: Yeah, we would like a
24 copy.

25 THE COURT: But I think we need to

1 do that at lunchtime.

2 MS. DELUCA: That's fine.

3 MR. TIERNEY: I can send her a
4 pdf. We don't have a hard copy here. It was
5 produced. In fact, she sent an e-mail prior,
6 last week, and we doublechecked it.

7 THE COURT: I am not questioning
8 whether you produced it or not. If it is
9 listed in there with the Bates numbers ---

10 MR. TIERNEY: Right.

11 THE COURT: I am just saying that
12 if you need to have it made available, I -- it
13 would have been better to know that before
14 right now, but I want to accommodate you. We
15 are not calling any other trials this week, so
16 if you need to take a minute to look at it,
17 I'll work on jury charges.

18 MS. DELUCA: I think it's something
19 that I do need to take a look at, but it
20 doesn't keep us from putting her on.

21 THE COURT: Let's finish this for
22 now.

23 MS. DELUCA: Yes. Number four, and
24 forty-one on Pages 102 and 103. That's
25 talking about her speculating.

1 THE COURT: Again, I think that she
2 is estimating what she herself has done.
3 Objection is overruled on that. I am going to
4 overrule your objection on those. If you want
5 to make these a court's exhibit so that the
6 record is better, I am happy for you all to do
7 that whenever you want to. Okay.

8 MR. TIERNEY: Thank you, Your
9 Honor.

10 MS. DELUCA: Thank you.

11 THE COURT: Anything else before we
12 bring in the jury? Do you need a minute to
13 look through ---

14 MS. DELUCA: If I could just make
15 sure that I've got the designations.

16 THE COURT: That's fine.

17 MS. DELUCA: Then to address the
18 pleadings, is that something that you are
19 going to want to take a break for us to
20 discuss or just move right into that?

21 MR. TIERNEY: I don't know what
22 pleadings ---

23 THE COURT: Have y'all touched base
24 on that already?

25 MR. TIERNEY: No.

1 THE COURT: Why don't you take
2 about ten minutes right now to look at that.
3 I'd rather address it all now before we bring
4 them in because I am not sure how long it is
5 going to take to read these in. Ideally, I
6 would love for them to get your case by
7 lunchtime and then we can argue. Okay. Touch
8 base about the pleadings and then let me know
9 to what you may or may not object. We will
10 be at-ease. Thank you.

11 (BRIEF RECESS 10:12 - 10:35 A.M.)

12 THE COURT: Are we ready?

13 MS. DELUCA: Your Honor, we have
14 some stipulations and one more thing to
15 address.

16 THE COURT: Okay.

17 MS. DELUCA: We have agreed to
18 stipulate that the nurses are employees of
19 Roper and that they were acting within the
20 scope of their employment in their treatment
21 of Mr. Evans.

22 THE COURT: Okay.

23 MS. DELUCA: The next stipulation is
24 that there are no landline phone records of
25 the events that took place on October 3rd,

1 2006.

2 THE COURT: Okay.

3 MR. TIERNEY: With the caveat
4 that it's been marked as Verizon records 1, 2,
5 3, which is a subpoena sent by my law firm to
6 Verizon for the cell phone records of Janelle
7 Belk, which are admitted into evidence showing
8 that we did sent a subpoena for those records
9 and that Verizon did not have those records.

10 THE COURT: Do you want to move
11 that into evidence now?

12 MR. TIERNEY: I would like to
13 move that into evidence now.

14 THE COURT: Is that without
15 objection?

16 MS. DELUCA: No objection.

17 THE COURT: Verizon 1 through 3 are
18 admitted without objection. I assume that
19 will be Defendant's Exhibit 7 -- 7 for ID.

20 COURT REPORTER: Eight.

21 (SO ENTERED AS DEFENDANT'S EXHIBIT 8)

22 MS. DELUCA: And we would stipulate
23 that there are no records regarding the shadow
24 that accompanied Ms. Belk on October 3rd,
25 2006.

1 The matter that we wanted to take up
2 was respective to, in the Answer, paragraph
3 three, ---

4 THE COURT: Will one of you read
5 those stipulations in for the jury? Do you
6 have the language agreed on?

7 MR. TIERNEY: If she would like
8 to read them in, I have no objection to that.

9 THE COURT: Okay. You said
10 paragraph three?

11 MR. TIERNEY: It's my standard
12 answer. I've just never been confronted with
13 someone who wanted to put that before a jury
14 before. I know that in normal situations it's
15 easily addressed if there is a verdict. The
16 judge doesn't normally let the jury know that
17 information, so that it doesn't prejudice
18 their ---

19 THE COURT: What are you wanting to
20 do with it?

21 MS. DELUCA: Well, I wanted the
22 initial part about the doing business and
23 where they are located. Then Mr. Tierney had
24 brought up earlier about being a charitable
25 organization, so I just wanted to -- if we are

1 going to do that, I wanted it in in its
2 entirety.

3 MR. TIERNEY: I probably said
4 that we -- called to the court's attention
5 that we were a charitable foundation. I was
6 not going to ---

7 THE COURT: I saw that in the file.
8 I knew that.

9 MR. TIERNEY: I wasn't going to
10 focus on the fact that we're a charitable
11 organization.

12 MS. DELUCA: I don't -- I thought
13 that it was going to be raised as an issue.

14 THE COURT: Okay. You're wanting
15 to read paragraph three, in part, to the jury?

16 MS. DELUCA: Just that we stipulate
17 to that and read in paragraph three.

18 THE COURT: To what, that it is a
19 corporation organized and existing under the
20 laws of the state of South Carolina?

21 MS. DELUCA: I would read in -- I
22 would propose to read in the whole thing.

23 THE COURT: Uh-uh. No, ma'am.

24 MS. DELUCA: The statute that
25 provides that charitable organizations are

1 subject to caps doesn't contain the
2 prohibition against discussing that, like the
3 other statutes that provide those caps do.

4 THE COURT: Right. Neither does
5 15-78-10 et. seq. of the Tort Claims Act, but
6 I've never, in the seventeen years that I
7 practice tort claims law, had anybody read
8 that to the jury or discuss the fact that
9 there is a cap on punitive damages. That is
10 an issue that the judge rules on, under 15-78-
11 110 and 120, if the verdict comes in.

12 In applying the cap, I think that
13 you look at the charitable immunity statute,
14 or what was the charitable immunity statute,
15 that is now the South Carolina statute
16 501(c)(3) and other such nonprofit entities.
17 It specifically incorporates the language of
18 the governmental immunity statute.

19 So if you want to read in the fact
20 that it is a corporation organized and
21 existing under the laws of the state of South
22 Carolina with its primary location in the
23 county of Charleston and does business in the
24 county of Berkeley, that's fine. But we're
25 not going to read in any more than that.

1 I'm happy to note your objection for
2 the record.

3 MS. DELUCA: Your Honor, could we --
4 thank you. Could we -- as a practical matter,
5 can I read that in as a stipulation ending
6 with Berkeley.

7 THE COURT: That's fine.

8 MR. TIERNEY: I have no
9 objection to that.

10 THE COURT: That's fine. That
11 stipulation was in the file, I had that.

12 MR. TIERNEY: Yes, Your Honor.

13 MS. DELUCA: I think that takes care
14 of our housekeeping.

15 THE COURT: Great. Well, I
16 appreciate y'all working all of this out.
17 Let's go ahead and get the jury in and get as
18 much as we can in before lunch -- unless
19 somebody is desperate, I am inclined not to
20 give them a break before lunch, so that we can
21 get as much in as we can. If you need a
22 break, let me know.

23 MS. DELUCA: Thank you, Your Honor.

24 THE COURT: Thank you, ma'am.

25 (JURY IN @ 10:41 A.M.)

1 THE COURT: Good morning, Ladies
2 and Gentlemen. I appreciate your patience.
3 Please be seated everyone. The bad news is
4 that you had to sit back there for awhile, but
5 the good news is that during that time period
6 the attorneys were able to significantly
7 streamline the remaining evidence that is
8 going to come in. I thank them for that.

9 We're ready to move forward. I know
10 that Mr. Poston is our foreman, and I see that
11 you've got the same chair that you've had. So
12 that works out pretty well. If everyone is
13 ready, I will call with Ms. Deluca to continue
14 with the plaintiff's case.

15 MS. DELUCA: Thank you, Your Honor.
16 May I start with the stipulations that we
17 reached?

18 THE COURT: Yes, ma'am.

19 MS. DELUCA: The parties stipulate
20 that the Defendant Roper Hospital, Inc. doing
21 business as Roper St. Francis Healthcare and
22 doing business as Roper St. Francis Home
23 Health is a corporation organized and existing
24 under the laws of the state of South Carolina
25 with their primary location in the county of

1 Charleston, State of South Carolina, but does
2 do business in the county of Berkeley.

3 The next stipulation would be that
4 the Roper nurses were acting -- strike that.
5 The second stipulation would be that the Roper
6 nurses are employees of the Defendant Roper
7 and were acting within the scope of their
8 employment in their treatment of Mr. Evans.

9 The third stipulation is that there
10 are no records regarding the shadow that was
11 with Ms. Belk on October 3, 2006.

12 And the stipulation that there are
13 no landline or mobile records available for
14 October 3rd, 2006. We have marked as
15 Defendant's Exhibit 8 the subpoena to Verizon
16 with their response that no records were
17 available.

18 THE COURT: Okay. Ladies and
19 Gentlemen, stipulations are a part of the
20 record in this case. They are agreements by
21 counsel to be a part of the record which you
22 may consider. Both of these parties could
23 have called witnesses to bring in that
24 testimony, but because they were able to agree
25 to those stipulations, we were able to

1 streamline that information. That's part of
2 the evidence that you'll be able to consider
3 later at the end of the case. Yes, ma'am.

4 MS. DELUCA: Your Honor, I would
5 like to proceed with reading the deposition
6 excerpts for Dr. Gezen.

7 THE COURT: Okay. You may proceed.

8 MS. DELUCA: Thank you, Your Honor.
9 This is the deposition of Dr. Gezen taken on
10 April 27th, 2011, (reading, no page or line
11 numbers given, no identification as to
12 question or answer):

13 *It is my understanding that you have*
14 *been offered as an expert in this case. Is*
15 *that your understanding of why you're here*
16 *today?*

17 *Correct.*

18 *Do you have any knowledge, training*
19 *or experience in taking care of patients who*
20 *need wound care?*

21 *I have some experience through*
22 *working with patients with wounds in the*
23 *hospital. I also have experience through*
24 *working at a nursing home, Avante, where we do*
25 *a lot of wound care there and have a wound-*

1 care team. I also have experience through my
2 home health and hospice agency of some wound
3 care, being the physician on wound care.

4 Have you, yourself, ever placed a
5 wound care vac?

6 I have not.

7 Have you, yourself, ever applied the
8 dressing or personally provided wound care?

9 When I say that I am differentiating
10 between being a medical director on the
11 physician in charge of a team. I'm talking
12 about actually physically doing it.

13 I have done some, you know, as part
14 of my practice. I'll -- when I assess wounds,
15 I will do some minor -- I may put a couple
16 dressing on here and there, I've done Unna
17 boots. But it's not a majority of my care as
18 far as participating in the wounds. Most of
19 that is done by nursing. I'll evaluate
20 patients, provide recommendations for the
21 nurses on how to proceed with the wound care,
22 but as far as me applying the actual work of
23 managing the wounds, that's usually up to the
24 nurses.

1 Do you intend to offer an opinion to
2 a jury in Berkeley County, South Carolina, as
3 to what caused the bleed that occurred on
4 October 3rd, 2006?

5 No. I think the bleeding actually
6 led to a vasovagal event, which caused him to
7 be hypotensive, bradycardic and presented to
8 the emergency room the way that he did.

9 And there's a difference between a
10 vasovagal episode and hemorrhagic shock,
11 correct?

12 Correct.

13 What is the difference between a
14 vasovagal episode and hemorrhagic shock?

15 Hemorrhagic shock is a condition
16 where you've lost a large amount of volume,
17 blood in particular, and you're unable to
18 maintain blood pressure, you're unable to
19 profuse important organs. Vasovagal means
20 that you have adequate volume but that your
21 blood vessels are open when they shouldn't be
22 and that's what leads to a drop in blood
23 pressure.

24 Do you believe that he suffered any

1 long-term damage as a result of the bleeding
2 episode on October 3rd, 2007 (sic)?

3 I guess you would have to clarify
4 what you mean by "long-term damage." I mean,
5 as far as organ damage, no.

6 Did it -- it did lead to his
7 hospitalization.

8 Of course, you can read in the
9 rescue squad where he was very distraught over
10 the event. So, you know, obviously there
11 might be some mental damage to that, but I
12 don't know how you would quantify that.

13 But as far as complicating his long-
14 term wound care, he was at that point very
15 adamant about not getting a wound vac, and
16 that probably led to a longer recovery course
17 for his wound.

18 All right. So then if I understand
19 that statement, will it be your testimony to
20 the jury that you believe this episode
21 complicated the wound?

22 Correct. Well, it would have led to
23 a more prolonged wound care because at this
24 point the gentleman did not want a wound vac.

1 Wound vacs, with this kind of wounds, shortens
2 the healing time. So I believe the claim is
3 that he had a longer recovery course because
4 he didn't use a wound vac anymore, and he was
5 healing the wound by secondary intent, which
6 kept him out of work for a much longer period
7 of time, ---

8 There was, there has never been any
9 testimony or anything in the medical records
10 or anything from any physician or skilled
11 wound care nurse that says or states that a
12 wound vac could not be placed because of what
13 happened on October 3rd?

14 Correct.

15 And you believe that that day and a
16 half, which is was about thirty-six hours, is
17 -- that thirty-six hours of not getting wound
18 care from a wound care nurse at home, that
19 that caused a prolonged inability for him to
20 get back to work?

21 Well, it could have delayed it by
22 thirty-six hours.

23 Is that the extent that it would
24 have had on his ability to get back to work?

1 Correct. That's about all that I
2 could tell you. It would be hard to quantify
3 beyond that.

4 If I were to represent to you that
5 the nurse involved in the case, Janelle Belk,
6 has testified that prior to leaving Mr. Evans'
7 home that the bleeding had stopped, that she'd
8 asked Mrs. Evans for a bag of rice or
9 something to place on it to ensure that
10 bleeding would not restart, do you any
11 problems with that?

12 No, I don't.

13 Is there any way of quantifying how
14 much blood someone needs to lose before they
15 go into hemorrhagic shock?

16 Generally -- I'd have to look at the
17 definition -- I think it's in the range of
18 twenty percent of your blood volume. Again,
19 everybody is different but there is a -- there
20 is a percentage, that I just don't recall at
21 this time.

22 All right. The human body has six
23 to eight liters of blood, is that correct?

24 That's about right, correct.

1 So if the rule of thumb is twenty
2 percent, if it's eight liters, that means
3 you're losing about over two liters of blood;
4 is that right?

5 Somewhere between a liter and a
6 half. It also depends on how fast that you
7 lose it, too. But yeah, I would say that you
8 would have to lose at least fifteen percent of
9 your blood volume before you can really have
10 hemorrhagic shock.

11 And you would deem all of that
12 subsequent treatment, the treatment subsequent
13 to Ms. Belk's, reasonable and necessary?

14 Correct.

15 Is it a home health nurse's duty to
16 report any concerns to the doctor?

17 It is.

18 And do you expect and rely on the
19 nurse to call you with any concerns or
20 observations?

21 I do.

22 Is it a nurse's duty to call you if
23 a patient is experiencing pain and it is a new
24 development?

1 I would say, in most circumstances,
2 yes.

3 And is it a nurse's duty to report
4 to the doctor if a patient is actively
5 bleeding?

6 Correct. Yes.

7 And is it a home health nurse's duty
8 to report to the doctor any possible drug
9 interactions?

10 Yes.

11 And is it the home health nurse's
12 duty to report any other significant
13 observations or concerns of the patient's to
14 the doctor?

15 I would expect so, yes.

16 And you rely on the nurse's
17 firsthand observations in her relaying that
18 information to you?

19 Yes.

20 Are all of the opinions that you
21 have given here today to a reasonable degree
22 of medical certainty, most probably?

23 Yes."

24 THE COURT: Thank you. That

1 completes the reading from the deposition
2 of Dr. Gezen, is that correct?

3 MS. DELUCA: Yes, Your Honor.

4 THE COURT: Okay.

5 MS. DELUCA: Your Honor, I would
6 next like to read in the deposition excerpts
7 from Janelle Belk's testimony.

8 THE COURT: Yes, ma'am.

9 MS. DELUCA: Thank you. This is the
10 deposition of Janelle Belk taken on January
11 19th, 2011, (reading, no page or line numbers
12 given, no identification as to question or
13 answer):

14 *Do you understand that you're under*
15 *oath today just the same as if you were in a*
16 *courtroom?*

17 *Yes.*

18 *Have you ever been counseled,*
19 *reprimanded or disciplined by an employer?*

20 *Counseled, yes.*

21 *Okay, can you tell me when that was?*

22 *Let me refer to be specific, I am*
23 *just trying to get a date for it. I am going*
24 *to say in 2008 that I reviewed with my PCC,*
25 *Liz Brown, which was my supervisor, on my*

1 point of care documentation.

2 Okay, so we counseled you on
3 documentation?

4 Uh-huh.

5 And do you recall the details of
6 that?

7 Just that point of care documenta-
8 tion needed to be done.

9 Was there an error in the documenta-
10 tion?

11 No, it was just a type of documenta-
12 tion needed.

13 Was there also an incident where a
14 lab slip was marked incorrectly?

15 Yes.

16 Do you now recall that incident, as
17 well?

18 Yes.

19 Just by reviewing it.

20 And that was with Liz Brown also?

21 Uh-huh.

22 Are you a member of any nursing or
23 healthcare-related organizations?

24 MS. DELUCA: I'm sorry, I apologize.

1 That last wasn't part of the designation. I
2 apologize.

3 (Reading continued -- no page or
4 line numbers given, no identification as to
5 question or answer):

6 What do you mean by that?

7 The dressing that we put on are
8 transparent. They maintain -- so you just
9 simply pull it back as with any transparent
10 occlusion dressing.

11 So you would turn off the pump, take
12 the pump off?

13 Not necessarily take the pump off.
14 The pump is connected to the patient. When
15 you cut the pump off, you're cutting the vac
16 and so at that point there is no vacuum, no
17 pull.

18 So it will come off? Right?

19 Yes.

20 And then you would remove the
21 transparent dressing from the patient's skin?

22 Yes.

23 And peel it back?

24 Yes.