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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM MARION COUNTY
The Honorable R. Ferrell Cothran, Jr.
The Honorable H. Steven DeBerry, IV

Appellate Case No. 2025-000434
Case No. 2022-CP-33-0362

Demetrice Utley, Individually and as Personal Representative of the Estate of Taylor Danielle Price, ... Respondent,

v.

McLeod Physician Associates II and Charles A. Trant, M.D.,..... Appellants.

RECORD ON APPEAL - VOLUME III
(pp. 801-1186)

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INDEX

Volume I

Volume III

outside of your presence, so I'm gonna send you to lunch and ask you to be back at 1:30. Okay? Don't discuss the case yet and I'll see you at 1:30.

(REPORTER'S NOTE: Jury exits courtroom @ 11:56 a.m. The following takes place outside the presence of the jury.)

THE COURT: Okay. Y'all want to talk back there?

MR. AIKEN: Yes, sir.

RECESS - 11:57 A.M.

*******OFF THE RECORD*******

ON THE RECORD - 1:38 P.M.

BY THE COURT:

THE COURT: Are we ready for the jury?

MR. RICHARDSON: Ready for the jury, Your Honor.

THE COURT: Bring the jury in, please, sir.

(REPORTER'S NOTE: Jury enters courtroom @ 1:40 p.m.)

THE COURT: Okay. You may call your next witness.

MR. RICHARDSON: The plaintiff would call Mr. Emerson Hunt.

THE COURT: Come around, please, sir. Place your left hand on the Bible and raise your right.

EMERSON HUNT, HAVING BEEN SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION OF EMERSON HUNT BY MR. RICHARDSON:

Q: Good afternoon, Mr. Hunt.

A: Good afternoon.

Q: And could you tell us a little bit about yourself, where you're from, your family and such?

A: My name is Emerson Hunt. I am from Marion, South Carolina. Born and raised here. I'm from a single-parent home. My mother, Annie Mae Hunt. She was a teacher at Terrell's Bay High School for 30 years. She raised eight of us, seven boys and one girl. I have never left the City of Marion. As an adult, I coached Little League football, basketball, baseball, became a barber, owned a business here for the last 25 years. My biggest claim to fame is that I am a father. And why that is the biggest claim to fame, when I was growing up, everyone had a father in the house with them. My father died when I was four. You know, he was injured in an accident. He was a veteran from World War II and Korean War. And when I grew up, all the neighbors had a dad in their life. And all my life I always dreamed of having a dad, which I never got, but God gave me the ability to be a dad. And although I might have not have been as good of a boyfriend, you know, and I wasn't as good of a boyfriend, but as a father and a dad, I took that very seriously.

But just me personally, I'm a pretty simple guy. I like to workout and train. I train many people in the gym. I like to bike, and I like to swim. That's how I get out a lot of my anxiety out, you know, and negative emotions.

Q: Mr. Hunt, you said that -- I think you said you are a

barber?
A: Yeah, I'm a barber.
Q: You have a couple of other businesses, too, right?
A: Yes, sir
Q: What are those?
A: I'm a bail bond agent, so, you know, I assist people if they go to jail for various reasons; I assist them out of jail.

We have a medical transport business where we go to pick up people from dialysis centers and deliver them home on visits. Also, we are affiliated with an adult day care center where we help adult daycares. Some people are, you know, older, some people are not older; some people just need the daycare because they have like a disability of some sort.
Q: You hold an elected position as well, correct?
A: I do. I've been on the city council here for 12 years almost -- in April will be 12 years. So, I been serving the City of Marion for 12 years, and I love the improvements that we have made. We just put in a new recreation center in Marion for the children, because I always grew up at the recreation center that we grew up in. I was thankful to grow up in that recreation center, but it really wasn't adequate enough for today's games and children's recreation, especially the exposure. It's right across from the police department now, and the exposure that the children get from being

involved in sports is paramount because it keeps them away from a lot of negative activity, and so I fully endorse that.

Q: So, I imagine as a politician you get a lot of -- I think I've heard it referred to as backbiters, people just making negative comments, but you still do this job?

A: I have. You know, and early on, you know, I couldn't take it. I reacted somewhat to the attention, people poking at you. But I take it as a duty and honor to serve, and I serve honorably, and I serve with duty. And so, I learned to accept that as a part of the process.

Q: And I keep saying Mr. Hunt, you said you had how many brothers and sisters?

A: My mom had six boys and one girl, and she raised my nephew Donte, so I consider him my brother. So, Donte would be my brother, too, so it would be eight of us total.

Q: Your youngest biological brother, who is that?

A: John Hunt.

Q: And John and I were in school together, correct?

A: Yes.

Q: Okay. So, that's why I'm saying -- is it all right if I call you Emerson?

A: That's fine; yes, sir.

Q: Okay. I hate to be informal with a witness, but I've known you for 46 years?

A: Maybe longer, yeah.

Q: That's right. Additionally, other than just me and John, we've known each other, played ball together, and all that stuff, right?
A: That's right.
Q: And we maintain a close friendship even to this day?
A: Absolutely.
Q: Now, Emerson, we heard a lot from Metri just yesterday about your relationship, the children you have together, Taylor. Have you ever been married?
A: I've never been married.
Q: But, in the home where Metri Utley lives, 200 Gregg Street, what can you tell us about that home?
A: That was the first thing that my momma ever purchased. She had some land over on the west side of Marion, she had a lot, and she taught school. I remember us getting our first car, and I was around eight years old and was so happy to get it. But my momma worked all of her life. She was a single parent. And finally, in 1982, she was able to buy a home on Gregg Street. We moved from 504 Bell Street, across from Heritage Sportswear to Gregg Street in 1982. My mom died in 2008. And so she made me take care of the property, because if anyone in the family and I needed some place to stay, we would always have a place to stay. So, I kept my mother's property up, so that my family would have some place to stay. And so, we -- Metri, and Taylor, and Serenity, they were

living in a two-bedroom apartment. It was getting real cramped in that small apartment. And Demetrice, came to me, she said, Emerson, I need that house. And I said okay. And she said I don't need it like you have that, though, because it was kind of cluttered up. So, I took the time and I renovated the entire house so that they could all have their separate rooms and take care of them in the proper way.

Q: And so, and your momma, what did she think of Metri?

A: She loved her.

Q: She would've wanted her to be in the house?

A: Yeah. She told her she was crazy for being with me, but she loved her, because I was a wild kid at the time. But she -- she loved Demetrice.

Q: Yes. So, after your mother passed, Metri and Taylor and serenity moved into that home?

A: Not right after. It was a few years, maybe about three or four years. I'm not sure exactly how many years.

Q: The girls were still little?

A: Yeah, they were still little girls, yeah.

Q: Now, Metri went into your relationship somewhat -- and I don't know that we need to go back through all of that. But again, you all had a child together, right?

A: Yeah.

Q: And who is that again?

A: Serenity Hunt.

Q: Okay. And how old is Serenity now?
A: She's 25.
Q: Her birthday is in August as well, right?
A: [redacted]
Q: You're doing better than my father would. He can't remember birthdates. And after Serenity was born, did there come a time whenever whatever romantic relationship between you and Ms. Utley stopped?
A: Yeah. It had to stop because I was too much for her to bear emotionally. I was younger and either I had to stop that relationship or I might not have been on this earth, because she -- she was a good lady, and I was a good guy but I was younger and I was a little wild during that time.
Q: You weren't even 30 yet I don't believe.
A: No, I wasn't 30.
Q: And so with that, even though we all stopped being together romantically, you all had a daughter together.
A: Yes.
Q: So, what -- what type of relationship did y'all have?
A: If I could go back for a second.
Q: Sure.
A: I have a daughter Elisha, who is my first order. I think she spoke about Elisha when she was on the stand. During that time, that was in 1997, where my daughter was abandoned in Texas and left with strangers. Nobody even knew where my

daughter was. So ---

Q: We're talking about Elisha?

A: We're talking about Elisha. During that time, I had met Demetrice. And I told Demetrice my problem, and I went and got a court order so that I could go to Texas and pick my daughter up. I never drove to Texas before, and she rode with me to Texas. She helped me raise Elisha. She was there for me the whole time. She never asked anything from me but showed great love and compassion for my daughter, for my family. And so she earned my -- she earned my trust, and she earned my loyalty for life because what she did for me when I needed her the most was more than I could have ever done for myself, because I was just a young man and it was hard for me to stop the things that I was doing to raise a little girl. And without the assistance of a woman in your life to help you raise a little girl, I wouldn't know how to be a man, and my mother and Demetrice taught my daughter many things. And so, when it came to our true relationship, it was -- the relationship had a romantic part, but it was deeper than the romance, maybe even deeper than friendship. I considered Demetrice family, you know. If I was to have a wife, then she would be closest to that person.

Q: So, shortly after Serenity was born, y'all went your separate ways as far as romantically?

A: Yes, yes.

Q: Okay. But you stayed involved in Serenity's life?
A: Oh, yeah, yeah.
Q: In what ways?
A: Everywhere I could. If something was there, I was there. When she turned about four, she was a real fast runner. She started running before she was walking. And I had this idea that I was gonna make her like Flo Joe, I was gonna make her an Olympic gold medalist in the 100 and 200. And so, we got into an AAU track and field together. And the first time we went, we went down to Charleston, and we ran, and she came in first place her first year of track and field. We went all the way to the Junior Nationals. We went to Charlotte, and we were invited to go to Marilyn, I think, or Virginia, one of those places, but we looked at the times that she would have to compete against, and so we just decided that it wouldn't be worth the trip going up for that particular trip. So, then she started playing basketball. And, you know, I'm a sports fanatic, and she made me proud that she wanted to play sports. And she loved it. It gave us all, as a family, something to do for years.
Q: When you say as parents, are you referring to you and your mom or you and Metri?
A: Me and Metri, and Taylor, Serenity, all my children, all of us worked as a family. Unlike most women, she didn't push me to the side for having children, and she was very kind to

me. I was very respective for her for that.
Q: And did you provide support?
A: Yes.
Q: Financial?
A: Yes. You know, like I said, I didn't have my father, and I saw my mother -- you know, I seen my mother struggle.
Q: You need a minute?
A: (Indicates negatively.)
Q: Okay.
A: And for me, personally, you know, if I have a child, then the mother of that child is very important to me, too, because my child's mental, physical health is dependent on their physical health and their financial stability. And I knew that I couldn't conceive of my child not having at least what I had. If I had air conditioner, I wanted my child to have air conditioner. If I wanted to have clothes, then my children would have those things prior to me having those things, and God has provided those things for us.
Q: And you say your children.
A: Yes.
Q: And so, if I understand at this point Metri and your mother have helped you raise Elisha.
A: Yes.
Q: Y'all are co-parenting, I guess, is the term you used?
A: Yes.

Q: Serenity.
A: Yes.
Q: But y'all aren't romantically involved?
A: No.
Q: And then at some point, when Serenity is around six years old, Metri becomes pregnant?
A: Yes.
Q: Not with your child?
A: No, sir.
Q: And we won't go back through all of that, but I believe Ms. Utley testified that you stepped in?
A: Yes.
Q: Now, this is not your biological child. What made you want to step up?
A: Well, we had already established family love. Like I said, we were already family, and her having a child didn't change that. Taylor was part of the family just like everyone else was a part of the family as far as I was concerned. And whenever I needed her to step up for me, she didn't hesitate to step in, taught my daughter how to clean herself properly, how to brush her teeth, how to do her hair, let them experiment on her hair, put in spit in her hair, trying to, you know, braid her hair. I mean, I could go on and on about the contributions psychologically to my children, and I can tell you that as a result of having my children around a

positive human being has enriched their lives and, you know, I know that is very important that you have positive people around you. She has been a very positive force.

Q: And I know -- I believe Metri said that you stepped in from day one. You helped her bring Taylor home from the hospital?

A: Yes.

Q: Now, this is just a blowup of a photograph we introduced as Plaintiff's 1. And, oh, the differences in the cameras after 30 years. Do you recognize that photograph? Who is that young man with the dark beard in that photograph?

A: That's me. That's me, and that's my baby.

Q: When you say that's your baby, who is that?

A: That's Taylor.

Q: Do you know about how old she is there?

A: She's about four or five months, maybe six months.

Q: So, you were involved in her life just as Metri said from the start?

A: Even before she was born. You know, I was there, me and Metri, like I said, we family. And I didn't let my ego get involved with God's business, because children -- you know, God takes care of that part, and I just do my part.

Q: Okay. Now, we've talked about Serenity. We've learned a lot about Serenity. You've talked about her athleticism, even

at the U4 or U6, whenever she started running track.
A: Yeah.
Q: How old was Serenity when Taylor came home?
A: Five or six.
Q: So, a pretty good age gap?
A: Yeah.
Q: Cause I believe your brothers that I played ball with, everybody was one year part, right?
A: Yeah, absolutely.
Q: Okay. Steppingstones? Cesar is older than you, of course?
A: Yeah.
Q: Now, I know who Metri described it, but the relationship between Taylor and Serenity, how would you describe that?
A: Like me and Cesar, they were -- they loved each other, but they fought all the time, like children do. And it's healthy to fight. They didn't fight to hurt each other, but Taylor was very determined not to be bullied. She had a strong will. And even when she was a little girl, she wouldn't back down from Serenity. She -- if you tried to pin her down or anything mentally, she just would resist you. She was a fighter. She really was a fighter. And that made their relationship even stronger, because Serenity was used to be pressured in sports and stuff. And so, Serenity would come off kind of hard, and Taylor would match her energy. Taylor

would match her energy, and she never backed down from her, so. They were great sisters. In my mind, they still are great sisters.

Q: Let me go back just a little bit. Five or six years difference, so by the time Taylor made it into middle school, I believe Serenity started college about that same time, correct?

A: Uh-huh, (affirmative response).

Q: Where did she go to college?

A: The Valkyries up there in Converse. She was a Lady Valkyrie in Spartanburg.

Q: I can't remember what they were called whenever I was in school.

A: Yeah, Lady Valkyries.

Q: But did she go up there on an athletic scholarship?

A: Athletic scholarship.

Q: And she was actually up there for about five years, right?

A: She was.

Q: And is that partly because of the athletic scholarship getting the extra year due to Covid?

A: Yes.

Q: The relationship between -- I assume the relationship between Serenity and Metri?

A: They had a great relationship. They did. Serenity, you

know, gave us all a great life, because she was always so active, so we always had something to do concerning her with the track, tennis, you know, basketball, academics, her personality. She just -- she was that child that always had a big smile on her face and she could draw in a crowd. And Taylor, too. Both of them had a drawing magnetism to them.

Q: What Ms. Utley told us yesterday, pretty fair representation of Serenity?

A: Absolutely, yes, sir.

Q: And Taylor?

A: Taylor was -- and I know it because I told her that she had to stand up for herself, because for a little while, Taylor, for whatever reason, didn't think she was pretty. She didn't think she fit in because she was a little thicker than the other girls in the house. And she said, Dad, I'm ugly. I say, no, no. And so, she fought self-esteem issues for a few years. And then when she came into her own and really came into her own, she really realized how God had blessed her to be as beautiful as any human being on earth. Yeah.

Q: How did Metri and Taylor interact?

A: There were good at times, but they were twins. You know, it's hard to -- you have to be gentle how you talk to Metri, you had to be gentle how you talked to Taylor, so, cause she's a alpha female, so if you speak to her a certain way, you're gonna get a certain response from her.

Q: So, if I said Taylor was Metri's Mini-Me, is that ---
A: Absolutely.
Q: And one more. This is from Plaintiff's 1 as well.
MR. AIKEN: Which one is that?
MR. RICHARDSON: It's in Plaintiff's 1.
MR. AIKEN: That's good. Thank you.
BY MR. RICHARDSON:
Q: You still got dark hair there and the beard. Do you remember that photograph? Who is that pretty little girl?
A: That's Taylor.
Q: What was your relationship like with Taylor?
A: Like my other children, you know, it was indistinguishable, indistinguishable. She was very territorial. She didn't let people talk about me. She was very protective of me. She had a natural instinct to protect people. Even in school, as a little girl, she would always have a more natural instinct to be more of a guardian or a protector. If anybody bullied somebody, she would not -- finally, she would say listen this is not what we do. And that was the first day out -- I was sworn in to city council, and Taylor and Serenity -- my mother couldn't be there because she passed. Taylor, Serenity, and Demetrice, they were there at my swearing in ceremony right across the street.
Q: How often would you see the kids, Serenity and Taylor?
A: About every day, you know; five days sometimes, sometimes

every day, you know.

Q: Did you make it to all the ballgames?

A: I made it to 95 percent of all them; I didn't make it to all of them. But the ones that I missed, it may've been because they were so far out, and I'm here, and the game starts at 6:00, and I'm here at 5:30 here, and I can't make an hour-and-a-half away to get to the game.

Q: And I think we've established, you wear a lot of hats?

A: Yeah.

Q: Now, we talked about Serenity being an all-star athlete and everything, college scholarship. Was Taylor as athletically gifted as Serenity?

A: In my opinion, yes, but not really as far as speed and jumping ability. Taylor had a different, you know, when you play sports, you see one person fast, another person have a different ability. She would've been more physically dominant in the paint and stuff like that, and she was getting to that point. She hadn't gotten the fundamentals yet, but she was learning, and her sister was teaching her. I was trying to help her out a little bit, because that's all I did, use to elbow people in the paint. And she had become to a point where she was getting it because she had a real nice shot, she had a nice shot. That was one thing I didn't realize because I couldn't shoot the ball at all, but Serenity could shoot, and Taylor could shoot, had a real nice three-point shot.

Q: I was gonna say, I remember you playing; you could not shoot.

Emerson, after Serenity left for school, Converse, Taylor get more involved in sports?

A: Yeah.

Q: I'm gonna show you what's -- I'm just going to direct your attention to one photograph in Plaintiff's Number 1; is the second photograph in there. I'll show it to the jury in just a minute. Permission to publish. Do you recognize that photo?

A: I do.

Q: What is that?

A: That was the May Day Festival that -- she was in eighth grade. I think she won it or became runner-up in the May Day Festival.

Q: So, that's Taylor with a crown on her head?

A: Yes, it is.

Q: And who was the handsome and distinguished gentleman just a little bit shorter than you?

A: That's her grandfather, Mr. Harold Utley; that's Demetrice's father.

Q: Okay. And could you read the top of what it says?

A: Happy Father's Day to my dad, Harold Utley, and my daughters' father, Emerson Hunt.

Q: Okay. If you'll flip to Plaintiff's Number 24. If you'd

flip through those photographs. And these will be with the jury back in the jury pool room, so they can take a look at it.

Mr. Hunt, do all these fairly and accurately depict either you and Taylor, or Taylor as you remember her?

A: They do.

Q: Any alterations?

A: No.

MR. RICHARDSON: Your Honor, I'd seek to move Plaintiff's 24 in.

MR. AIKEN: No objection.

THE COURT: It's in without objection.

PLAINTIFF'S EXHIBIT NUMBER 24

ADMITTED INTO EVIDENCE

BY MR. RICHARDSON:

Q: And some of these are self-explanatory. The third photograph, it looks like a collection of photographs. That's just a collage of you and Taylor and Serenity.

A: That's right.

Q: Where the girls had won various awards?

A: Yes.

Q: And then the next page, is that the May dance, May Day?

A: Yes, it is.

Q: Okay. And then the next two pages, that's from her cheering at Mullins High School?

A: Absolutely.
Q: That's, I believe, sophomore and senior year, right -- I mean sophomore and junior year?
A: Yes, sir.
Q: You can tell the junior year by her hair is a little bit longer, right?
A: That's right.
Q: Okay. You can put the book down.
So, if I understand everything you have told us, and from what Ms. Utley said, you were involved in Taylor's life since before she was born?
A: Yes, sir.
Q: Watch her grow up, provided a close relationship with her?
A: Absolutely.
Q: And you said you provided for her like she was one of your children?
A: She was my child.
Q: She was your child?
A: Yes.
Q: Did you ever adopt her?
A: No.
Q: Why not?
A: I didn't see a need to adopt her. Maybe in retrospect, but there was really no need. I just took care of her.

Q: You knew what position she took in your life?
A: Yes.
Q: And she knew what position she took in your life?
A: Yes.
Q: Now, watching her grow up, watching her -- and all that mess, I assume you watched her play games, you'd play games with her.
A: Uh-huh, (affirmative response).
Q: We've been using a term throughout this trial, syncope and near syncope, I'd ask you, do you know what those terms mean, but you've probably heard it a whole lot.
A: A lot.
Q: Prior to her death, did you know what that term meant?
A: I did not.
Q: So, let's discuss -- we heard from Dr. Chang and he said some people you syncope as near syncope, not quite passing out, but regardless he said whether you get real close to passing all the way out or you are passed out, you know, is an issue. So, when is the first time that you heard about Taylor having syncope or near syncope?
A: I got a call from Demetrice, I think they were either in Hartsville, or someplace in Darlington County, and she called me, she said that Taylor had collapsed, and she was taking her to the ER. And I said, okay. I said, let me know was going on. And she called me and she told me when she got to the ER,

you know, the condition had changed, and she seemed a little bit more normal then. That was my first time hearing about it.

Q: Was that the first time, that seventh grade year?

A: Yes.

Q: Okay. And do you remember her going to Dr. Bahan about a week later?

A: Yes, I do.

Q: Now, you and Metri, I believe the term she used and you agreed with was co-parenting.

A: Yes.

Q: Did y'all discuss things like this?

A: All the time.

Q: Okay. Did you take the children to the medical visits?

A: I did not take them to medical visits. She wouldn't let me take them anyway. She was so motherly; she was gonna do that herself. I could've come with her, but as far as me taking them by myself, that wasn't gonna happen.

Q: Now, as far as being detailed-oriented, between you and her, keeping up with appointments and stuff ---

A: Oh, by far, I'm not that detailed-oriented. When it comes to that, she took care of all that.

Q: So, she took care of the children, made sure they got their medical visits and whatnot.

A: Yeah.

Q: But y'all discussed it?
A: Yeah, we did.
Q: Okay. And after speaking with Metri, after this first trip to MUSC and visiting Dr. Bahan, what was your understanding of what was going on?
A: Well, my understanding was that they -- they're saying that she was kind of fainting. At first, because Taylor hadn't really played a lot of basketball, I thought that she might've just been out of condition, and that she was having -- getting tired, and because I hadn't seen it physically seen it myself. And I just trusted that the doctors were telling Demetrice the things that she needed to know, and I didn't look too far into is cause, you know, just to think about a child having heart condition was far from my mind because she looked normal. You know, her skin looked normal. She looked normal in every way.
Q: And Ms. Utley testified yesterday when we saw the medical records where, I think, Dr. Bahan and Dr. Halus at the first visit were saying somebody about dehydration. Did y'all discuss this?
A: We did.
Q: And what efforts were you guys taking, if any, to combat dehydration?
A: Demetrice always, since that time, she would keep either Under Armour, Gatorade, water, and she would keep some snacks

in her trunk when she driving. Before that, she kept her hydrated, because she was hyper aware that Taylor had collapsed a couple of times. And she was told by the physicians that it was dehydration or either a panic attack. And so, we just gonna trusted that diagnosis because we didn't have any other reason not to trust that.

Q: So, you thought it was something minor?

A: Yeah.

Q: And I think you said she kept Body Armour?

A: Body Armour was one of them. I apologize.

Q: No, no, no. And this was during basketball season, correct?

A: Yes.

Q: First couple of times. And then after basketball season, all through seventh grade and the beginning of eighth grade, did you witness or did you become aware of any other incidences where she collapsed or had chest pains or anything?

A: Not at that time.

Q: Now, will move into the fall of 2018, and that would've been her eighth grade year, right?

A: Yeah.

Q: And I think you just testified you haven't seen -- nobody saw any more collapses or anything?

A: That's right.

Q: Was she participating in any activities during the

summertime?
A: Not that I know of other than just being a kid, you know, just kid things.
Q: What about cheerleading?
A: Oh, yeah, cheerleading; she did cheerleading.
Q: But she wasn't playing on like a summer league basketball or softball or ---
A: No, no. She wasn't doing anything to keep her heart high elevated. She would do things kind of different.
Q: So, as far as you knew, whatever issues she had kind of resolved?
A: Yeah, yeah.
Q: Okay. And after that, ablation went back out for basketball?
A: Yes, sir.
Q: That's her eighth grade year. Did you have any concerns with her going out for basketball?
A: At that time I didn't, because we were getting in better shape, you know, we were practicing a little bit. I was watching her shoot, because I have a little basketball goal in the front yard. And so, she would go out and take shots and shots and do a little couple of moves. Her and Serenity, and her mom would play against her sometimes, and they would, you know, get a little battle royale in there, and Taylor started to get tough. And she became better, and it was just

basically trying to get the confidence. She was only in the eighth grade. A lot of her fundamentals were coming along, but she wanted to rush them. She was trying her best to be a superstar but, you know, she was coming along.

Q: You said they were playing out in the yard and stuff, so they were playing up and down the court or anything?

A: No, no, no, no, no, just shooting the ball, because it's not -- it's just a little small piece right there.

Q: And you heard Ms. Utley testify about going to MUSC on December 12th, 2018.

A: Yeah.

Q: You weren't present for that visit?

A: No.

Q: And that was not the game you were present at, correct?

A: No.

Q: Did she tell you about that visit?

A: She told me about the visit.

Q: And again, she didn't -- what was your understanding as to what happened?

A: Basically, she was telling me that they told her the exact same thing that they told her the prior time, nothing changed, just that she -- keep her hydrated and, you know, little small things like that.

Q: And so, with regard to the discussion on the Body Armour, water, Gatorade, snacks, and everything; was that still going

on?
A: Yes.
Q: And when you said she cheered all during football season?
A: Yes.
Q: No issue?
A: No issues.
Q: Until December 12th.
A: Till December 12th.
Q: And you weren't there for that?
A: I wasn't there.
Q: So, let's move forward -- well, I'll come back and have the same question I asked Metri. I know you said you treat all your children the same, you love them all the same. Serenity's basketball skills versus Taylor's.
A: Serenity had been playing all her life, so she -- and already been in college ball, so really at that point, because Taylor hadn't really played any ball, no more than just an seventh grade and going into the eighth grade, she was -- when Serenity played, she played summer league ball, AAU ball, travel ball, and so she had a lot more experience than Taylor. So, as far as the skill level, you know go Serenity's skill level was much higher at that time than Taylor's.
Q: But I believe Metri said that Taylor idolized Serenity when it came to sports?
A: She did. She -- they had this thing where they -- they

wanted to -- Taylor idolized Ren, and Ren idolized Taylor. They had a loving relationship, even though they fought each other. I think the fought each other because they idolized and loved each other so much, you know, sibling rivalry.

Q: Do you remember -- now, you said you went to some games. Had you been to any middle school games for Taylor at this point?

A: No not -- not that year.

Q: And so, your first game -- you heard Metri talk about it -- was December 18th, 2018. Serenity is in her final year ---

A: Right.

Q: --- after Covid, going to graduate school, right?

A: Uh-huh, (affirmative response).

Q: Do you remember being home?

A: Yeah.

Q: And December 18th, do you remember what y'all planning on doing that day?

A: Going to the game.

Q: And where was that game, again?

A: It was at Palmetto Junior High School in Mullins.

Q: We don't need to go back through how everybody arrived, who arrived, when and everything. While Taylor was playing basketball up and down the court. You've heard about the crossover, steal, and all that. What did you witness?

A: Well, whenever the ball was stolen from Taylor, so that

Taylor immediately jumped on defense. She ran down and she fouled the girl. And she sprinted, which took more than just a regular jog, she sprinted down. And then I noticed she was, you know, waving some over. And when she came over, and she walked to the sidelines, and she just collapsed. She just collapsed out there. And I was sitting there, Serenity was here, and Metri was right there. And Metri said, she done fell again. She must be embarrassed. And I said, Ren, go see about your sister. And so, Serenity went over across to see about her. And then as soon as Serenity got over there, I jumped over and I ran over. And when I ran over and saw her, she was twitching, and she was unconscious, and she was limp. And so, the first thing I did, I picked her up off the floor, and I got -- put her in my arms, and I started taking her out the door. And I looked at Demetrice and I said, come on, because Demetrice wasn't over there yet. And then I took her to the first room on the right. And they had a table laid out, and I laid her on the table. At that time, she was, uhhh; she wasn't conscious. And I -- it scared me, because I know 13-year-old children just don't collapse. And she wasn't out of shape, she wasn't obese, and she was running. I played sports all my life, and I watch people get tired, I watch people faint from being tired, but this was different when I saw her this way. And it upset me so bad, I kind of got angry because none of the coaches came over, and she was just laying

there, and they was taking pictures of her. I said, Metri, go get her. I said something ain't right. She says -- I say, she's not gonna just let people just take pictures of her while she's laying down there. So, I went and picked her up, like I said, took her to that room. And then Metri came over, and Taylor was just kind of getting a little bit to the point where she, uhhh, speaking -- not speaking but slurring. And so, we stayed in there -- I'm not sure about the time, but I think it took about 15 minutes for her to fully come back to coherent just to be able to say who I was and see her momma. And I was upset and I laughed. I said, Metri, we got to take her to the doctor. Something ain't right. This is not -- this is not anxiety, and this is not dehydration. I said, something is definitely wrong with Taylor. I don't know what it is, but children at 13 years old, they shouldn't collapse like she collapsed. There's a difference when you sit down are you lay down, but she got there and just collapsed in front of people, and exposing herself as a young lady. And she had a lot of pride and a lot of dignity, so I know that she wouldn't sit there on that floor and lay down there like that, because I know she is. And so, that's when we really started taking it more seriously, because I don't think Metri had ever seen her at that stage. I certainly had never seen her at that stage.

Q: I believe you said Metri said, oh, God, she must be

embarrassed.
A: She said she's embarrassed probably because the girl stole the ball, and she don't want nobody to see her, so she just -- I said, no, no, no.
Q: So, at this stage, Metri had been to MUSC twice, one just a few days before, and Dr. Bahan. They said dehydration; nothing's wrong. And so, she was thinking, oh my gosh, she must embarrassed.
A: She thought she was embarrassed because the girl stole the ball.
Q: And did it appear that her perception of that changed?
A: Absolutely. After that event, we were still at a loss but the perception of what was going on had to change because, you know, I'm thinking children just don't collapse, especially they didn't collapse three times at basketball each time. They don't collapse like that. And so, that's when we had to take it a lot more seriously.
Q: So, you said that total ridges limp when you went out there?
A: When I picked her up, she was dead weight.
Q: You carried her like a baby?
A: I had to pick her up and carry her. She was limp, she was dead weight in my arms. You know, when you pick someone up and they're conscious, they kind of assist you, but she wasn't assisting.

Q: And Metri what back there in the room with you the whole time, correct?
A: No, when I got in the back room, she wasn't there yet.
Q: So, after you get -- pursuant to your testimony, after you get Taylor back to where she can at least identify who you are, she is and what not, she's come to a little bit. So that was -- you're guessing about 15 minutes?
A: About 15 minutes.
Q: What, if anything, did you communicate to Metri?
A: Well, Metri was back there during that time.
Q: Did you talk to her about what you had witnessed before she got back there?
A: I talked to her about the fact that I picked her up. I didn't -- to me, she was still unconscious when we took her back there, because she could not -- she couldn't respond to me, you know, in a way -- if you can't respond to me, I'm asking you something you can't respond to me, I'm touching you and you're not responding, then you know I don't know what syncope is necessarily, but I know that she was not responding to me. She was breathing. She had a little bit of movement, but, she wasn't responding to my verbal.
Q: And you were deposed back in March of 2023, too, right?
A: Yes.
Q: And that's basically the same answer you gave back then, correct, as far as consciousness?

A: I don't even know if I was asked that question.
Q: Now, we heard Metri say that she didn't take Taylor to the hospital that night. And you left, correct?
A: Yes.
Q: I think back during the deposition with Mr. Aiken and another attorney talked to you, but I think Mr. Powell had asked you a question about do you know whether or not she was taken to the ER pretty soon? Do you recall saying, yes, she took her to the ER a couple of times prior to that, talking about prior to going to Dr. Trant's office?
A: (Indicates affirmatively.)
Q: And you didn't go to Dr. Trant's office?
A: I did not.
Q: And you've already testified that Demetrice is at least more detailed than you?
A: Yeah.
Q: How detailed is she typically with these children?
A: All her life, and I helped her a lot, because I knew she needed that, she was so dedicated to her children, she really worked part-time, the agency work, because she would not miss one event for the children. And she was working full-time, but anytime something come up, she would make a way to be there with those kids. Anything about her children, she knew everything about them. She knew everything about them. She's a supermom if there ever been one. She's a good mom. She's a

great mom, actually, great mom.
Q: We know that Taylor wasn't taken to the hospital that night or Dr. Bahan's that night, but I think it took almost a month, maybe a little bit over a month to get in to see Dr. Trant. Do you remember how y'all discussed seeking out a further opinion?
A: Well, she was telling me that -- well, she's a nurse, and so she has a lot more experience with that kind of stuff than I have since she's been around it, and so she knew what to do more than I knew what to do. I just knew what I saw wasn't right. And when she saw it, she knew something had to be more wrong with her than just dehydration. And so, that's when she started making the initiative to ---
Q: So, if I understand your testimony, you've been a coach, you've played sports, you've watched your kids play sports, you've never seen an athlete go through something like this?
A: Not that kind of -- not that kind of collapse.
Q: And y'all discussed -- eventually, were you aware that she was taking Taylor to see Dr. Trant?
A: Yes.
Q: Pediatric cardiologist?
A: Yes.
Q: And again, you weren't at the visit?
A: No.
Q: After she went to see Dr. Trant on January 24th, 2019,

what was your impression?
A: When she told me that it was just dehydration again, and breath into a paper bag, I thought, I said, you went to a cardiologist and they told you to breath into a paper bag, I'm not sure yet? I couldn't believe it. In comprehensible in my mind. I said, that's all they did? When she said, yeah. I said, well, you know, I guess that's right, in my mind, but I -- I didn't feel that was proper in my mind.
Q: You thought it was a little bit strange?
A: I knew it was strange.
Q: And I believe during your deposition you indicated you guess you just had to trust them, something along that line.
A: Yeah, yeah.
Q: So, when -- did Metri tell you about the diagnosis, hyperventilation and something to deal with hyper vasovagal, something dealing with puberty.
A: And she said that she was probably going through puberty, and it's related to puberty. And I -- I'm not a professional, so you know, it didn't sound right to me but I just, okay, you know.
Q: You're not a pediatric cardiologist?
A: No, no.
Q: And with regard to clearing Taylor to return to sports, do you know what was done?
A: Excuse me?

Q: With regard to -- I believe her coach had asked for a letter clearing her to play sports signed by a doctor; do you know if that was done?
A: Yeah.
Q: Who did that?
A: Dr. Trant.
Q: And that was her eighth grade year. Do you know if she went back to playing basketball at all?
A: She didn't
Q: Did she finish out that season?
A: Yeah.
Q: Now, after that season, when you say she didn't return, she never played team basketball again?
A: No.
Q: Was she involved in any other sports?
A: She played cheer; she cheered.
Q: Cheered. And we've already heard about that.
A: Yeah, she's captain in cheer.
Q: Captain, freshman year, then went Covid. And then sophomore year, we're kind of getting back to normal.

At any time after she saw Dr. Trant, in that period of time, January 24th, 2019 through December 17th, 2021, did you ever when you were around her, that 34-month period, ever see a period of time where she hyperventilated?
A: No.

Q: Tell me about any times you saw her complain with chest pain?
A: I didn't see her complain of chest pains.
Q: Tell us about any times you saw her collapse to the ground with trouble breathing?
A: Only at the game; I saw it once.
Q: But nothing after she saw Dr. Trant?
A: No, no, nothing after she saw Dr. Trant.
Q: And she was playing basketball right before she saw Dr. Trant, right?
A: Right.
Q: And then after she saw Dr. Trant, what was different?
A: She didn't play basketball anymore.
Q: No more team basketball?
A: No more team basketball.
Q: Now, as she moves from freshman to sophomore year to junior year. You've seen the pictures where she keeps graduating, you know, all the titles, the crowns, and whatnot. Did you talk to her before she started to become an upperclassman?
A: Yeah.
Q: And was she excited?
A: Right.
Q: Metri talked about getting her car. And we saw the picture of the sweet 16 party. Do you remember that?

A: Oh, yeah.
Q: Tell us how excited she was for her upperclassman year and getting her car and all that.
A: Taylor, she was the head cheerleader on the cheerleading squad, and she was just a natural leader. And when she got her car she was super excited, because then she had independence, because she was much like her mom, and she didn't like to be told what to do. So, her mom, them clashed a lot, so when she got the car, her mom told her she was going to be very strict on her about that car. And she followed the rules, to a degree. She broke it every now and then, like most children do. But when she turned 16, she was pretty much -- she was a flower. She had blossomed. She got to a point where everybody in the whole area knew her, Dillon, Florence, they knew her from far and wide because she was just that kind of magnet with people, especially with kids. And during that time, it wasn't as bad as far as violence with kids, a few years back. So, she was in the middle of everything, and they were having a great time.
Q: You heard Metri talk about what Taylor's favorite time of year was.
A: Christmastime.
Q: As we're getting through November and December of 2021, how excited was she for Christmas?
A: Very excited.

Q: And we heard testimony about Johnelle. He was dating your little girl.
A: Yeah.
Q: What did you think of Johnelle?
A: He was a nice guy. He was a nice young man.
Q: God didn't bless me with a girl, so I'm gonna have to trust you on that.
A: Yeah. He was a nice young man. There wasn't much I could do about it because between him and his momma and Johnelle, they done figured that out, you know. They done figured it out that they was gonna be married. In my mind, I knew that that wasn't gonna last no more than puppy love, but in her mind, they had already figured out how they was gonna spend the next 40 years together. I said, well ---
Q: That's what dads think; nobody is ever good enough for their little girl.
A: That's right.
Q: Was she excited for that Christmas with Johnelle?
A: She was.
Q: I remember that puppy love, too. It's been a minute.
A: Yeah, yeah.
Q: And you knew Christmas was her favorite time?
A: Yes.
Q: Somebody else, too, right?
A: Absolutely.

Q: Prior to December 17th, 2021, a lot of people get their Christmas shopping done. How about you?
A: I did.
Q: Had you picked up Tyler something for Christmas?
A: I did.
Q: What was that?
A: Taylor wanted an Apple watch. And Serenity wanted an Apple watch, too. I had two Apple watches. One of them were -- was the newest model, and one of them was a little bit smaller. And Serenity had one, she said, Dad, I want to give mine -- to Taylor because hers was the bigger model. And Serenity had the Apple watch, and I just gave it to her a day or two before. I'm not sure if it was the 15th or the 16th, I gave it to Serenity, and Serenity was gonna give it to Taylor, because Taylor was gonna go crazy over the Apple watch.
Q: Close sister bond?
A: Yes, very close.
Q: And I think I misspoke earlier, when I talked about Serenity being at that basketball game -- that was actually her sophomore year or freshman year of college?
A: I'd have to go back in my mind and figure it out, but I ---
Q: But this year, this Christmas, that was the year 21-22, that's when Serenity was going back for her last year of eligibility, right?

A: Yes.
Q: Okay. Did you have plans for them for Christmas other than just the gifts?
A: We always get together and take pictures and eat food, cause Metri would cook, we'd come around, and they have a great time watching movies. I wouldn't stay around too long because they'll run me out the house, because the girls they wouldn't let me stay too long, because they got their little clique, their little police department together. So, I hang around for a little while and I get out the way.
Q: Were you aware of any health concerns that Taylor had at this time?
A: I wasn't aware.
Q: Let's talk about December 17th, 2021. You were here earlier when Metri testified. You weren't at the house that morning, correct, when Taylor left?
A: No.
Q: We heard about the phone call that you got. Could you take us from the time you got that phone call?
A: Let me step back a little bit further. I was at the barbershop and at the adult daycare center. And Mr. Bob, he's around 92 years old, and he's older than all of the patients in the daycare, but he was the driver. He drives them back and forth. He works at the daycare. And he said, you know, son, don't ever get in a hurry. He said, don't get in a

hurry, because you get in a hurry sometimes you miss things. And so, we had a -- it was a Christmas party for the City of Marion, a Christmas party. And I'm a city councilman, so I have to be at the Christmas party. So, I got in my car, and I was headed to the Christmas party from the adult daycare center. And I got halfway there and I forgot my phone. I said, Mr. Bob told me not to get in a hurry. So, I went back, and I got my phone. And so, I got my phone, and I got back to the Christmas party. I remember I was almost finished fixing my plate before I sat down, and I got a call from Metri. Metri said, Emerson, Taylor had a medical emergency. She collapsed at school, and I'm in Florence. I need you to get there. Serenity is going there, too. And so, I paused for a moment, cause I didn't know how to feel at that point. So, I immediately then got in my car, in my truck, and started driving to the hospital. And as I was coming and I saw them -- the ambulance coming, and they turned in just before I turned in, and I turned in behind them, and I followed them around to the service entrance where they bring the emergencies in. My daughter Serenity immediately came up to me and ran in beside me. And the officer was there, he wouldn't give me eye contact, and they opened the door, and all I could see was this machine beating on her chest (indicating), beating on her chest. And my daughter Serenity collapsed, and I grabbed her. And I knew that she wasn't

breathing, because they wouldn't have that chest compression machine on her. So, I got out the way. I let them try to save her. So, me and Serenity went around. We sat in the emergency room, and Serenity was there shaking. She was shaking. I didn't call Demetrice, because I didn't want to call her while she was driving. So, we waited while they were working on Taylor. About 15, 20 minutes goes by. I see Demetrice walking up. And I go over to Demetrice, and I said, Metri, I said, come on. She said, I'm going in to see Taylor. I said, Metri, I said, I don't think they gonna let you back there. She said, why? I said, I don't think she was breathing, Metri, they was hitting her hard. And when I said that to her, she immediately collapsed where she was. So, I helped get her together. They get a wheelchair and bring Metri around to a room where we can all sit in private. And then Demetrice is not saying anything, because she's analyzing in her mind. She's in shock. So, by this time, the school, the children and everybody is coming up. So, we just sitting there waiting. Then the doctor comes in, and he says, we've done everything we can do, heart transplant is not available, she can't go get any further services, but we want you to come in, and you know, let us see what we can still do. So, we went in the room, and I remember Taylor laying there. And Serenity is on her knees on one side of Taylor holding her hand, and Demetrice is on her knees on the floor on the other

side, and they trying to do the extra compulsions to get it right. And it didn't work. And I was looking the room around, just watching the room, and nobody would give me eye contact. So, I knew that it wasn't a good thing. So, I'm watching, just watching. Then I listen at Demetrice, bargaining with God, don't take my child. Life for a life; take me; don't take my child. And they hit her one more time, just for -- and my daughter Serenity, holding onto her sister, she said, Daddy, do something. Make them try one more time. At this time, I'm powerless to do anything for my child. So, I wait. And everyone has their time, and Demetrice and people came in, and I still just wait, I just wait. I think we were maybe in that room an hour or two. There's nothing they can do. So, Demetrice -- finally, they go outside, but I stay inside. I can't leave. So, I stay, because I want to take care of her and make sure nothing happens to her body. After while, the lady say, we got to clean her body up, and take her back into the morgue. And I still didn't leave. So, I asked them, I said, would you please allow me to take my daughter? And so, we rolled her down the aisle, around two corners, and they have this little room where they got these little boxes that you can slip a body in. And it was just an older lady and a little lady, and they grab one side, cause Taylor is heavy, and I grab the other side, and we put Taylor in, and we slide her in, and we close the door. And then I leave to go

home to see Metri.
Q: Did you get home that night to see Metri?
A: I came back to the house, because everyone was there. Metri had already gone, because she couldn't take anymore. So, I remained to make sure that no one desecrated her body, no one disrespected her body. I did the best that I could.
Q: Emerson, do you need a minute?
A: I'm good. I'm good. I can make it.
Q: We've heard from Metri, and we've heard from Dr. Riemer about the autopsy. I think the autopsy was completed on December 27th. Who made arrangements for Taylor's services?
A: I did.
Q: I believe that's through one of your business parties, Mr. James Woods, for the funeral service as well?
A: Yeah.
Q: And we heard about Christmas being Taylor's and Metri's favorite time. What was Christmas like that year?
A: To see a mother get ripped, my family get ripped, and to watch a person struggle emotionally, physically can't get out the bed, can't take care of themselves. Not just Christmas, but she ain't been right since that day. And I can't imagine the scar, you know, that's been left.
Q: So, when Metri testified when I asked her about the funeral, she couldn't give us a lot of details. I remember when we were reviewing everything, you made some post about

Curly.
A: Yeah.
Q: Who is Curly?
A: That's Taylor. She had such pretty hair, and it was really curly. So, I always called her Curly. It was our pet-peeve name.
Q: Do you remember what you posted about Curly?
A: I do.
Q: You want to share it with the jury? It's okay.
A: You know, I just expressed how deeply I loved her, how much God loved her, and how much -- how deeply sorry I am that I couldn't do anything ---
Q: Emerson, I'm sorry. The funeral, where was that held?
A: At Mullins High School.
Q: Crowded?
A: Very crowded.
Q: The autopsy results, those weren't available immediately, were they?
A: No, sir.
Q: Do you remember when they did come in?
A: I do.
Q: Do you remember reviewing those that report?
A: Yes.
Q: Why was it important to get that autopsy report?
A: Because during the time my child died, that same day,

there was a few students that was in the hospital for an OD. They didn't die; thank God. But of course, naturally when a child dies early for no reason, people assume that your child is on drugs. They assume that your child doing a lot of things, and that's the reason she died. And for us, even now, because no one knows, we never spoke of it, to think that my child died as a result of drugs was unthinkable for me and her mom. Not to say that she couldn't have died from drugs if she used them, but it was very important for us to know that our child was not on drugs, and didn't die from any overdose or anything like that. And when I found -- I was just shocked of the results of the right ventricle, I just -- I had no idea.

Q: So, you remember when we got the results back?

A: Yes.

Q: And I think you and I sat down and discussed them, correct?

A: Yes.

Q: Prior to discussing those results, have you ever heard the term ARVD or ARVC?

A: No.

Q: Arrhythmogenic right ventricular dysplasia or cardiomyopathy. After we talked about that and you saw that, did you do anything to try to figure out what it was?

A: I tried to learn as much as I could about that.

Q: And you don't have to go into great detail on it, but

what's your understanding of ARVD? What organ does it affect?
A: It affects your heart.
Q: And once you realized she had died from a cardiac disease, did it make you remember anything?
A: It made me remember that we took her to a cardiologist, and I didn't understand why that simple tests could've been done to diagnose her and could've saved her life. Why my child wasn't good enough to at least get a test done that might save her life. What was so different about my child? I could not understand that; still to the day, I cannot understand that.

MR. RICHARDSON: Court's indulgence.

BY MR. RICHARDSON:

Q: The last question I'm gonna ask you. I asked Metri the same thing. If me or the Judge could just waive our hand and make anything in the world to happen, what would that be?
A: I would love to have that child back, for this not to have happened. If I could've just had the knowledge of the test run and her be fine, that would be great for me. That's the only thing I would want. But I told her mother that we had her for 16 years, and she passed away, and it was a short 16 years, but if I had to do it all over again, knowing that 16 years I would only have her, I'd do it again, because she meant that much. She enriched our lives that much.
Q: Thank you, Emerson. Please answer any questions Mr.

Aiken may have.

MR. AIKEN: Mr. Hunt, all I want to do is tell you how sorry we are, and I don't have any questions.

MR. HUNT: Thank you.

THE COURT: Thank you, sir. You can step down.

MR. POWELL: Your Honor, at this time, the plaintiff rests.

BY THE COURT:

THE COURT: Okay. So, is this a situation we need to quit for the day or ---

MR. AIKEN: I think so. I think that's what we agreed on, Your Honor.

THE COURT: Okay. Ladies and gentlemen, we're not going to hear anymore testimony today. I'll ask you to be back at 9:30 in the morning. Don't discuss this case yet. If you have an emergency, please call us.

Thank you.

(REPORTER'S NOTE: Jury exits courtroom @ 3:01 p.m. The following takes place outside the presence of the jury.)

THE COURT: Okay. Anything y'all need for me for the rest of the day?

MR. POWELL: Not from the plaintiff, Your Honor.

THE COURT: So, you think this case will get to the jury tomorrow? Any specific charges or requests -- or do you think it'll be Friday?

MR. POWELL: I'll defer to Mr. Aiken on how he wants to resent his case, but we would expect we can give it to them tomorrow, but you know it's his case to run now.

THE COURT: Okay.

MR. AIKEN: My case won't be too long. Your Honor, it's just hard to know.

MR. MCLEAN: We do have directed verdict motions.

THE COURT: You want to do that now or in the morning?

MR. MCLEAN: We can do it now or in the morning, whatever ---

THE COURT: Fine by me.

MR. MCLEAN: We're gonna do it now?

THE COURT: It suits me. Whatever y'all want to do.

MR. POWELL: Can we take a quick bathroom break?

THE COURT: We can take a quick break and come back and y'all can present whatever you want to.

MR. AIKEN: Thank you, Your Honor.

RECESS - 3:01 P.M.

*******OFF THE RECORD*******

ON THE RECORD - 3:11 P.M.

(REPORTER'S NOTE: The following takes place outside the presence of the jury.)

DIRECTED VERDICT MOTIONS:

MR. MCLEAN: Your Honor, Joe McLean for the record. And we have five separate matters on directed verdict on behalf of

the defendants MPA II, and Dr. Charles Trant.

THE COURT: Okay.

MR. MCLEAN: I can address them one by one in order, or I can address one and Plaintiffs can respond to one; however the Court wishes to proceed.

THE COURT: I can do anyway y'all want to do. Would that be easier?

MR. POWELL: One at a time, and you do one and we respond would be preferable to us.

THE COURT: Okay. That makes the record a little cleaner when it gets to Columbia.

MR. MCLEAN: Very good. And, of course, the standard is viewing the light -- viewing the evidence in the light most favorable to the plaintiff. We'd move for a directed verdict, first, as to Dr. Trant individually. He's been sued as an individual. And we contend, Your Honor, that the evidence does not show any gross negligence on the part of Dr. Trant, and therefore he cannot be personally liable under the charitable immunity statute, which the Court is familiar with, 33-56-180. Gross negligence is, of course, the failure to exercise even slight care. That's a well-established definition of gross negligence. And here the evidence shows at a minimum slight care by Dr. Trant. The fact that he could have done more, which is the plaintiff's case, he could have done more does not negate the fact that he exercised at least

slight care. The evidence is clear. He did a complete physical examination. He took a full history. He obtained current symptoms. He read the EKG, and he did not misread the EKG. He listened with a stethoscope to the heart and lungs. He took a social history. I may be repeating myself now. Obtained current symptoms, the EKG, he made a diagnosis. He made a recommendation. He invited the patient and her mother to return. He exercised at least slight care, Your Honor. And therefore, his conduct does not rise to the level of gross negligence necessary for a -- to make him personally liable under the -- under the charitable immunity statute. Gross negligence is usually but not always a question for the jury. Plaintiffs are gonna tell you that, I'm sure. But when there's only one reasonable inference, it is a matter of law for the Court to decide. And the evidence even viewed in the light most favorable to the plaintiff shows that Dr. Trant at a minimum exercised at least slight care; and therefore, he was not grossly negligent.

THE COURT: Okay.

MR. POWELL: Thank you, Your Honor. The exercise of slight care or the absence of slight care is not the only full and complete definition of gross negligence. It is one reference that is made in our case law.

First, I'll read from the -- obviously, you have not told us what your charges will be or what you will adopt, these are

-- this is from our proposed charges. They were the jury charges that Judge DeBerry was going to charge against McLeod Physician Associates, and a different position that Mr. Aiken and his other partner, Mr. Bridges, defended in Florence about a month ago, and that one did not -- the matter the resolved before argue and charge. But the gross negligence charge from that jury charge, gross negligence is the absence of care that is necessary under the circumstances. The law defines gross negligence as the failure to exercise slight care or the intentional conscious failure to do something, which is incumbent upon one to do, or doing of a thing intentionally that one ought not to do. And as Your Honor is aware, the standard when deciding a directed verdict motion is not the weight of any evidence, it is the existence of the evidence. And that's from a case where the Court of Appeals overturned Your Honor, and the Supreme Court found that you, in fact, ruled correctly, and that is *Bass v. South Carolina DSS*, 2015 South Carolina Court -- or Supreme Court case, I'm sorry. And the holding of that from Justice Toal said, the expert opinion that DSS failed to exercise slight care, in further investigating, was presented with sufficient evidentiary foundation to allow to be used to defeat DSS's motion for judgment notwithstanding the verdict, JNOV, with regard to the parents' claim of gross negligence. The Court also found the expert's opinion, along with other evidence, was sufficient to

support the jury's finding that DSS was grossly negligent. And Dr. Chang testified that the -- in his expert opinion, the care rendered or not rendered amounted to -- it was grossly inadequate. It was significantly inadequate. And we believe that that is a question for the jury based on the *Bass* case that Your Honor was the Trial Court Judge in, as well as the *Hamilton v. Regional Medical Center* case, that was 2023 Court of Appeals last year that, again, it recites that in most cases gross negligence is a factually controlled concept, and determination best rests with the jury.

And whether or not he completed the physical evaluation in the office that he did, Dr. Chang didn't dispute that. Whether or not he correctly interpreted the EKG, we're not saying that's a part of the reason that it could support gross negligence. The choice or the decision that Dr. Trant made to not order an echocardiogram, a cardiac MRI, a stress test. And obviously, Dr. Trant has not testified yet, but in his deposition testimony he testified that specifically to an echocardiogram, if he felt one was indicated, he could've done it right there in the office, he did them all the time. So, that is evidence that there was a choice that was made not to order it. And we believe that that meets the standard viewed in the light most favorable to Plaintiff to survive directed verdict, Your Honor.

THE COURT: Okay.

MR. MCLEAN: May I respond very briefly?

THE COURT: Yes, sir.

MR. MCLEAN: We believe the definition of gross negligence read to the Court by Plaintiff's attorney is incorrect and confusing. That first sentence says it's been defined as the absence of care necessary under the circumstances. Your Honor, that's the definition of simple negligence. And I could trace that definition back to a case from 1952, *Hicks v. McCandlish*. And ever since that 1952 opinion, that has been the -- part of the standard jury charge given on gross negligence. We believe that is an error. We intend to submit a jury charge which excludes that first sentence that gross negligence has also been defined as the absence of care due under the circumstances. That's not what the *McCandlish* -- *Hicks v. McCandlish* case says. That is simple negligence ---

MR. POWELL: What year was that?

MR. MCLEAN: The last two sentences or three sentences of the definition we agree with. We think that is a proper definition of gross negligence.

Number 2 ---

MR. AIKEN: What was the year of that?

MR. MCLEAN: Oh, it's ---

MR. POWELL: I got the citation. 1952; I've got it.

THE COURT: *Hicks* case.

MR. POWELL: 1952; I've got it.

THE COURT: That's a 72-year-old case. That's was the year I was born.

MR. MCLEAN: It's still good law. It is cited in the tort treatises written by the law professors Hubbard and Felix. It's still good law. It's still cited by eminent scholars of tort law.

Dr. Chang, his -- his testimony that what Dr. Trant did or didn't do was gross negligence, that's for the Court to decide. That's not ---

MR. POWELL: He didn't testify that there was gross negligence.

MR. MCLEAN: He did.

MR. LESEMANN: He said it was grossly inadequate.

MR. POWELL: He said it was grossly inadequate.

MR. MCLEAN: Grossly inadequate. Okay.

That's for the Court to decide. I believe we're saying the same thing, grossly inadequate. So, Dr. Chang's testimony on that point should not even be considered by the Court. And again, the fact that he could have -- what they're saying, Your Honor, is that Dr. Trant could have done more. Maybe he could've, but that does not negate the fact that he exercised at least slight care.

MR. POWELL: And, Your Honor, very briefly in response. The *Hicks* case you indicated was from 1952. I'm reading from

Hamilton v. Regional Medical Center, 440 S.C. 605, Court of Appeals case from last year 2023. And I've got a copy if Your Honor would like, and I've got one for -- may I approach, Your Honor?

THE COURT: Yes, sir.

MR. POWELL: And if you'll flip -- the page is a little hard to read, at the bottom right, Page 13. In that case, the Court was dealing with gross negligence because the Orangeburg Regional Medical Center contended that the plaintiff had to meet gross negligence in a medical malpractice case, because it's a tort claim. The plaintiff disagreed, as did the Court, that because the gross negligence exception under the Tort Claims Act does not apply to civil medical malpractices specific as to supervision. But the analysis to gross negligence on Page 13, at the top right, it cites *Marlboro -- Grooms v. Marlboro County School District*, which is 307 S.C. 310, a 1992 Court of Appeals case from South Carolina. Gross negligence is the absence of care necessary under the circumstances. And the issues that *Hamilton* was dealing with, the plaintiff in that case filed a motion in limine to prevent the defense attorneys for the Regional Medical Center from asking their expert whether or not conduct was negligent or grossly negligent. The Trial Court granted that motion, and arguing against it, the attorneys for the Regional Medical Center contended that Plaintiffs had used the word reckless,

and because reckless was also a word that was involved, they thought that that should have the same analysis. The Court of Appeals disagreed and said reckless has a normal definition. It is also a part of legal, you know, jury charges, but the reason they did not -- they upheld the Trial Judge and did not allow the defense attorneys to ask whether the conduct was grossly negligent because negligence and gross negligence is a legal conclusion, not a factual -- it's not something that a lay witness can testify to.

What Dr. Chang testified was the conduct was grossly inadequate. That's the same distinction. He is not saying negligence or grossly negligent because that would be a legal conclusion.

THE COURT: Okay.

MR. POWELL: And, Your Honor, this is from Judge Anderson's request to charge. Gross negligence is the intentional, conscious failure to do something which is incumbent upon one to do or the doing of the thing intentionally that one ought not to do. Negligence is the failure to exercise due care, while gross negligence is the failure to exercise even the slightest care. Gross negligence is a relative term, and it means the absence of care that is necessary under the circumstances. Gross negligence connotes the failure to exercise a slight degree of care, whereas negligence involves an intentional conscious failure to do

something which one ought to do or the doing of something one ought not to do. A defendant is guilty of gross negligence if he is so indifferent to the consequences of his conduct as not to give slight care to what he is doing. And there's a long list of string case citations on that, Your Honor.

THE COURT: Okay.

MR. MCLEAN: Your Honor, finally, and we're gonna end it here. But let's look at the statute itself. It must be no -- excuse me -- 33-56-180, a judgment against an employee of a charitable organization may not be returned unless a specific finding is made that the employee acted in a reckless, willful, or grossly negligent manner -- reckless, willful, grossly negligent. I agree with the definitions being cited by Plaintiff's attorney except for that one sentence that I've distinguished has also been defined as -- I understand it's been cited. I understand it's all in the books and all in the cases. We disagree that that's a proper charge. And we disagree that's the proper standard for the Court to apply at this point.

THE COURT: Okay.

MR. POWELL: Unless Your Honor needs any further, the last thing we'd say as to that exception in the charitable immunity statute, it is reckless, willful, or grossly negligent. You don't have to meet all of those to bust the cap and return a judgment personally against a employee of a

charitable institution. If you meet any of those, because it is comma or. You could be reckless, which has a specific jury charge; willful, which has a specific jury charge; you could be grossly negligent. Any one of the three meets that exception under the statute, Your Honor.

THE COURT: Okay.

MR. LESEMANN: Your Honor, if I could briefly supplement, since I was the attorney that took Dr. Chang's direct examination. Again, as Mr. Powell read, gross negligence is the intentional conscious failure to do something which is incumbent upon one to do. We had testimony that was presented that is sufficient to have this issue go to the jury as it is a question of fact, that it was intentional, and that it was conscious that Dr. Trant did not order those tests, because he had the power to order it. There was evidence that McLeod has the facilities for him to be able to do it, and that there was nothing in the record to show that he was prevented, that the plaintiff didn't say I'm not gonna pay for it. The machines weren't broken, right. So, when we look at whether a jury could determine that there was an intentional conscious failure to do something, which is incumbent upon Dr. Trant to be done, they could see it was intentional, they could see it was conscious, and they could see it was incumbent upon Dr. Trant to do it. So, I appreciate counsel's disagreement with the Anderson request to charge, but those are so definitive

and so accepted in our jurisprudence that I think that that's sort of an academic argument, because juries are being charged with 21-1 gross negligence from Judge Anderson every week that there's a need to use that charge. So, when we look at that being in the light most favorable to Plaintiff -- and I just wanted to step up because I -- I did that examination Dr. Chang. He absolutely talked about intentionality, conscious failure. It was incumbent upon him to do it. The care given was grossly inadequate, and that there was an absence of care. He testified as to each one of those things, which means it's the jury that should make those decisions.

THE COURT: Okay.

MR. LESEMANN: Thank you, Your Honor.

MR. MCLEAN: I said I wasn't gonna say anything else, Your Honor, but what we've got here, gross negligence and negligence have the element of inadvertence. Both of those torts are based in inadvertence. What Plaintiff's attorney just argued is intentional, conscious failure to do something. That's not inadvertence. That takes it to the next level. Intentional conscious is what -- is what would distinguish an intentional tort from a negligent tort. Negligent has that characteristic of inadvertence.

THE COURT: Okay.

MR. LESEMANN: And, Your Honor, this last thing, that's the -- the next step is that that's gross negligence.

Ordinary negligence is where it's inadvertent. The law says that gross negligence is where it's an intentional conscious failure. I'm just -- Westlaw, I'm reading right from the charge. So, Your Honor, the evidence has been presented, and the record is there. It'll be for the jury decide. They may decide that Dr. Trant wasn't grossly negligent, but it's not something that should be taken from the jury.

THE COURT: Okay.

MR. MCLEAN: We'd be glad to brief this if that would help the Court.

THE COURT: And I understand -- and I understand how important this is. So, I don't -- instead of -- I'm gonna read these cases thoroughly. I think I got a good understanding of it, but I will read them again. And if I let y'all know in the morning; is that too late?

MR. POWELL: No, Your Honor.

MR. RICHARDSON: No, sir.

THE COURT: That way, I don't know if that'll affect the way y'all put the case together.

MR. POWELL: That ain't gonna affect the way we put this case together.

THE COURT: My first, you know, my gut feeling is they have met that burden, and it's gonna go. But I need to read these cases close again, you know, to be sure. But, if I had to rule right now, I'd be ruling against you, but I'll read --

let me read all this again and look at it close.

MR. POWELL: We appreciate that, Your Honor, and we'll hand up these cases after, and I would just rest on the one sentence from the -- again, this is South Carolina Supreme Court, 2015, in a case where you were the Trail Judge, and states the trial -- in ruling on directed verdict or JNOV motions, and then it goes on to say the Trial Judge is concerned with the existence not the weight.

THE COURT: Right.

MR. POWELL: And then further in that document ---

THE COURT: I remember that case well.

MR. POWELL: If there is the existence, the Trial Judge and the Appellate Court is prohibited from weighing in on the weight.

THE COURT: That was a rough set of facts.

MR. POWELL: Thank you, Your Honor.

THE COURT: And DSS ended that case with the delusion that people liked them. Nobody -- no matter what side you've been on them, nobody likes them.

Okay. Yes, sir? Number two.

MR. MCLEAN: Defense -- Defendants Dr. Trant and MPA II would also move for directed verdict on insufficient evidence of proximate cause. The death occurred 34 months after the visit with Dr. Trant, almost three years, no spells or no episodes during those 34 months. The evidence and all

inferences even viewed in the light most favorable to Plaintiff does not support a finding of proximate cause between anything Dr. Trant did or didn't do and Taylor's ultimate death almost three years later.

MR. POWELL: And, Your Honor ---

THE COURT: I think there's sufficient evidence in the record that it is proximate cause. I mean, I understand that the time delay, but based on the testimony and the fact that she didn't participate in sports, there's at least testimony if the jury believes it that she could've had this condition since she was five years old or older, and that the proper tests possibly could've picked up on it and saved her life. So, I respectfully deny that motion.

MR. MCLEAN: Yes, sir, understood.

We also -- you plead multiple occurrences, is that still an issue?

MR. POWELL: Yes.

MR. MCLEAN: Okay. We would move for a directed verdict, also, Your Honor, that the Court ruled as a matter of law at the present -- at the conclusion of Plaintiff's case that there was only one occurrence. That has been raised in the complaint in Paragraph 40. They allege there were multiple occurrences, as that term is defined under the Tort Claims Act, which is incorporated by the Charitable Immunity Act. We all know that's a topic that, in my view, is still unsettled

in South Carolina exactly what that definition means. And it's not clear if, from the caselaw, if the termination of what is an occurrence is to be viewed from the standpoint of the number of negligent acts or the number of losses. But it doesn't matter in this case, because whether you view it, the definition of occurrence, whether or not to evaluate that from the standpoint of the number of negligent acts or the number of losses, there was only one either way. There was one visit with Dr. Trant, and there was one loss, that being the tragic death of Taylor. So, Your Honor, insofar as the number of occurrences, we move for a directed verdict that there has only been evidence to support one occurrence, whether that be an act of negligence or a loss.

THE COURT: Okay.

MR. POWELL: Your Honor, the definition of occurrence is an unfolding sequence of events which proximately flow from a single act of negligence. Everyone recognized the issues of that, but whether or not you can have more than one occurrence with one loss or one harm is not unsettled; it's not unclear. It could not be more clear. And I'm sure Your Honor is familiar with the *Boyter* case. There was one injury. A couple got injured when they went through -- a red light burned out.

THE COURT: Well, that second occurrence was that they reported the red light out and the Highway Department didn't

fix it.

MR. POWELL: Correct. And in this case ---

THE COURT: So, you had an occurrence, they didn't fix the red light, and still didn't fix it a week later when they rolled through it with the motorcycle and it killed the people.

MR. POWELL: Exactly. And I don't have that case in front of me, but some of the logic there was it's the causal connection. If there is a unfolding sequence of events to a negligent act, which causally flows to an injury, that can be an occurrence. You can have multiple occurrences and one harm. And there is evidence in the record -- the testimony from Dr. Trant could not have been more clear in his expert opinion -- I'm sorry -- Dr. Chang in his expert opinion, there were two deviations from the standard of care, failing to stop exercise and/or cleared for sports. Absent that in his expert opinion, Taylor Price's death does not happen. So, that is a proximate -- a sequence of events that flows, and ---

THE COURT: I didn't mean to cut you off. Your position is one occurrence when he didn't order those tests?

MR. POWELL: Yes, sir.

THE COURT: And the second occurrence is when he signed a sheet she could participate?

MR. POWELL: Yes, sir. That's exactly our position, Your Honor. And our position would be there's expert testimony in

the record, and going back to the same arguments we've already made and don't need to remake ---

THE COURT: Okay.

MR. POWELL: --- that the weight is for the jury, and when they are properly charged on the law by Your Honor.

THE COURT: Okay.

MR. MCLEAN: Again, Plaintiff's argument is focused on the number of acts, alleged acts of negligence by Dr. Trant. I'm not sure that's the -- one day we'll all know when the Supreme Court tells us ---

THE COURT: I don't think so.

MR. MCLEAN: But the way the statute reads, it is -- an occurrence is an unfolding sequence of events arising from a single act of negligence. Here there were -- the releasing -- I'm sorry -- releasing her to play sports and not ordering the additional tests were so closely related that they didn't unfold into one another. It was the same -- for sake of argument, the same misjudgment, if you will, would be the plaintiff's argument. Dr. Trant made that error of judgment, but one did not unfold into the other. We just think there was one occurrence, one appointment, one loss. And we ask for a ruling on that as a matter of law.

THE COURT: Okay.

THE COURT: And I cut you off. You want me to tell me something else?

MR. POWELL: No, sir. If you need to hear from me, I'll be happy to speak; but if you don't need to hear from me, I'll sit down.

THE COURT: I need to think about it.

MR. POWELL: Yes, sir.

THE COURT: I mean, I try to figure out what the Supreme Court means sometimes. I had a situation not long ago where another judge interpreted it completely different than I would have. And whether -- I mean, normally, this one visit is one occurrence. The other issue about not ordering the tests that your expert said he should've ordered was negligent. And then letting her return to sports by signing that sheet and not following at least the guidelines in that Fourth Edition that y'all went through in detail by letting her play sports without doing that, whether that was a separate act of negligence or not. I need to think about that.

MR. POWELL: Yes, sir. And very briefly if I may respond to that?

THE COURT: Sure.

MR. POWELL: The legal analysis and logic as to why those are two unfolding sequence of events, meaning two occurrences or could be two occurrences, let the jury determine that when charged on the law. Just because they happened at the same appointment, that's not the end of the analysis. If Dr. Trant, same individual, failed to order the tests on January

1st, and then three weeks later nothing happened in between, no other events, she comes back and says, hey, I can't go back to sports without a letter, he clears her on that day, it's a separate visit. It's still the exact same two negligent acts. Those would be two occurrences just in saying that the two negligent acts can happen in the same visit. Just as the same as under *Boyter*, two negligent acts, in that case, by two different state entities led to the same harm. And that would be our -- we'd rest on that, Your Honor.

MR. MCLEAN: Taking the plaintiff's argument to its logical conclusion, if a patient is in the hospital, could they argue that every time the doctor walks in the room and reads the chart that that's a separate occurrence?

THE COURT: I had a colleague rule exactly that a couple of weeks ago.

MR. MCLEAN: Well, if the school bus driver is driving down the road and is going too fast and crosses the center line and -- is that two occurrences -- and it hit someone, is that two occurrences? I don't think so.

THE COURT: I understand ---

MR. POWELL: That's pretty clearly a single unfolding of a sequence of events. Those are the arguments Mr. Lindemann tried to make to the Court of Appeals -- granted cert. The occurrence is there because the Tort Claims Act, you know, if you're in a normal hospital, five different nurses come in,

and all of them read your chart differently in a for-profit hospital, you can sue them all. You can sue the hospital under the Tort Claims Act. The government, under the same analysis, the charitable entity gets the benefit of -- charitable is a little different, but under the Tort Claims Act logic, you can't sue multiple nurses if multiple nurses failed to read that chart, and you know they might've missed something different, they might've missed the same thing, but each one is a distinct act that has a proximate -- there's not causal break between that act and the negligence just because somebody else did the same negligent act, you end up with the same negligent harm, that was the logic that we would go on, Your Honor.

THE COURT: Okay.

MR. MCLEAN: Your Honor, the undisputed fact is that Taylor was not participating -- she was not playing basketball under the clearance given to her.

MR. LESEMANN: I think that assumes too much to say that the school would've allowed her to play basketball during the ROTC classes. You know, they're assuming facts that are not in evidence to say that her basketball activity wasn't prompted by the improper signing of the release form. Even if it was for the parents in particular, right, that that signed -- so, whether or not it was -- a referee was there and they were keeping score, is entirely different because it doesn't

matter whether it was school sponsored. You have to think about the impact on that release to play -- that clearance to play sports. It doesn't just impact the school, it impacts the parents and the child as well. And they're two completely different things, because again one is a sports clearance that may or may not depend on testing, and the testing was something that Dr. Trant could've done, and they are two absolutely separate acts. He could've not ordered the tests and not cleared her to play sports.

MR. POWELL: And Dr. Trant testified it wasn't just cleared to play sports, that specific breach was also not saying cease all exercise, not just clear her return but instructing her you must -- you've got to refrain from exercise until we know what's going on here.

MR. LESEMANN: True.

MR. MCLEAN: Your Honor, the form Dr. Trant signed, which is in evidence, ended at the end of 2019. That's -- he only cleared her through the end of 2019.

MR. POWELL: That form doesn't say that.

MR. MCLEAN: Through June of 2019. It's in evidence.

THE COURT: I'd like to look at that.

MR. MCLEAN: I'd like to look at it, too, because I'm confused on the dates. But I think it expired before she passed.

THE COURT: Okay.

MR. POWELL: Your Honor, it's Tab 13 in your binder, and there's no expiration date, there's no time period. It's just dated the day he signed it and said she's cleared for sports, physical education, and cheer squad. And that's the four corners of that document.

THE COURT: It isn't -- my book is not like everybody else's. Let me look at my law clerk's. Y'all fixed hers but not mine. Can you show me where it terminates?

MR. MCLEAN: We're looking, Your Honor.

MR. POWELL: It's a one-page document.

THE COURT: What I have has no -- it has the date 1/24/19, and written in Taylor Price has been cleared for sports/physical education/cheer squad. Charles Trant, M.D. That's the only one that's been presented to me.

MR. MCLEAN: Yes, sir. I may've misspoken. We're looking.

MR. POWELL: And, Your Honor, I believe they may be conflating it with the physical forms that the parents signed. And the reason that Metri gave when she was on the stand, or Ms. Utley gave as to why she didn't check the certain boxes the following year, her testimony was because those events didn't happen that year. Whether the form had no expiration date, again, back to Dr. Chang's testimony, it's not just for the form clearing, it's the failure to say you've got to stop all exercise until we figure out what's causing these events,

because they all happen during exercise.

THE COURT: Okay.

MR. MCLEAN: It's 5 into evidence.

THE COURT: I'm sorry.

MR. POWELL: The sports physicals are in evidence, but Dr. Trant didn't have anything to do with those. Those were based on the mother's checkmarks and her signatures.

MR. MCLEAN: My point, I think, is 5 is medical clearances given by somebody other than Dr. Trant. So, that's what she was playing under.

MR. POWELL: Because it was based on her being cleared by Dr. Trant.

MR. MCLEAN: It was signed by a separate provider.

MR. POWELL: Your Honor, what this is clear of it this is an issue of fact. It's so uncertain between the parties when looking at multiple documents.

THE COURT: Yeah.

MR. MCLEAN: Your Honor, I would simply state and ask the Court, and we'll be glad to hand up Exhibit 5 which -- and 6, which show a series of authorizations to play sports dated after Dr. Trant's authorization to play sports. That's what she was participating -- those were the authorizations required by the school each year, and that's what she was participating under, those clearances, not the one -- when she passed, not the one given by Dr. Trant.

MR. POWELL: That'll be a question of fact for the jury.

MR. MCLEAN: Well, I think the Court can look at the exhibit that's in evidence.

MR. POWELL: Absolutely.

THE COURT: The one that I have was cleared by Kathy Thompkins.

MR. MCLEAN: Yes, sir.

THE COURT: Nurse practitioner.

MR. POWELL: And if you look to the very last page of Tab 5, and again, Ms. Thompkins was deposed. We've not put her up in this case, but Ms. Utley testified that because she checks no, she had to explain that yes answer, had an issue last year, over exertion and nearly passing out. EKG was done, and nothing was found, cleared to return to sports. Issues were result of dehydration. And Ms. Utley testified that the reason she did not check those boxes the following year, that was Ms. Utley's decision because Taylor had not had events during the year prior to that, because Ms. Utley testified that she didn't check the boxes because after being cleared by Dr. Trant, which was explained on Tab 5, and the only reason that Taylor was cleared to play for the school was that there were no events during that calendar year, and that's the reason Ms. Utley, the mother, did not check yes on the PPD form that she filled out. And again, Dr. Chang testified it's not just the signing of that form, which that form that Dr.

Trant signed has no expiration date, and there's no evidence in the record that it ever expired. The breach was additionally failing to tell this patient to cease exercising, and there was no expiration date on that. Dr. Chang didn't say you got to cease exercising for a year and then you're good.

MR. LESEMANN: And I just wanted to add real quick, too, the one pediatric cardiologist that Taylor saw was obviously Dr. Trant. So, these other forms that may've been served by nurse practitioners and things like that, those are not defendants in the case. And you heard the testimony from both Mr. Hunt and Ms. Utley that that release from Dr. Trant, the one time they ever saw a pediatric cardiologist is the one who they were relying upon. So, we're here -- the school is not the plaintiff. Ms. Utley is the plaintiff, right? And so, the impact of that form on her from the one time they saw a pediatric cardiologist, the one that they saw, that's the release that we're talking about. The undated release that's in evidence. And there's testimony on which the jury could determine the impact of that. And the impact of that was that they didn't see the need to seek further care. And that they believed that it was okay for her to participate in these activities, because the expert had told them that it was okay. So, there's evidence again -- there's plenty of jury arguments that can be made, and that, well, hey, Nurse Thompkins signed

one, too. So, maybe Dr. Trant is not on an island. They can make those arguments, certainly, but the idea that there's not an inference or a suggestion of evidence to support that as an occurrence, that undated return to sports that was not done in accordance with the basic standard of care, there's evidence to support that, and it's been presented. It's in the record and it's been corroborated by the expert, and both of the fact witnesses.

THE COURT: Okay.

MR. MCLEAN: I think we've argued the occurrence issue.

THE COURT: And that goes to the two occurrences based on the return to sports and the failure to run the tests. So, I'll -- let me think about that as well. This occurrence situation is all over the board. Every time I think I understand it, the Supreme Court comes out with a different opinion.

MR. MCLEAN: Well, the *Boyter* case, Your Honor, involved without separate entities that committed -- one didn't follow the re-lamping policies, and the other didn't send a trooper to direct traffic. That's just completely different.

MR. POWELL: The *Wood v. South Carolina* -- or *Horry County School District* case, which Mr. McLean was the trial attorney on or was one of for the Horry County School District. Judge Seals charged, there was a verdict form, there were issues over that. The jury found two out of three

occurrences. The Court of Appeals upheld it. The Supreme Court said we improperly granted cert on that, and whether or not it was in the Trial Judge's discretion to not let them pay the judgment and the Court to stop interest, that it can -- you can have multiple occurrences, which the Supreme Court by saying it improperly denied cert can be from one entity. And that was one football game.

THE COURT: But the motorcycle wreck, it was still both the highway department ---

MR. POWELL: One was highway -- one was DPS, one was DOT, so it was two state entities, because it was the Highway Department and Department of Transportation.

THE COURT: They split them out ---

MR. POWELL: Yes, sir.

MR. MCLEAN: And I would respectfully submit that the Court of Appeals didn't answer the question that was presented to it in the *Wood* case.

THE COURT: Okay.

MR. MCLEAN: Are y'all still proceeding under the noneconomic damages?

MR. POWELL: Y'all said in your answer that those do not apply -- the noneconomic damages statute does not apply. This case is governed solely by the charitable immunity statute.

MR. MCLEAN: You agree with that?

MR. POWELL: Yes. So, there's not a noneconomic damages

cap, just the charitable cap.

MR. MCLEAN: So, I don't need to argue one loss under the noneconomic. It's pled in the complaint

MR. POWELL: Well, we pled it in the complaint, but in your answer you stated the Noneconomic Damages Act does not apply.

MR. MCLEAN: Okay. But -- and so, you agree with that? Just because we state it ---

MR. POWELL: Correct. Which means the Noneconomic Damages Act don't apply. We agree with your position.

MR. MCLEAN: Okay. Our final motion -- and this may be premature, Your Honor -- is directed verdict on the issue of punitive damages as to -- well, you can't punitive damages against MPA II, and we contend that they cannot recover punitive damages -- by the terms of the statute, you cannot get -- you can only get actual damages against MPA II. We contend by the terms of the statute they cannot recover punitive damages against Dr. Trant. The immunity under the Charitable Immunity Act, 15-78-30(g) -- let me find it -- adopts in its entirety the Tort Claims Act.

MR. POWELL: No, sir. That's an incorrect representation of the law. There is no adoption in the charitable statute adopting in its entirety the Tort Claims Act. That simply does not exist.

MR. MCLEAN: If I may just put my position on the record.

THE COURT: Yes.

MR. MCLEAN: We contend that it does, that the Charitable Immunity Act does incorporate the Tort Claims Act in its entirety. It cites Tort Claims Act, Chapter 78 of Title 15 as a limitation on damages. That would include the limitation on punitive damages as well. You know, moreover, since -- not only does the Tort Claims Act bar punitive damages, and by extension the Charitable Immunity Act bars punitive damages, there's no -- even viewing the evidence in the light most favorable to the plaintiff, there's no evidence of any malicious or willful or intentional conduct on the part of Dr. Trant that would support any award of punitive damages. At most, as we argued earlier, it was inadvertence. So, we would move for a directed verdict on the issue of punitive damages.

Thank you for letting me put that on the record.

THE COURT: Yes.

MR. POWELL: And we agree with them that the Charitable Act bars in entirety punitive damages against MPA II. It only allows for actual damages against MPA II as a charitable entity per occurrence. We disagree as to whether or not punitive damages are recoverable against Dr. Trant, but we would also, for now, we'll make our position clear, but it's not ripe today. We would bifurcate the issue of punitive damages as is the right under the statute. So, no evidence or issues of punitive damages have even been put forth yet. So,

it wouldn't be proper to grant a directed verdict motion at this point. But I can print these out shortly, but there are -- the only places in the entire statute, charitable immunity statute with the words Tort Claims Act, the phrase Chapter 78, or Title 15, or 78-15 is where it incorporates the cap on damages as it relates to MPA II. That statute then goes down and says this statute is a complete bar against a judgment against the individual unless the jury finds that they acted in a willful -- a reckless, willful, or grossly negligent manner. And if in that case they must be joined as a proper party. So, you can't sue just MPA II and claim gross negligence. You have to join them as a proper party, make your case, the jury has to make that finding, and then that says it's a complete bar against judgment against them. It doesn't say it's a complete bar against a judgment and then somehow reference the Tort Claims Act. It doesn't say it's a complete bar to a judgment against them for only actual damages. It just says unless. So, without any language, the statute is a pretty clear plain reading of the statute. There is no bar. Should the jury get there in a bifurcated second phase and award it, that is allowable. But again, we would make the position it's not ripe at this point, because the case has been bifurcated, and we haven't put in any evidence as to punitives.

THE COURT: So, when -- when did y'all bifurcate the

case?

MR. POWELL: Mr. Aiken made that motion before -- we were originally gonna try this in front of Judge DeBerry.

THE COURT: So, that isn't coming in front me?

MR. POWELL: He asked me if they needed to remake it, and I said no. We can stipulate to that. You made the motion; you don't need to remake it. There's no difference of opinion that they have moved to bifurcate, and the issue of punitive damages has been bifurcated, unless Mr. Aiken tells me different.

MR. AIKEN: And I agree. The motions -- the motion is on file in the clerk's office.

THE COURT: Okay. So ---

MR. POWELL: And there's a slight distinction because as to recovering a judgment of actual damages against Dr. Trant, we have to show reckless, willful, or grossly negligent conduct under a preponderance of the evidence. In the bifurcated stage, if we get there, to be awarded punitive damages, you have to show -- you have clear and convincing; it is a higher burden. So, it is a completely different analysis than any evidence that's been put in so far, Your Honor.

THE COURT: So, in light of that, are y'all planning on, if we get a verdict, that we're gonna bifurcate this and continue with -- like we're not gonna finish it this week?

MR. POWELL: To be determined, Your Honor. It all

depends on what the verdict is.

THE COURT: Okay.

MR. POWELL: Obviously, if it's a defense verdict, then no, we're not gonna ---

THE COURT: I understand.

MR. POWELL: But, no, Your Honor, we have not made that decision yet, and we have to get approval from our client before making any decision on that.

THE COURT: Okay. All right.

MR. MCLEAN: I agree that my motion may be premature on punitive damages. I simply wanted to make it so I wouldn't be faced with an argument later that somehow I waived it.

MR. POWELL: Understood.

THE COURT: Okay.

MR. MCLEAN: And also, the distinction that counsel made on the burden of proof for negligence and gross negligence, it's the same burden of proof, preponderance of the evidence. That's probably correct, but that shows how -- that further distinguishes negligence and gross negligence on the one hand from -- from reckless and willful on the other hand, which you have to prove by clear and convincing evidence. That's further evidence that -- excuse me -- the -- what we were talking about earlier with the definition of gross negligence as we will discuss later at the charge stage. But I simply wanted to point that out. If you have preponderance of the

evidence for negligence and preponderance of the evidence for gross negligence, they both have that trademark or that hallmark of inadvertence. You take it to the next level, you're at punitive damages stage, and it's that lack of inadvertence that has to be proven at that stage. Otherwise, for negligence and gross negligence, it's simple inadvertence.

MR. POWELL: Very brief response, Your Honor. What you have to prove willful, reckless, grossly negligent conduct is the same as to actual damages and punitive damages. The distinction is the burden you have to prove them by. Proving it by preponderance of the evidence means -- it just means the weight or how convinced the jury is. Proving it by a different higher standard clear and convincing, means the jury has to be a lot more convinced. But what you prove and the definition does not change between an actual damages and punitive damages stage.

THE COURT: Okay.

MR. MCLEAN: No further motions.

THE COURT: All right. I'll let y'all know.

MR. POWELL: Yes, sir.

THE COURT: I guess on the drive home tonight and in the morning on the drive back, my and my lawyer will pontificate on all that. I'll read it - she'll be reading all this stuff to me while we're driving.

Anything else we need to talk about?

MR. POWELL: Only if Your Honor -- I don't have the *Boyter* case. I could get it for you, but we do have hard copies of -- obviously, you're familiar with the *Bass* case and the *Tekayah Hamilton v. Regional Medical Center*.

THE COURT: Whatever you've got hard copies of.

MR. POWELL: I have them provided them copies.

THE COURT: It'll help her and just keep her from having to look it up.

MR. POWELL: Yes, sir. To the extent we have our proposed versions at this point, and we'll share them with opposing counsel, do you have any desire to consider or review proposed verdict forms and jury charge at this point, or would you like to wait till tomorrow morning?

THE COURT: Either way.

MR. POWELL: Okay. We can print copies of that out, one for you and one for opposing counsel.

MR. MCLEAN: We have not put together a proposed verdict for, Your Honor, but I can work on one tonight.

THE COURT: That's fine. We -- you know, sometimes, I get -- we get bogged down on that, and we end up spending more time trying to figure it out while the jury is sitting back there when we're doing it. So, the quicker we can resolve any -- and if y'all agree on it, it makes it a little quick, but if y'all have a total different opinion on the verdict form, then we need to hash it out.

MR. POWELL: Other than the language in the occurrences, the verdict form we would seek is the exact same one that was gonna be presented to Judge DeBerry or that Judge DeBerry was going to use in that case against MPA II, and I believe Dr. Mark Reynolds. But obviously, the language as to what the two occurrences are change.

THE COURT: Okay.

MR. POWELL: And I'm thinking in that that they were seeking survival, we are not seeking survival, just purely wrongful death.

MR. AIKEN: I've got a copy of the filed motion to bifurcate if Your Honor would like that.

THE COURT: I just didn't know anything about it.

MR. POWELL: There's no disagreement about it now.

THE COURT: If there's disagreement about it, that's what we're gonna do, that's fine. I was trying to figure out whether we were gonna spend the weekend.

All right. I'll see y'all in the morning.

RECESS - 4:03 P.M. - END OF DAY THREE

*******OFF THE RECORD******

NOVEMBER 7, 2024 - DAY FOUR

ON THE RECORD - 9:50 A.M.

(REPORTER'S NOTE: The following takes place outside the presence of the jury.)

BY THE COURT:

THE COURT: Okay. On the defense motion for directed verdict concerning Dr. Trant personally, I think there is sufficient evidence in this case that it becomes a jury question as to whether he was grossly negligent or not. The -- Dr. Chang testified in his professional opinion, that his examination was grossly inadequate. Therefore, I think that it puts an issue into fact that I've got evidence in this case on gross negligence. I think at that point it becomes a jury question. And so, I'm gonna respectfully deny your motion as far as directed verdict against Dr. Trant as far as gross negligence is concerned.

And the multiple occurrences, whether -- I think based on the caselaw of this state that if there's -- if there's any evidence of multiple occurrence it becomes a jury issue. It's a question of fact that the jury must determine. I think if the only evidence in this case was the visit that the victim had to his office, that that was one occurrence. But the fact that there's evidence in this record that he signed the athletic permission slip that she could return athletics, that there's at least evidence in this record that that may, if the jury so finds, is a separate occurrence. There was at least an argument that if he had not signed that -- the evidence in this record that her problems always came on as a result of her playing basketball or athletic exertion. And at least the argument that if he wasn't sure whether he should've waited

and tested her further to determine whether she was fit to, you know, participate in sports. And the fact that this -- at least I think it becomes a jury question, and they've got to find as a matter of fact whether there was one occurrence or two occurrences. So, I respectfully deny that motion.

And as far as the punitive damages issues, we'll face that later when we get there. Okay?

Anything else y'all want me to consider or put on the record before we bring the jury in?

MR. POWELL: None from the plaintiff, Your Honor.

MR. MCLEAN: Excuse me. Our position was stated on the record yesterday. If I may just repeat a couple of points ---

THE COURT: Absolutely.

MR. MCLEAN: --- so that our position is crystal clear.

Again, we believe the evidence viewed in the light most favorable to the plaintiff shows that Dr. Trant's conduct did not rise to the level of gross negligence. Gross negligence is the intentional, conscious failure to do something which is incumbent upon one to do or doing of the thing intentionally that one ought not to do. Negligence is the failure to exercise due care. Gross negligence is the failure to exercise even slight care. Gross negligence connotes the failure to exercise a slight degree of care. It involves intentional conscious failure to do something one ought to do or the doing of something one ought not to do. A defendant is

guilty of gross negligence if he is so indifferent to the consequences of his conduct as to not give slight care to what he is doing.

There is simply no evidence of gross negligence on the part of Dr. Trant, and we believe the Court errs, respectfully, in relying on the testimony from the expert that there was gross inadvertence, that's the same thing as gross negligence. That's a question for the Court. The Court should not rely on the testimony of a witness, of an expert witness. And while it is ordinarily in most cases a question -- a mixed question of law and fact, in this case we believe it's clearly a question of law and that the Judge should rule that Dr. Trant is not grossly negligent. That's our position in a nutshell on that one.

On the occurrences, Your Honor, again, we contend that the definition of occurrence under the Tort Claims Act is a matter of statutory construction. That is not a question for the jury to decide. It is a matter for the Court to decide. And we believe, respectfully, that the Court errs in relying on the number of alleged acts of negligence, those being failure to order more tests and then signing a athletic participation letter. An occurrence is an event. Clearly -- I don't know what the definition means, but I know it means an event. It's very clear. At least I understand it up to that point. It actually says an unfolding sequence of events. An

occurrence is a event. It's not an act of negligence, and the *Boyter* case cautions against tying the number of occurrences to the number of acts of negligence. The event was Taylor's tragic death. That's the one event; that's the one occurrence. And so, we respectfully contend that the Court should grant that motion. I believe our -- otherwise our position was stated yesterday.

Thank you for allowing me to put that on the record.

THE COURT: Okay. And I think based on *Chastain v. Anmed Health Foundation*, in that case, my understanding that the Courts ruled that occurrence is generally considered as a jury question and it's up to the jury to decide that if there's any evidence presented at all that there's possibly more than one occurrence. So, I am allowing that -- and as far as gross negligence, y'all gave me the *Hamilton* case, which is from the Court of Appeals, it appears that to me that cert was denied, maybe the first of year, and it appears to be the law in this state dealing with factual issues of gross negligence becomes a factual issue to the jury. I think there's evidence in this record that I've got to submit those two questions to the jury. I understand your position. I think I've followed the law, but if I haven't, I'm sure I get corrected.

MR. MCLEAN: Thank you, Your Honor.

MR. POWELL: Nothing further from the plaintiff, Your Honor, other than just the cases cited by both parties, we

would defer that the cases speak for themselves, and we respect Your Honor's ruling.

THE COURT: Okay. Thank you.

Anything else we need to do before I bring the jury in?

MR. POWELL: Nothing from the plaintiff, Your Honor.

MR. MCLEAN: Nothing further from the defense.

THE COURT: Okay.

THE COURT: Bring me the jury, please, sir.

(REPORTER'S NOTE: Jury enters courtroom @ 9:59 a.m.)

THE COURT: Good morning, ladies and gentlemen.

Y'all have been a great jury. You've showed up on time. You've done exactly what I requested you to do, and I really appreciate that. I don't always have that in some other jurisdictions, but thank you.

Now, we're fixing to continue with the testimony in this case. If you will, pay close attention. Call the next witness.

MR. AIKEN: Thank you, Your Honor. We would call Dr. Claudius Shuler.

THE COURT: Okay.

DR. CLAUDIUS SHULER, HAVING BEEN SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION OF DR. CLAUDIUS SHULER BY MR. AIKEN:

Q: Good morning.

A: Good morning.

Q: Would you state your full name for this record, please.
A: My full name is Claudius Osborne Shuler, III.
Q: Doctor, there's a water bottle next to you to your left. You're welcome to use that at any time.
Doctor, tell us about yourself; who are you, where are you from, where were you born; where were you raised?
A: I'm from South Carolina. I was born in Spartanburg. I grew up mostly in Orangeburg. My education was undergraduate at University of South Carolina, and all my medical training was in Charleston at MUSC.
Q: Okay. Let me hand you, Doctor, a copy of your curriculum vitae. Please look that over and tell us if that's a complete copy of your resume?
A: Yes. This is my CV that I provided you with.
Q: Okay. Let's look at this a little bit, Doctor. Tell me when you were born?
A: I was born in 1962.
Q: How old does that make you today?
A: It makes me 62.
Q: Are you married?
A: I am married and have two children.
Q: Does your wife work outside of the home?
A: She does.
Q: What did she do?
A: She's a schoolteacher.

Q: Where did she teach school?
A: She teaches at Richland II School District. She teaches English as a second language to non-native speakers.
Q: Okay. I think you've got two children?
A: I do.
Q: Tell me their names and ages and what they do for work.
A: My daughter is Darby Schuler. She is a pediatric -- excuse me -- she is a radiology resident at MUSC in Charleston and lives in Charleston. She is 32. And my son is 30 today; it's his birthday. And he is a biomedical engineer in Columbia.
Q: What does that mean? Explain it.
A: It's engineering but dealing with the body in medical science.
Q: Tell me about your undergraduate work at USC. What years did you attend South Carolina? And feel free to look at that resume if you need it.
A: I might have to look at it. So, I was a chemistry major and spent -- I was a student at USC from 1980 to 1984.
Q: And how about your medical degree; where was that from?
A: From the Medical University of South Carolina. And that was -- when I finished my undergraduate degree, I went straight to medical school. And that was four years at MUSC.
Q: How about your pediatric internship and residency?
A: That's essentially a combined three years of training in

pediatrics, and that was immediately following medical school. So, that would have been '88 to '91.

Q: Okay. Did you do a fellowship?

A: I did a fellowship in Charleston in pediatric cardiology. So, in addition to my pediatric training, I then trained in pediatric cardiology.

Q: Tell me about the years of training to do your fellowship; when was that from and when did it end?

A: My fellowship began in '91 and finished in '94.

Q: What is your professional experience, Dr. Shuler?

A: When I left my fellowship, I went straight to the University of South Carolina Medical School in Columbia, and I've been there ever since. I've been there for just over 30 years now.

Q: Okay. Are you board certified?

A: I'm board certified in pediatric cardiology.

Q: How does your practice, Dr. Shuler -- in Columbia, right?

A: Yes, sir.

Q: How does it compare to Dr. Trant's practice before he retired?

A: He and I actually started practice at a similar time. He went to Florence when I went to -- around the time I went to Columbia. And he seen -- his daily activities are probably very similar to what I do on a day-to-day basis or were very similar to what I do on a day-to-day basis now.

Q: Tell us what you do on a day-to-day basis.
A: Probably 80 to 90 percent of my time is spent in my clinic seeing patients, anything from newborn babies to adults with congenital heart disease to teenagers with complaints.
Q: Do you know Dr. Trant?
A: I do.
Q: And how do you know him?
A: Just as colleagues practicing relatively close to each other. We've talked over the years, we shared patients who have moved from Florence to Columbia or Columbia to Florence, and I would see him at meetings and gatherings and things in the state.
Q: Are you social acquaintances with Dr. Trant?
A: I don't -- other than seeing him at meetings, I've never done anything socially with him, no.
Q: Never had dinner with he and his wife, Elaine?
A: Not that I remember.
Q: Okay. Were you involved in any community activities?
A: Yes.
Q: Please tell the jury about that.
A: I am active in my church. I do mission trips to El Salvador once a year. I've done that for 12 years in a row. I have been involved in the medical community in Columbia. I was president of the Columbia Medical Society for two years. And I'm fairly -- I'm involved in our pediatric department at

the School of Medicine in Columbia. I'm the vice chairman of the pediatric department there.

Q: How about your University activities? How about your University activities?

A: I have been on numerous committees with the University, specifically the Medical School Admissions Committee and different communities over the years.

Q: Have you published any literature over the years?

A: Most of -- most of my activities is not research-based. I have published. I don't even -- I'd have to look at my CV to tell you how many articles I have published. But mostly, it's been clinically relevant articles, no basic science research to speak of.

Q: Returning to your board certification, Dr. Shuler, what does that mean for a physician to be board certified?

A: That basically means they've gone through a training program and then they have passed a board exam to certify them to practice in that field, and then we have to maintain that board certification to keep that certification up. And most institutions, like hospitals, require you to be board certified to practice in that field.

Q: Okay. Doctor, does your CV or resume contain all of your publications over the years?

A: Yes.

MR. AIKEN: Your Honor, I would offer Dr. Shuler as a

pediatric cardiology expert witness?

MR. LESEMANN: No objection, Your Honor.

THE COURT: The Court so finds.

BY MR. AIKEN:

Q: Have you ever testified in court before, Dr. Shuler?

A: Not to my memory. I have -- I have reviewed cases in the past, but I don't think any of them ever went to court. I don't ever remember testifying.

Q: How often have you served as an expert witness, round figures?

A: I have reviewed cases; I guess that would be an expert witness?

Q: I guess; yes, sir.

A: Okay. So, probably twice in the past that I can remember.

Q: Okay. What do you charge for your expert work?

A: I have no idea. As a matter of fact, when you asked me to do this, I had to get our lawyer for the University to get a fee schedule, because I have no idea what a charge.

Q: Your fees go through or are published by the University, or controlled by the University?

A: Controlled by the School of Medicine; yes sir.

Q: Do you remember approximately, Dr. Shuler, when you were first contacted on this case?

A: I want to say it was around April, but I'm not certain of

that.
Q: Let me hand you, Doctor, a letter that I sent you April 23 of 2024.
A: Yes.
Q: Do you remember receiving that letter?
A: I do.
Q: And by the way, have we ever worked with each other before?
A: Not that I remember.
Q: Me neither. If you would, publish to the jury what documents you received with this letter.
A: Do you want me to read the list of documents?
Q: Please.
A: Summons and ---
Q: One at a time. Slowly, so we understand.
A: First, was a summons and complaint; then a death certificate for Taylor Price; a forensic autopsy report; a ECG that was performed on her; records from McLeod Pediatric Subspecialties, Dr. Trant; records from Florence MUSC emergency room on two different dates; records from Marion MUSC emergency room; records from the pediatrician's office at Pee Dee Pediatrics; a transcript of the deposition testimony of Taylor's mother along with four deposition exhibits; transcripts of the deposition testimony of Emerson Hunt; transcripts of the deposition testimony of Major Donald

Prograis.
Q: I think it's Prograis.
A: Deposition transcripts of Anthony Chang; and deposition transcripts of Dr. Trant.
Q: Okay. And you referenced a visit to the emergency department at MUSC on January 24th, 2018?
A: Yes.
Q: I'm going to hand you another document. This is a list of exhibits in this case, and I'm going to refer to tab numbers. And I'm going to ask you a question before we talk about that. Look at Tab 2.
A: Okay.
Q: Doctor, when you see new pediatric patients, what are some of the common symptoms these patients tell you who have participated in sports?
A: I see a lot of patients who have shortness of breath, chest pain, heart palpitations, dizziness, fainting; those would be common things sports related. A lot of my sports related patients actually just have murmurs that have been heard by a physician, not necessarily a symptom, but a sign.
Q: Do you often find patients with actual heart disease?
A: It is fairly uncommon. Most of those patients don't have any significant heart disease.
Q: What is ARVD, Dr. Shuler?
A: ARVD is a type of cardiomyopathy; it's arrhythmogenic

right ventricular dysplasia, or cardiomyopathy, depending on how it's termed.

Q: What does cardiomyopathy mean?

A: It means a abnormality of the heart myocardium, which is muscle of the heart.

Q: Tell us about the disease, what the symptoms are, and how it might progress.

A: It is a condition that often is genetic or inherited. From my knowledge of ARVD, about half the cases probably have identifiable genetic causes; in the other half there is no genetic identifiable cause. It is a progressive condition. We don't deal with it much in little children. The only patients I've ever dealt with the suspicion of it or with family history of it have been older children or teenagers or young adults.

Q: Have you ever personally diagnosed a child with ARVD?

A: I have diagnosed a sibling of a patient who died from ARVD with that condition, but it was known that there was already a family history of that condition.

Q: If you have a patient with known ARVD, what would your recommendations be to the patient's family?

A: If there is a new diagnosis of ARVD, I generally would restrict them from sports. I would do testing on them, serial testing, and watch closely and warn them about symptoms that potentially could be associated with that condition.

Q: Would you recommend any genetic testing to any family members?
A: Yes.
Q: Who would those be?
A: Generally, if I see a -- if I were -- again, I've never seen a new diagnosis of ARVD without the family history already existing, but generally my practice is, if I identify someone with that condition, I will test that patient genetically. And then, if they are positive for the gene, I will test both parents for that gene, and then based on their results I would have their children tested.
Q: Okay. Let's look then at Tab 2, Doctor, that's the emergency room visit January 24, 2018. Have you seen that before?
A: Yes, I have. Would you please just tell us how you analyze that document? Or maybe tell us what the chief complaints were, what the mom said, and that kind of thing.
Q: Okay. It was an ER visit. Chief complaint, at a basketball game, and mom states she fell to the ground saying she couldn't breathe and that her arm and face were tingling. This, I believe, was, from my assessment of the case, is the first symptoms that the patient had that then eventually led to the referral to Dr. Trant.
Q: Okay. What is syncope and what is near syncope?
A: So, syncope is essentially fainting, losing

consciousness; and near syncope is -- I don't really like that term very much because you don't know if they're gonna have syncope until they actually have syncope -- so, I usually equate that to dizziness, lightheadedness. In patients who have had a history of fainting, maybe they feel like they're going to faint again, but don't faint.

Q: Do you see any evidence of syncope in that record?

A: In looking at this now and in my memory of having reviewed this, I do not remember there being a mention of complete loss of consciousness, no, and that would be syncope is a complete loss of consciousness.

Q: What was the diagnosis of Dr. Halus from that visit?

A: It says hyperventilation syndrome.

Q: What is that?

A: Hyperventilation is essentially when you are breathing more than your body needs you to be breathing for the activity that you are currently doing. So, it is over breathing.

Q: When Dr. Trant saw Taylor about a year later, January 24 of 2019, he recommended breathing in a paper bag. Do you ever do that?

A: I have recommended that, yes.

Q: Could you tell me about the mechanics of that? Why does that help?

A: So, when you breathe more than you need to be breathing for the activity that you're doing, you expel too much carbon

dioxide when you exhale. And that can dilate your blood vessels, make you dizzy and lightheaded, and can actually lead to fainting. If you breathe in a paper bag, the carbon dioxide you breathe out you then breathe back in, so it raises the CO2 or the carbon dioxide level in your bloodstream and can prevent or abort an episode of dizziness and fainting.

Q: So, does that actually help the patient often with someone with hyperventilation syndrome?

A: It can, yes.

Q: Do you have any disagreement, after looking at that record, with Dr. Halus's recommendation?

A: No. I think that was a reasonable assessment of what was going on.

Q: Is there any evidence in that record in January 24 of Taylor having ARVD?

A: No, I do not think so.

Q: Okay. Excuse me, Doctor.

Please turn to Tab 3 if you would, Doctor.

If you can, Doctor, look at Exhibit 3.

A: This?

Q: And that's the Pee Dee Pediatrics' record. See if you can find a visit with Dr. Bahan -- Taylor in Dr. Bahan's office on February 1 of 2018.

A: Okay. It's Page 9 of 100.

Q: Tell us what Taylor saw Dr. Bahan for on February 1 of

2018.
A: The chief complaint was stomachache, vomiting, and then it was passing out, blurred vision, thirsty, sweating.
Q: Did you see any medical record of actual passing out by Taylor Price?
A: In my memory of when I reviewed this -- well, there is a history of present illness, which is a further description of the chief complaint. And it says the patient with symptoms of syncope times two after basketball practice.
Q: Have you seen any evidence in the medical record that you reviewed up until that date, February 1 of syncope times two?
A: I did not.
Q: Did you read Ms. Utley's deposition when she testified about syncope?
A: The deposition before the trial?
Q: Yes, sir.
A: Yes.
Q: What do you remember about Ms. Utley saying about the true -- or loss of consciousness?
A: My memory of reviewing that was that she did not completely loss consciousness according to her mother, but -- what I remember.
Q: Now, let's move forward about 10 months to December 12, 2018. And that's in Tab 4.
A: Okay.

Q: Analyze that record, please, for the jury.
A: So, that is a record from MUSC Florence ER, it looks like. And it was a chief complaint of chest pain or CP, which I assume is chest pain, and SOB, which is shortness of breath while playing basketball.
Q: Is it uncommon for you to see one of your patients with chest pain?
A: No, it is very common.
Q: What's the difference between chest pain and chest wall pain?
A: Chest wall pain is subset of chest pain. It is -- it is leading more to a diagnosis or a cause of the chest discomfort, whereas chest pain in general is just a complaint.
Q: Do you see anything in that Exhibit, Tab 3, that causes you any concern for Taylor?
A: No. It is very typical for the complaints that I see in healthy kids that I evaluate with similar complaints.
Q: Okay. Now, an EKG was ordered that day. Is that also in that record?
A: Yes, it is.
Q: Tell us first, what is an EKG?
A: So, EKG is an electrical tracing of -- is a tracing of the electrical activity of the heart.
Q: Okay. When we talk about V1, V2, and V3 waves, what does that mean?

A: So, there are multiple stickers on your chest with wires connected to them, so there are multiple leads or electrodes connected to your chest or limbs that give different views of the cardiac electrical activity.
Q: If we ask you to look at V1, is that inverted, flat, or upright?
A: I hesitate because the way I think of EKGs are they -- is the finding a normal or appropriate finding for this particular patient, or is it abnormal. If you're describing inverted as being up or down, her QRS and her T wave are both down.
Q: So, that would be downward or flipped or inverted?
A: Yes. Some people describe it that way. I don't use that terminology because it implies that it's flipped from the normal.
Q: Okay.
A: Whereas, at this age, it is normal. So, it's not flipped; it's appropriate.
Q: Okay. Is that EKG normal for a 13-year-old child?
A: It is.
Q: Yet, any -- are there any abnormalities on that EKG?
A: Not in my interpretation. It was interpreted by someone in the emergency room as having something that is abbreviated IRBBB, which is an incomplete right bundle branch block. It is a benign finding, but I would not have interpreted as

having that on this, but -- it is a benign finding anyway, but I would not have interpreted the EKG as having that. I would've just said it was normal.
Q: Okay. Now the EKG is interpreted by a computer, right?
A: Initially, it is. I mean, the findings are initially placed by the computer, and then whoever reads it should correct those findings if they don't agree with them.
Q: Okay. Does an EKG take into consideration the age of the person undergoing the EKG?
A: It should. The computer packages that are on most EKG machines now read them based on the patient's age and sex, but there's very little difference between male and female.
Q: Was that -- was that same course of action happening in 2019 or 2018?
A: Yes. We've been doing that for decades.
Q: Okay. Does that EKG -- would an EKG show any sign of ARVD?
A: It can.
Q: What would be those common findings you would expect on an EKG where a patient might have ARVD?
A: There can be something called an epsilon wave that you can see.
Q: What is that?
A: It is an extra deflection in the EKG that you can see with -- associated with ARVD. And my knowledge of ARVD is it

usually occurs much later in the disease process, and it would only -- it would only show up when you had significant amount of disease.

Q: Does that EKG show an epsilon wave?

A: It does not.

Q: Do you recall what Dr. Chang said about that EKG when he was deposed some months ago, not at trial but when he gave a deposition?

A: I don't remember exactly. I think he had differing opinions about it, but I don't remember specifically what his opinion was.

Q: If he said that all -- T1, T2, or T3 were all inverted or down, would that be accurate?

A: V1, I think -- I think he meant V1, V2, and V3.

Q: I'm sorry. Okay.

A: If he said they were inverted?

Q: Right, pointing down.

A: They are downward.

Q: Which one is down?

A: Downward is V1 and ---

Q: What is V2?

A: This is not a great ---

Q: I've got a blowup if this will help you?

A: It depends if it's a blowup of the same terrible tracing. That's better.

Q: Is that better?
A: It is relatively flat. It's not down or up.
Q: Okay.
A: And then V3 is upward.
Q: Okay. Is that completely normal for a 13-year-old child?
A: Yes.
Q: If we say the V wave is isoelectric, what does that mean?
A: That's what V2 is when it's flat.
Q: Okay.
A: Yes, sir.
Q: Would you have taken any course of action other than what was done in the ER on January 24 if you saw this EKG?
A: No. I think what they did was appropriate for the complaint and for the EKG findings.
Q: Let's now look at Dr. Trant's visit on January 24. I'll find the tab for that. Tab 12. Take a minute and look at that if you would, Doctor?
A: Yes. I remember reviewing this.
Q: You've looked at that before?
A: Yes.
Q: Have you spoken to Dr. Trant about this case?
A: I have not. Well, to qualify, we were in a room together 30 minutes ago, and there was discussion about this case. That's the first time I've ---
Q: Okay. Not before then?

A: Not before then.
Q: Do you know Dr. Nicole Cain?
A: Yes.
Q: And is she in the courtroom?
A: Yes.
Q: How do you know her?
A: She is a cardiologist at MUSC and a specialist in electro physiology or the conductive system of the heart, and she and I have shared patients for the past however long she's been in Charleston, because I've been here longer -- I've been in Columbia longer than she's been in Charleston, so 20 years.
Q: Why don't you read the history of present illness?
A: The paragraph?
Q: Yes, sir.
A: Thank you for referring your patient for evaluation of shortness of breath and near syncope. Lately, she has had no difficulty with basketball practice including doing suicides, but at the last baseball game she became short of breath and felt unsteady. She also felt hot as if she was going to faint. Spell lasted for a few minutes, then she recovered. Otherwise, she reported no other issues of concerns. Family history is negligence for congenital heart disease.
Q: How do those symptoms that Taylor demonstrated January 24, 2019, compare to patients that you typically see?
A: How does the complaint compare?

Q: Yes, sir.
A: That description?
Q: Symptoms or complaints?
A: I see this all the time. I see it -- I see patients every day of the week. And on average, I probably see two patients a day with similar symptoms. So, I see 100, 200 patients a year with similar symptoms like this.
Q: Roughly, what percentage of those patients with those similar complaints have heart disease?
A: Less than one percent.
Q: When a patient reports to you with shortness of breath, is that cardiac or lung issues? What does that generally mean?
A: Honestly, probably 95 percent of them are poor conditioning. The other five percent are probably exercise-related asthma. It is very unusual to have a cardiac disease -- for me to discovery cardiac disease with someone with shortness of breath.
Q: Up until that visit with Dr. Trant, did you see any medical records that Taylor actually experienced loss of consciousness during or after sports?
A: I did not.
Q: Dr. Trant also listed a -- had a sports physical clearance. Do you issue those? I believe a few pages over, Page 4, maybe.

A: It's not in that same tab. Is it a different tab?
Q: Okay. I'll find it. Do you sign sports physicals?
A: I found it. It's Tab 13, or Tab 13. I don't -- well, can I explain?
Q: Yes, sir.
A: I don't do sports physicals. Sports physicals are done usually by a primary care physician. If there is some concern by the primary care physician who does the sports physical, and they require cardiac clearance, secondary clearance, then I'll do that and provide them cardiac clearance. Sometimes, that occurs much after the original sports clearance is done, because of symptoms. If they have a symptom like shortness of breath of chest pain, they'll come in during their year of sports clearance by the primary care physician, and I will clear them from a cardiovascular standpoint and say they can return back to their physical activity.
Q: When you sign off on a cardiac clearance, how long is that clearance good for? Is it indefinite or does it have a timeframe?
A: I have to say on mine, I do not give a timeframe.
Q: Okay.
A: Generally what would occur or what I expect to occur is it would clear them until they have their next sports clearance by their primary care physician. If the primary care physician feels there is new symptoms that would warrant

a repeat evaluation by me, I would expect them to come back to me. If they have had no further symptoms, no further problems, I would expect the primary care physician to clear them for the next year. They do not need a repeat cardiac clearance every year.

Q: Okay. Tell us what Dr. Trant's physical evaluation consisted of.

A: What the physical exam consisted of?

Q: Yes. Tell us about the physical exam that Dr. Trant did. Just kind of run though his entire activity.

A: He examined -- according to his examination records, he did general eyes, mouth, neck, lungs, relatively brief, which I would expect to be relatively brief when you're seeing a cardiologist. His cardiovascular section is somewhat longer. He describes the precordium, the oscillation of the heart being normal, the heart sounds being normal, and there being no murmur. He examined her pulses, which we typically do to look for changes in the pulses from the upper and lower extremities, and then cursory exam of the remainder of her body, which is all very typical for a cardiac evaluation.

Q: And to your knowledge, did Dr. Trant have the EKG at his office in hand when he saw Taylor January 24th?

A: I do not remember that being referenced in his note.

Q: Did you read his testimony from his deposition?

A: I did. And from my memory, he stated that he did see the

EKG.

Q: Okay. Did Dr. Trant take a family history from Taylor?

A: He took a family history, lists his mother, father, brother and two sisters as being the family that he got history about. And then he stated -- there are abbreviations but I'll read it out -- no family history of congenital heart disease, heart attack less than 40, high cholesterol, or syncope.

Q: Was there any family history of ARVD?

A: There was not.

Q: Are you aware of any family history with ARVD involving Taylor's family?

A: I am not.

Q: And what were Dr. Trant's recommendations?

A: Do you -- I don't know -- he doesn't have specific recommendations. He has assessment and treatment, so I'll go over that.

Q: That's fine. That's fine.

A: So, his assessment was hyperventilation syndrome, number one; number two, hyperventilation; and then number three vagal reaction.

Q: What's a vagal reaction?

A: So, the -- the vagal nerve is a nerve in the body that's part of the autonomic nervous system. And it regulates blood pressure, heart rate, vasal -- vascular tone, lots of

different things. And generally in cardiology, we refer to a vagal reaction as a change in the blood pressure, heart rate, or heart rhythm based on the autonomic nervous system. So, there's 50 different terms for this general type of complaint and vagal reaction is one of them.

Q: Okay. When you see a new patient, Doctor, how long do you generally spend with that patient in your office?

A: They're usually in my office a half hour to 45 minutes.

Q: Do you also have shorter timeframes?

A: I do. I've had -- I have patients who have a simple complaint or simple finding that are only in my office for 20 minutes, but usually at least that long.

Q: Can your appointment be as little as five minutes?

A: If it's a return patient for, say, just a simple blood pressure check, yes, it can.

Q: And, Doctor, looking at that not from Dr. Trant, and looking at Taylor's symptoms, Dr. Trant did not order further testing. What is your reaction to that? Was that a deviation from standard of care of Dr. Trant?

A: No. It was not.

Q: Would you have done anything differently from that examination?

A: I do ultrasounds or echocardiograms on some of my patients who have similar symptoms. I generally will reserve that for the patients who have syncope, who have complete loss

of consciousness. But it is possible that I may have done an echocardiogram on this patient.

Q: Was it a deviation from standard of care for Dr. Trant not to order an echocardiogram?

A: It was not. There are publications, and I can't quote you the year or the journal, but there are recommendations of indications for ultrasound, and these type symptoms are not necessarily a recommendation for echocardiogram. That's generally observed by most of our societies.

Q: Was there any evidence in that examination of ARVD?

A: No, there was not.

Q: Okay. If hypothetically, an echocardiogram had been done, would that more likely than not show ARVD?

A: ARVD is notoriously difficult diagnose with an echocardiogram, especially if you're in the early stages of the disease, which someone of this age would likely be in the early stage of the disease. I have never seen it on an echocardiogram. But it is -- if you're trying to diagnose that condition, a cardiac MRI is typically the preferred diagnostic study of choice.

Q: Let me ask you again, did Dr. Trant deviate from accepted standards of medical care by not ordering any further testing of Taylor on January 24th?

A: No, we did not.

Q: Are -- have you seen any medical record that as of

January 24, 2019, Taylor had experienced loss of consciousness?

A: No. Everything I've read discussed some weakness, some tingling, shortness of breath, chest discomfort, but I've never -- I never saw documentation that she or her family members said she had completely lost consciousness. There are multiple places in the record that say syncope, which is loss of consciousness, but it is very common for that to be written down on a chart on a patient with near syncope. I get referrals all the time for patients with syncope who just are dizzy, and it says syncope as their chief complaint, and it is not. So, I've see -- I saw some documentations of the word syncope but I never say any documentation that she or her family said that she completely lost consciousness.

Q: Okay. Are you familiar with a publication called PPE, preparticipation for sports clearance?

A: Yes.

Q: And who was that -- what audience is that document intended for? Is that for people like you, pediatric cardiologist or primary care?

A: It's intended for primary care. It's for -- because it covers all of the different body systems that would be affected by sports. And it's typically filled out by -- initially by the family, they fill out a questionnaire, and then it is filled out by the primary care physician, who is

clearing the patient. And it is published -- there's a standard one in South Carolina that is published by, I think, the high school association, and everyone uses a similar form of that document.

Q: Do you use that form?

A: I do not.

Q: What form do you use?

A: I use a clearance similar to what Dr. Trant gave her saying I've cleared you from a cardiovascular standpoint, because I don't check knees, I don't check elbows and shoulders. I just do hearts; that's what my clearance is for.

Q: Okay. Do you have any criticism of Dr. Trant by issuing his sports clearance after that visit or maybe during that visit?

A: No. It's -- it is very standard. And almost every -- I don't -- when I see a patient, I don't immediately offer it unless I know they're here for that reason. But generally, before they leave the family or the patient will ask me for a clearance so they can go back to playing sports.

Q: What workup do you do to determine if a patient has a true heart disease problem?

A: My workup would start reviewing all the records, ER records, whatever is available to me, EKGs, if one has been done. I'll review any lab work they've had done. I'll then do a -- take a history from the patient and the family,

perform a physical exam, and then order any further testing that I feel is indicated based on all the previous.

Q: Is testing required in that circumstance?

A: No.

Q: You use your judgment on what tests are appropriate and clinically indicated?

A: Yes. Generally, when we are in the process of evaluating a complaint or a sign or a symptom, we'll go through the process of reviewing, talking to the patient, and formulate our mind what we refer to as a differential diagnosis or a list of possible things that could cause that symptom. And we don't write that down, we just -- it's just something we do in our mind and how we think and how we've been trained based on what we think is the most likely cause of the symptom, we will then order further testing.

Q: So, a differential has to include probability?

A: Yes.

Q: Likelihood?

A: Yes.

Q: Doctor, if hypothetically we view Dr. Trant's visit, January 24, 2019, if we look at that as it occurrence, for the sake of argument

A: Yes.

Q: And then Taylor tragically died December 17, 2021, is there any connection in your opinion between those two

occurrences?
A: I think based on the records that I've looked at, I feel that her symptoms that he evaluated her for are likely related to common adolescent complaints. And her sudden death, I feel, based on her autopsy was secondary to arrhythmogenic right ventricular dysplasia.
Q: Okay.
A: I do not think that they are necessarily tied to each other. The most -- if you showed me no records past his -- his encounter with her, I would say he would have done exactly what I would've done with this patient. We don't have a silver -- we don't have crystal ball to know what's gonna happen two years after we see a patient. So, I did not see any problem with the workup that he did based on what he knew at the time.
Q: And you've looked at the autopsy?
A: I have.
Q: And I don't think you have any disagreement with the autopsy?
A: No.
Q: Okay. And returning to Dr. Cain, what is your relationship with Dr. Nicole Cain?
A: Colleague, and that's it.
Q: Do y'all share patients?
A: Oh, yes.

Q: And what does that mean that you share a patient with Dr. Cain?
A: If I have a patient who I diagnose with a cardiac condition that -- the most likely would be if I have a patient that has a cardiac condition that I feel needs a cardiac intervention by a specialist who does that type of intervention, I will send it to her. And if I have a very difficult case that I cannot seem to appropriately or quickly diagnose, I will get her opinion and help me to make diagnosis.
Q: What is your relationship, if any, with McLeod Regional Medical Center?
A: Currently, I read cardiac ultrasounds for their cardiologist who replaced Dr. Trant who -- after Dr. Trant retired he took that job. And when he goes on vacation, I will read -- he and my partners -- myself and my partners will read his echocardiograms when he's out of town.
Q: Okay. How do you get paid -- how does your practice get paid when you read echos from McLeod?
A: We bill McLeod, and they send up a check every quarter for our billings.
Q: Okay. Do you keep -- do you handle that?
A: No. I don't even know if we're collecting them, I just -- my billing office does that, so...
Q: Then you have privileges at McLeod, medical staff

privileges?
A: I do. I have to have privileges to read the echocardiograms. And I'm -- I'm not -- I think we have privileges there, and the only reason I say that is sometimes institutions will recognize the privileges of another institution, but I think technically, yes, I do currently have privileges there, but I did not when Dr. Trant was practicing there.
Q: Okay. Do you have privileges at any other hospitals in South Carolina other than your hospital?
A: Yes. I have privileges at Lexington Medical Center, and currently that would be only other one, because Prisma -- I work at Prisma in the midlands, and we have multiple hospitals that have privileges at but that's all in the Prisma system.
Q: Do you get paid directly from McLeod, or does that come to your department?
A: I -- it goes to my department, and I may or may not see any benefit from it.
Q: Do you have any administrative duties at Prisma?
A: Yes. I am the vice chair of pediatrics, so I have -- that's an administrative position overseeing the Department of Pediatrics.
Q: Doctor, you were identified as an expert witness for Dr. Trant on May 28th, 2024? You've seen this, I believe.
A: Yes.

Q: Okay. Would you read to the jury what that says, what you are expected to do at this trial?
A: Dr. Shuler is a board-certified pediatric cardiologist. He is expected to testify that Dr. Trant complied with all the appropriate standards of care in his evaluation and treatment of Taylor Price. He reserves the right to testify regarding any matters within his knowledge, training, or experience. Dr. Shuler has not produced a written report.
Q: Is that still accurate?
A: Yes.

MR. AIKEN: Your Honor, I would like to offer into evidence Dr. Shuler's CV, resume, if I may, as well as his expert designation.

MR. LESEMANN: Your Honor, we don't believe that those documents are typically -- are relevant, you know, in terms of the evidence in the case. I think that he's been able to talk to the jury about his qualifications, so they've received that, and I think that any sort of discovery documents like an expert designation, it's been published, it's been read. I don't think that those are typically the type of documents that get entered into evidence like the medical records and things of that nature.

MR. AIKEN: I'll withdraw then the motion to introduce the expert designation, but I stand by my motion to introduce into evidence the CV of Dr. Shuler. The CV of Dr. Chang is in

evidence by agreement.

MR. LESEMANN: Well, then, if both will be in evidence then we will withdraw our objection to the CV.

MR. AIKEN: Thank you.

THE COURT: Okay.

BY MR. AIKEN:

Q: Give that, please, to the court reporter. Just your curriculum vitae.

DEFENDANT'S EXHIBIT NUMBER 1

ADMITTED INTO EVIDENCE

BY MR. AIKEN:

Q: There's been testimony, Dr. Shuler, about another event that happened at a basketball game on December 18 of 2018. Have you seen any record of that? December 18th.

A: That was before or after Dr. Trant's evaluation?

Q: Well, yes. I'll represent to you, I haven't seen any medical record of that.

A: Do you know where that was performed? You said there was ---

Q: There was no record of it.

A: No records of it. I'm not aware of that, no.

Q: Do you know anything about that event?

A: No, I do not.

Q: Okay. Excuse me, Dr. Shuler.

I think the final question, Dr. Shuler, have all of your

opinions that you've expressed today been based upon a reasonable degree of medical certainty?

A: Yes.

Q: Okay. And does that mean better than 50/50?

A: Yes.

Q: Thank you, Dr. Shuler. Please answer any questions these fine lawyers may have for you.

MR. LESEMANN: Your Honor, would it be an appropriate time to take a break or would you like to go straight through to the cross-examination?

THE COURT: What about y'all? Anybody need a break?

Okay. We'll take a break.

Don't discuss the case yet.

(REPORTER'S NOTE: Jury exits courtroom @ 10:52 a.m. The following takes place outside the presence of the jury.)

MR. POWELL: Dr. Chang's deposition is in by stipulation of the parties. That would be Plaintiff's 25. I'm sorry. Dr. Chang's CV. I apologize. Plaintiff's Exhibit 27 will be Dr. Chang's CV. I misspoke.

PLAINTIFF'S EXHIBIT NUMBER 27

ADMITTED INTO EVIDENCE

THE COURT: You may step down; you just can't discuss the testimony.

RECESS - 11:04 A.M

*******OFF THE RECORD*******

ON THE RECORD - 11:11 A.M.

CROSS-EXAMINATION OF DR. CLAUDIUS SHULER BY MR. LESEMANN:

Q: Dr. Shuler, good morning. My name is Ellis Lesemann. I'm an attorney for the estate of Taylor Price and for her mother Demetrice Utley. I don't think we've met before today, have we?

A: No.

Q: And this is your first time as being an expert witness in any case, correct?

A: Yes, in court, yes. I've again, reviewed cases, but I don't know if I was designated as an expert, but this is my first time in court.

Q: Have you reviewed cases on behalf of medical doctors or medical facilities where you were working with the defense?

A: I do not remember which it was. It was more likely the defense.

Q: So, you've never testified about arrhythmogenic right ventricular dysplasia?

A: No.

Q: You've never diagnosed in a new diagnosis ARVD?

A: Only one case, whose brother we knew already had the disease, so it was referred to me because of suspicion of that, and that was the only case.

Q: So, no new diagnosis other than one where you already knew the family history?

A: Correct.
Q: With a case like ARVD or a disease like ARVD, a lot of times, people don't know that they had a relative that died from it, correct?
A: Correct.
Q: So, family history is gonna be inherently incomplete in terms of giving information about ARVD?
A: Yes. I mean, there can be patients who have a family history of someone who died suddenly with no apparent cause, and then we make certain assumptions that that could be a condition that could've been -- that our patient could've inherited.
Q: Understood. But unless there's an autopsy, like by Dr. Riemer, there would not be a definitive diagnosis that ARVD was actually the cause?
A: Correct. Or if it was diagnosed genetically because of a suspicion of that condition in another family member.
Q: Then if you have -- so, a family history would involve the mom's side and the dad's side, right?
A: Correct.
Q: And so, if you have a young patient, whose biological father is not involved in her life, you might be missing a pretty big part of that family history?
A: We rely on the family who is present at the time that we see the patient to give that information to us.

Q: And so, that's another inherent gap in family history, is it not, if you have a single mom with a 13-year-old daughter that are coming forward and there's really not much information about the biological father's family?
A: Yes. We deal with that sometimes.
Q: Is that a reason why, as a pediatric cardiologist you wouldn't place full emphasis or complete reliance on something like family history?
A: I don't think we ever have complete reliance on that. There's always gonna be gaps and misinformation, but it can be very difficult, even in patients who I've seen as adults, it's difficult just to get a complete family history sometimes.
Q: And someone who has ARVD might look healthy?
A: Correct.
Q: You need to actually look at the structure of their heart in order to be able to determine whether they have ARVD, right?
A: Correct. Or their genes. They could have the ability to someday develop it if they have a genetic abnormality that puts them at risk.
Q: Do you sometimes with your patients in Columbia, do you recommend that they undergo genetic testing so that you could receive that information?
A: I do have patients that I check -- test genetically for conditions. Generally, the most common would be if there's a

really unusual family history of sudden death. And we have no good explanation.

Q: Okay. Dr. Trant did not request or order any genetic testing for Taylor Price, did he?

A: No.

Q: And a physical examination of a patient with ARVD is not necessarily gonna be that helpful, right, because it's an internal -- it's an internal problem?

A: Correct.

Q: This picture was taken in August of 2021. That was four months before Taylor Price died. Does she look healthy?

A: Sure, she does.

Q: Are athletes often the victims of sudden cardiac death?

A: Yes. They are participating in highly competitive sports can, with certain conditions, make you a higher risk for sudden death.

Q: And you understand that Taylor was an active basketball player?

A: Yes.

Q: Okay. And she looks -- I know it's just a photograph, but you wouldn't tell by looking at her gums or her hair or her extremities or these other things, you wouldn't know that she had ARVD from looking at her physically, right?

A: Correct.

Q: Dr. Shuler, this is a diagram that Dr. Chang drew

yesterday. Again, in order to determine whether her myocardium and her right ventricle is thinning, you've got to look at an echocardiogram or a cardiac MRI in order to do that, right?

A: Yes.

Q: In order to know whether she has fatty fibroid tissue that is building up and is displacing her heart muscle tissue, you've got to look at the structure, right?

A: Yes.

Q: You can't just look at that EKG that you were shown?

A: EKG can give you clues, but it is not the definitive gold standard.

Q: Right. And it's really not that -- doesn't have a very good detection rate. Do you know what the published detection rate for ARVD is with an EKG?

A: I don't know of one. I think it'd be very hard to publish that, because you don't always know who has ARVD to know if their EKG is at risk or not.

Q: Right. You don't really know that somebody has ARVD until you test them?

A: Correct.

Q: Well, have you ever written any articles about ARVD?

A: I have not.

Q: Have you written any textbooks about ARVD?

A: I have not.

Q: Have you given any lectures about ARVD?
A: Not that I remember.
Q: And you've never diagnosed ARVD?
A: Only in the patient who has had a family history.
Q: And you've been in practice for how many years?
A: Thirty.
Q: So, do you really consider yourself to be an expert in ARVD?
A: No, I consider myself to be an expert in pediatric cardiology.
Q: But not in the disease that Taylor died from?
A: No.
Q: You mentioned that you've known Dr. Trant for a number of years?
A: Yes.
Q: Would you be comfortable -- with that relationship, would you be comfortable testifying against him in a proceeding if you were asked to do that?
A: It would not make me comfortable, no.
Q: Okay. And in fact, if you were asked to testify against Dr. Trant or against McLeod, your relationship between the Medical University at USC and McLeod would likely prevent you from doing that, right?
A: I don't think it would. I think they would allow me to do that.

Q: So, you could -- although that you review EKGs at McLeod, and you perform services relating to McLeod, you feel like that you could come a testify against McLeod and Dr. Trant?
A: Yes.
Q: So, you approach this with an objective eye?
A: Yes.
Q: Have you engaged in the search for the truth?
A: Yes, sir.
Q: But you never spoke to Dr. Trant before today about this case?
A: No, I did not.
Q: You never spoke to Dr. Bahan about this case?
A: I did not.
Q: You never spoke to Dr. Halus at the MUSC emergency room about this case?
A: I did not.
Q: You never spoke to Ms. Utley about this case?
A: No.
Q: You never spoke to Mr. Hunt about this case?
A: No.
Q: Did you speak to Ms. Donna in Dr. Bahan's office that received the call from Metri after Taylor had collapsed on December 18th seeking that referral? Have you spoken with Donna at Dr. Bahan's office?
A: I have not.

Q: Have you ever spoken with Coach McClintock from Taylor's basketball team who witnessed her collapse during a basketball practice?
A: I have not.
Q: So, of course, you're an expert witness, you weren't present at any of the four episodes that occurred to Taylor before she died?
A: No.
Q: So, you don't really know what exactly happened during those episodes, because you weren't an eyewitness to them, correct?
A: Yes. I have knowledge about what I've read about what people have said about those events, just like any of my patients, I have to rely on secondhand information.
Q: And Dr. Bahan received information directly from Ms. Utley about what happened, correct?
A: Yes, I would assume based on the records.
Q: And so, if you could open this book, Dr. Shuler, and look at Exhibit 10. Could you just identify for the jury what Exhibit 10 is?
A: It looks like a referral for a consult from Dr. Bahan to Dr. Trant.
Q: And so, is this an important document?
A: I don't know what you mean by important.
Q: Well, this is why Dr. Bahan is sending Taylor to Dr.

Trant, correct?
A: So, it's important for getting the patient to see Dr. Trant and getting it paid for by insurance companies.
Q: Okay. And Dr. Bahan has a diagnosis, does he not, on this referral order?
A: Someone put a diagnosis on here, yes.
Q: Well, you say someone, who was it signed by, Dr. Shuler?
A: It was signed by Dr. Bahan.
Q: Okay. So, are you testifying that you think that someone else made this referral and made the diagnosis other than Dr. Bahan?
A: These referral orders are typically generated by electronic health record, and is impossible for me in looking at this without seeing the code that did this how the diagnosis got to the position it got here. In the old days, we would fill these out and you could look at my handwriting and say I wrote that, but this diagnosis was populated likely from an electronic health record into this referral order, and then he electronically signed it.
Q: Okay. Well, let's just get one thing straight. The medical doctor is gonna make the diagnosis, correct?
A: Correct.
Q: If you heard anything in this case that's Dr. Bahan diagnosed Taylor Price with anything other than syncope, syncope and collapse like it says right here in the black-and-

white words on the form?
A: This is the referral order. This is not his documentation of his visit when he saw the patient.
Q: What does diagnosis mean?
A: It means diagnosis. I don't know how to further clarify that.
Q: All right. Are you saying that this document is electronically signed by Dr. Bahan that says that his diagnosis is syncope and collapse is not his diagnosis?
A: I'm saying in my experience -- I get referred lots of patients with diagnoses that are not accurate to what the doctor felt they had at the time. I don't rely on the referral orders for diagnosis. I rely on the medical records from the referring physician and their documentation of their whole evaluation rather than referral orders, because referral orders are often placed by a tech, by staff in the doctor's office. So, I do not rely on this solely.
Q: All right. And so, you're here to testify to this jury today that the receipt and generation of the referral order from Dr. Bahan, that's electronically signed, that says that she has syncope, syncope and collapse, is something that you would not pay attention to because you think that these are automatically generated and not really worth reviewing? Is that your sworn testimony to the jury today?
A: I would say I don't solely rely on this.

Q: Okay.
A: I generally want to see the entire medical record.
Q: And it -- the standard of care requires you to do that, doesn't it? You need to look at the underlying records in order to be able to make a fair, accurate diagnosis that the patient deserves; isn't that right?
A: I try to look at -- you try to look as much records as you can possibly get your hands on.
Q: I understand. And I understand that in daily practice you can have a lot of patients and things like that, but I want you to tell me, I want to make sure that we understand that the standard of care would require a pediatric cardiologist, giving care to someone like 13-year-old Taylor Price, to look at the underlying medical records, correct?
A: You should look at whatever you have available to you, yes.
Q: And so, if the records are available, the standard of care would require that you look at them, right?
A: If they're available, yes.
Q: Okay. And so, if you don't look at them, and they're available, and they came from the gentleman that just said that she had syncope and collapse, if you don't look at those records, you've breached the standard of care, have you not?
A: I don't know if it -- if it raises to the level of standard of care, but it's best practice to look at as much

medical records as you can find.
Q: So, you're testifying to this jury today that as a pediatric cardiologist, you could not look at the records as to why the patient was sent to you and still deliver adequate care?
A: Yes, you can.
Q: Okay. If you don't -- you don't even need to know why the patient is coming to you, you can just rely on how she looks and whether she knows whether someone has had sudden cardiac death in her family, and an EKG that we can all admit is a very unreliable way to detect ARVD; is that what you can do?
A: That's not how I would say it, no.
Q: Okay. So, that's not what you should do? You should review the records, right?
A: I review any records I have available, but I don't rely on that solely. I rely on the family and the patient information much more than I rely on someone else's history that they took.
Q: I understand. I know this is your first time serving as an expert witness, but we're talking about the standard of care, and we aren't necessarily talking about Dr. Shuler does. Okay? We're talking about what does a reasonable pediatric cardiologist have to do in order to meet the standard of care? Can we agree that where there are available medical records

that are discussing four exercise-related episodes of collapse, of syncope, of sharp cardiovascular chest pain, of difficulty breathing, would it be incumbent upon a pediatric cardiologist to review those records? Yes or no, sir?

MR. AIKEN: Objection, Your Honor. I think he's misinterpreted the records when he talks about four episodes of syncope. I don't think these records show that.

MR. LESEMANN: Your Honor, thank you. I said syncope, I said collapse, I said sharp cardiovascular chest pain, and I also said difficulty breathing, which is -- we can look at the summary and they're all there.

THE COURT: I'll allow the question. Go ahead.

A: Would you restate that?

BY MR. LESEMANN:

Q: I could. Where there is a patient who has had four exertionally related episodes of either, collapse, passing out, syncope, near syncope, difficulty breathing, and sharp cardiovascular chest pain, would the standard of care require that a pediatric cardiologist review those records in connection with the treatment of that patient?

A: My problem is I don't understand what you mean by standard of care. There is nothing published that says you have to review records before you see a patient. It's always best practice to get as many records as you can, but generally I rely on the firsthand information that I get from the

patient and the family, not what someone else got from those people.

Q: Dr. Shuler, you understand the reason you're here today is to testify about the standard of care, correct?

A: I'm here to provide as much information as I can with the knowledge of pediatric cardiology.

Q: Yes, sir. Do you feel like you have a good understanding of what the standard of care is?

A: I think I have a reasonable knowledge of that, yes.

Q: But you're not sure whether it would require reviewing the medical records with the whole basis for why the patient is in your office?

A: If any physician refused to see a patient because they didn't have records available, that would not be meeting standard of care. Sometimes you don't have medical records available, and you still see the patient and do the best for them.

Q: But when you do...

A: When you do have them, it is best practice to review them.

Q: Okay.

A: The more information the better.

Q: All right. But you're not willing to say that the standard of care requires a pediatric cardiologist to actually review the records. You're not willing to say that?

A: I don't know what you mean by standard of care. Do you mean published standard of care?
Q: I hear you.
A: I don't understand what you mean by standard of care. It is best if you do that, but I have seen patients who had no records available, but I've still seen the patient because the family needs care.
Q: Absolutely, right. But have you ever intentionally not read available records relating to a pediatric -- to a child that had multiple exercise-related episodes before undertaking to give her care? Have you ever intentionally refused to look at those records as to why that patient is coming to you?
A: No. I would not intentionally not look at them.
Q: And so, if you did not look at them -- if a pediatric cardiologist did not look at those records, he or she has fallen below the standard of care when they're available.
A: Again, you've asked me this multiple times. I don't know what's defined as the standard of care for seeing a referred patient to me.
Q: Fair enough, sir. But your method is to review all of the records?
A: I try to review as many records as I can get, yes.
Q: And your method is to order further testing after reviewing the records if you believe that further testing is appropriate?

A: I don't think I said that, and I don't believe that. I don't order tests before I see and examine the patient myself. I don't order anything based on medical records.
Q: Understood. I may've missed a step. So, you review the records, you perform the examination, and then you would look at ordering tests.
A: Correct.
Q: So, how long did you spend reviewing the records from Dr. Bahan? I'll ask it this way, Dr. Shuler. How long did you spend reviewing all of the medical records you got in this case?
A: I think probably about six or seven hours.
Q: Okay. How much time did Dr. Trant spend reviewing the records for Taylor Price?
A: I have no idea.
Q: Do you know what he reviewed, or do you know if he reviewed them?
A: I only know what was written in his notes.
Q: If you don't know what he reviewed, if you don't know if he reviewed the records, should you be here saying that you think he did everything right if you haven't even looked into that?
A: I don't understand your question.
Q: Understood. If you can't tell this jury what Dr. Trant reviewed and did not review, do you feel comfortable sitting

here telling them that you think he did everything he was supposed to do when you don't know what he did?
A: I know what he did based on his documentation, and that's the extent of what I know.
Q: Okay. Because, in his documentation in that report, he doesn't say what he reviewed. He doesn't say whether he reviewed the records of Dr. Bahan, does he?
A: I don't remember seeing any documentation of that.
Q: And he doesn't say whether he reviewed the records from MUSC emergency room.
A: It does not specifically say that, no.
Q: And so, you don't know whether he did or not?
A: No.
Q: What's a audit trail, Dr. Shuler? Do you know?
A: In reference to...
Q: Electronic medical records and things of that nature.
A: It is looking at what is not necessarily directly available in front of you to see who may or may not have electronically viewed those records.
Q: Okay. I'm sorry; did I let you finish?
A: That's the best I can do for a definition.
Q: Yes, sir. So, if you reviewed an EKG for example in the electronic records -- because the whole idea is that hospitals are going to electronic records, correct?
A: That's the goal.

Q: Yes. So, if he reviewed a record, you can actually see it in the audit trail?
A: If he reviewed it electronically, you would see it.
Q: Okay. Would it be important again -- so, do you know -- for example, if you wanted to know what Dr. Trant did review electronically and what he did not review, you could've asked for the audit trail, correct?
A: I don't know if I'd have authority to ask for that.
Q: As an expert -- well, did you? Did you ask and were you told that you weren't allowed to see the audit trail?
A: No, I did not ask for that.
Q: Okay. Again, because you're here testifying on behalf of McLeod Physician Associates and Dr. Trant as an expert witness. Now, this audit trail would help us know what he looked at electronically and what he did not look at, right?
A: Yes, if it's electronic.
Q: Okay. And it would help you know whether he had looked at anything before he saw Taylor?
A: I guess it would.
Q: Right. And it would let you know how long he looked at it?
A: I have no idea. I've never asked to look at an audit trail on anyone before. I don't have the authority to do that.
Q: Understood. All right. Taylor's appointment was at 8:30

a.m. on January 24th, 2019 with Dr. Trant. Do you know whether Dr. Trant reviewed anything before he walked into that appointment?

A: I do not know. All I know is what is in his medical record.

Q: Again, sir, would that be appropriate to walk into a 8:30 appointment with a 13-year-old and her single mom with four episodes of exertional syncope, or near syncope, or sharp cardiovascular chest pains; would that be appropriate to walk into an appointment like that without reviewing the pediatric records?

A: It would be appropriate to review what records are available at some time during the appointment, but not necessarily before you walk into the room initially.

Q: But you got a look at them?

A: If there available to you.

Q: Because you might be failing -- you might be failing a child that has a hidden heart condition, right?

A: That's your statement, not mine.

Q: If you don't -- I don't want to make any statements. I'm asking you a question ---

A: I'm not saying -- I would not say you're failing the patient if you don't look at the records.

Q: Okay.

A: I would say it's best practice.

Q: All right. So, you could go into an appointment with an athlete, a young athlete, with these four episodes, not having reviewed any records, and still give her the care that she deserves. That's your opinion?
A: When I go into the room ---
Q: And again, sir, and I don't mean to interrupt you. But this is not -- this is not you. You have been brought into this trial because you have been said to know what people ought to do, what someone in your position ought to do. You're not on trial, of course. Right. And no one is on trial. We here just to resolve this in the search for the truth. So, I wanted to make sure that you understood that. So, it's -- isn't necessarily what you do, right? It's what the standard of care requires. Do you know what the standard of care requires?
A: I don't think there is any published standard of care of how looking at records before seeing a referral. I've never seen published data on the standard of care. I don't think it exists for how you should see a referral and what you should review.
Q: If Dr. Trant has admitted that he did not review the records from Dr. Bahan, would that trouble you?
A: It is not best practice, but it may not have been available to him.
Q: But if it was, it would be a problem; it would trouble

you, wouldn't it?
A: It would be less than best quality, best practice.
Q: Understood. So, coming here today, did you know whether or not he looked at the records from Dr. Bahan?
A: No.
Q: I'll just show you what's been published to the jury as request to admit, Number 4. All right? And if you could just read that language under Number 4 that I have highlighted.
A: Admit that you did not view the medical records from Taylor Price's primary care physician, Dr. Marc Bahan, as part of the evaluation and treatment that you provided to Taylor Price on January 24th, 2019. Response: Admitted. However, Dr. Trant did review the records from the referring physician, Dr. Steve McDowell Halus, which is the standard of care. Further record review was not indicated.
Q: So, you see now that Dr. Trant has admitted that he didn't look at Dr. Bahan's records, correct?
A: Is that a quote from Dr. Trant or is that ---
Q: This is a document that's been in a request to admit that's been entered into evidence in this case. So, it is an admission by Dr. Trant that he did not review the records from Dr. Bahan. You didn't know about that until today, did you?
A: No, I'm just confused, because he refers to himself as Dr. Trant or is that ---
Q: It's a request to admit, which one party submits to

another party to ask them to admit to certain facts. We asked Dr. Trant to admit whether he had reviewed the records from Dr. Bahan, and he said that he admitted that he had not, but he said he looked at the records from Dr. Halus, and then referred to him as the referring physician. That's not correct, is it? Who was the referring physician?

A: Technically, it was Dr. Bahan.

Q: But you do see that there is a statement in here that says looking at the records from the referring physician, is the standard of care -- do you remember reading that to the jury just now?

A: That's what whoever made that statement said, yes.

Q: Okay. So, the quarrel with that statement that reviewing the records from the referring physician is what the standard of care required?

A: I think I have stated repeatedly that I am uncertain as to what the published standard of care is for seeing a referred patient.

Q: Yes, sir. Understood. I don't mean to be repetitive. So, again, we've looked at the referral order, and the referral order the reason that Dr. Bahan's office, and Dr. Bahan referred Taylor to Dr. Trant was syncope and collapse, correct?

A: That's what this referral order states, yes.

Q: Okay. And then you were asked to look at -- at Dr.

Trant's progress notes, Exhibit 12. Are you there, sir?
A: Yes, sir.
Q: Under pediatric cardiology, do you see a statement that says thank you?
A: Yes.
Q: And what is -- and if it was Dr. Trant that wrote this progress note, what does that first sentence say?
A: Thank you for referring your patient for evaluation of shortness of breath and near syncope.
Q: Okay. So, Dr. Trant says that Taylor was referred for near syncope and shortness of breath, correct?
A: Yes.
Q: And that's not what actually Taylor was referred for, was it?
A: That's not what that referral order says, no.
Q: The referral form says syncope and collapse?
A: It does.
Q: All right. And we'd agree, Dr. Shuler, that one episode of collapse requires additional workup in the form of testing when you have an exertional episode, correct?
A: No.
Q: Oh, you don't agree?
A: I never said that.
Q: You don't agree to that?
A: No.

Q: You do not agree that a episode of collapse requires at least in a 13-year-old related to exercise requires testing?
A: Requires exam, and history taking, and potentially some testing. It all depends on those.
Q: Right. And ARVD is not the only structural disorder of the heart, correct?
A: Correct.
Q: And that testing that you can do with an MRI, a cardiac MRI, with an echocardiogram, it can reveal these different structural abnormalities, correct?
A: It can.
Q: All right. And an EKG or an x-ray, or even an external physical exam is not gonna reveal those conditions typically, would it?
A: Physical exam -- well, if you're talking about specifically ARVD I can speak to that, but there are other cardiac conditions that physical exam -- other cardiac abnormalities that can lead to symptoms like this that physical exam would be very useful.
Q: Like a hypertrophic cardiomyopathy, right?
A: There might be a physical exam finding of that, an EKG would very likely be abnormal.
Q: But there are certain structural abnormalities where you actually need to look at the heart structure of that patient in order to see whether they are there?

A: Correct.
Q: And if you don't do the test, you won't know?
A: On some conditions, yes.
Q: Okay. So, you have a relationship with McLeod where you have privileges there, correct, you said?
A: Yes.
Q: And that's active -- you have an active relationship with McLeod as were sitting here today?
A: Correct.
Q: So, you're aware that there is a cardiac MRI machine at McLeod?
A: I'm not aware of that. There may be; there may not. I don't know.
Q: Do you know whether or not they can perform cardiac MRIs at McLeod?
A: On an adult, yes. I don't know if they would do pediatric.
Q: But they have the machine?
A: I don't know.
Q: Okay. Do you know if they have an echocardiogram machine?
A: They do.
Q: Do you know if they have the equipment to perform a stress test?
A: I don't know, but I would assume they do.

Q: So, could we agree that those tools are available to Dr. Trant?
A: Yes.
Q: And they were available to Dr. Trant in January 2019?
A: I would presume.
Q: You were asked about the PPE, the preparticipation physical evaluation. And you agree that this does -- for someone who is performing a preparticipation physical evaluation, that this does speak to the standard of care?
A: I would say it does, yes.
Q: And this fourth edition, you are familiar with this? This is not the first time you've seen this document?
A: No.
Q: Okay. And if I hand this to you and ask you to read the copyright there on the bottom of the lower left page. It appears that that was published in or around 2010?
A: Yes, 2010.
Q: And so, that's something that has been in use -- do you understand that there is now a fifth edition?
A: I'm not aware of that, but I wouldn't be surprised.
Q: I'm gonna just ask if you could turn to Page 39. Do you see where it says key points?
A: Yes.
Q: Could you read those key points for the jury?
A: Sure. Sudden cardiac death, SCD, in young athletes and

children is caused by a diverse etiology of structural and electrical diseases of the heart. A detailed patient and family history may identify athletes at risk for SCD. Warning symptoms that require cardiac workup before returning to exercise include exertional chest pain, exertional syncope or near syncope, unexplained seizures, excessive dyspnea or fatigue disproportionate to the level of exertion, and palpitations or irregular heartbeats.

Q: So, you see these warning symptoms, correct, that are described?

A: Correct.

Q: And these are warning symptoms that require a cardiac workup, correct?

A: Correct.

Q: And typically, a cardiac workup is going to be performed for a child by a pediatric cardiologist?

A: Correct.

Q: Like yourself or like Dr. Trant?

A: Correct.

Q: Or like Dr. Chang who was here yesterday.

A: Correct.

Q: And what is required, Dr. Shuler? Just the typical English meaning of the word require. What does it mean? It means is necessary, right; it's mandatory?

A: Necessary, yes.

Q: Mandatory? It's required, right? So, cardiac workup is required when?
A: Before returning to exercise.
Q: Okay. Whenever there are what sort of symptoms?
A: Exertional chest pain, exertional syncope or near syncope, unexplained seizures, excessive dyspnea or fatigue.
Q: Can we agree that Taylor presented to Dr. Trant with several of these warning symptoms?
A: Yes.
Q: And that required cardiac workup?
A: Correct.
Q: And if she did not get cardiac workup from Dr. Trant, he failed the standard of care.
A: She got cardiac workup in the fact that she was referred a pediatric cardiologist. That is a cardiac workup.
Q: Oh, so, just being sent to Florence is the cardiac workup is what you think?
A: Yes.
Q: All right. Well, does the document continue -- and so, then, even if the pediatric cardiologist doesn't work you up, you still got your cardiac workup?
A: If you are seen by pediatric cardiologist, you had a cardiac workup.
Q: Okay. Even if it's like a 13-minute visit?
A: Time does not enter into that.

Q: Even if he might've had nine patients that morning?
A: It's a cardiac workup.
Q: Even if he doesn't look at the records or the reason you're there?
A: I think we've already established I don't have any firsthand knowledge of whether he looked at those.
Q: So, that's a cardiac -- you stand behind the cardiac workup that happened in this case?
A: Do I think the cardiac workup that was performed was adequate for this case; is that what you're asking?
Q: Do you stand behind it? Do you think it was -- do you think it was what Taylor deserved?
A: It was appropriate for her presenting symptoms, yes.
Q: It was what Taylor deserved? What she got from Dr. Trant is what you think she deserved?
A: For her symptoms, yes.
Q: Her symptoms, according to Dr. Bahan that includes syncope and collapse times two, sharp cardiovascular chest pain, and difficulty breathing and passing out?
A: It was an appropriate level of workup for the symptoms she presented with.
Q: Do you see the investigation of athletes with cardiovascular symptoms? That's on Page 51, sir. I'm sorry.
A: Yes.
Q: All right. Could you read that for the jury?

A: Athletes identified with cardiovascular symptoms such as exertional syncope or near syncope, chest pain palpitation or excessive exertional dyspnea require careful and thorough cardiovascular evaluation to exclude underlying heart disease before allowing the athlete to return to sport. Syncope occurring during exercise is an ominous sign and warrants a high index of suspicion for underlying cardiac disease. A diagnostic workup for exertional syncope is usually performed in consultation with a cardiologist and may include ECG, echocardiogram, stress test, and possibly advanced cardiac imaging such as MRI or CT to rule out rare structural abnormalities such as ARVC or congenital coronary artery anomalies. Investigation of rapid or irregular heartbeats associated with supraventricular tachycardia, ion channel disorders, or Parkinson light syndrome may include EKG, echocardiogram, Holter monitoring, stress ECG, or consultation with a cardiologist, and/or electrophysiologist.

Q: Do you agree that that's the standard of care -- it's a fair statement that the standard of care required in a preparticipation physician evaluation for an athlete with cardiovascular symptoms?

A: I believe that the -- I don't have any disagreement with that statement.

Q: And Taylor was an athlete that presented with cardiovascular symptoms, correct?

A: She had cardiovascular symptoms.
Q: According to Dr. Bahan she had exertional syncope, correct?
A: The referral sheet said syncope, I think.
Q: Okay. But it was syncope during -- while playing basketball, right?
A: I don't know if the referral said that or not.
Q: Okay. But, you know, you've looked at the records enough to know that she was playing basketball when this happened, right?
A: It followed her playing -- it was after she played basketball, yes.
Q: Well, you didn't see -- you didn't read about the times when she actually was going down the court and just collapsed?
A: I saw records of her running, and afterwards collapsing, yes.
Q: She collapsed once on the court, right? That's an exertional syncope; is it not?
A: It depends on whether it actually occurred during the exercise or when she stopped moving.
Q: Okay. So, if it occurred during the exercise, that was an exertional syncope; the evidence shows that.
A: Well, there's multiple records that she did not lose consciousness. So, to call it syncope would be inappropriate. You could call it near syncope.

Q: Dr. Bahan called it syncope, right? And loss of consciousness can be fleeting, right? It can be momentary, right?
A: It can.
Q: All right. And you weren't at the basketball practice, and you weren't at the basketball games, right?
A: No, neither was Dr. Bahan.
Q: Right. And if someone is -- but Dr. Bahan spoke directly to Demetrice Utley about what happened, right? And when he said syncope, that was with the benefit of what she had told him, right?
A: She?
Q: She, Taylor's mom, gave information to Dr. Bahan that caused Dr. Bahan to make a diagnosis of syncope, yes?
MR. AIKEN: Objection, Your Honor. Dr. Shuler would not know what Ms. Utley told Dr. Bahan.
THE COURT: I understand, but he can answer the question. If he doesn't, he can answer he doesn't know. He can ask the question ---
BY MR. LESEMANN:
Q: The information that Taylor presented with and the information he got caused Dr. Bahan to make a diagnosis of syncope, correct?
A: That's what they had written on the referral order, yes.
Q: Okay. And unless you're right there with Taylor running

on the court or unless you're right there with her, you don't know whether she had a momentary lapse of consciousness or not, do you?

A: I would base that on what the family told me personally.

Q: Okay. Well, mom was not at the basketball practice with Taylor, so how could she know?

A: She has the same secondhand knowledge Dr. Bahan would have.

Q: He said it was syncope, right, multiple times?

A: That's what the referral order lists as syncope, yes.

Q: And let me just go through one thing with you. All this debate about syncope versus near syncope, this standard of care document says syncope, near syncope, chest pain, palpitations, excessive exertional dyspnea, she had several of these things, right?

A: Yes.

Q: And all of them require a careful and thorough cardiovascular evaluation, yes?

A: Yes.

Q: And you're saying what she got on the morning, that little brief visit with no testing, and you're not even sure what he reviewed, are you willing to sit here and say that that was a careful and thorough examination?

A: It could have been for her symptoms, yes.

Q: It could have been, but you're not sure?

A: Well, I wasn't in the room with them, so I cannot speak to that.
Q: You don't really know what happened?
A: All I know is what the medical records say.
Q: The medical records that you spent six or seven hours reviewing, and you're not even sure that this gentleman ever actually looked at.
A: I'm referring to the medical records of the visit that Dr. Trant documented.
Q: Did you review any test results for any tests that Dr. Trant performed for Taylor?
A: He did no further testing past the EKG that he did or did not review.
Q: Okay. And actually, the EKG wasn't even done by him, right?
A: Correct.
Q: Are patients sitting still when they get a EKG?
A: Preferably, yes.
Q: So, if you have an exertional related episode or set of episodes, a resting EKG is not necessarily going to replicate the conditions that are causing those episodes to occur, right?
A: Correct.
Q: And that's where a stress test could come in, right?
A: It can. It can -- it can give you -- give you a

situation that's more similar that at rest, yes.
Q: And so, with a athlete with exertional symptoms, a stress test is a possible way to investigate what might be causing those symptoms in a clinical setting?
A: It is a test that you can consider doing, yes.
Q: Do you know whether Dr. Trant even considered doing that?
A: It does not mention that in the note.
Q: Do you know whether he ever considered in that visit whether to give her an echocardiogram?
A: I saw no documentation of him considering that, but it does not appear he ordered one.
Q: But you considered giving kids echocardiograms when they present with these sorts of issues, right?
A: I do consider it, yes.
Q: And, if the echocardiogram is inconclusive, you would look to give them a cardiac MRI eventually, correct?
A: It depends on how suspicious I am for a condition that is dangerous, yes.
Q: Could you turn to Exhibit 8, please, sir?
A: Yes, sir.
Q: It's a summary that's been entered into evidence. Do you recall from your review of the records that the MUSC Florence emergency room records from January 24th, 2018 indicated that the exacerbating factor of Taylor's symptoms is exertion?
A: Repeat that again, please. I'm sorry.

Q: Do you recall from the medical records from January 24th, 2018, that it was recorded in those records that the exacerbating factor of Taylor's symptoms was exertion, in that third bullet?
A: Yes.
Q: Okay. And that she had cardiovascular symptoms of chest pain?
A: Yes.
Q: And that she was at a basketball game, and she fell to the ground?
A: Yes.
Q: Okay. And Dr. Halus diagnosed her with hyperventilation syndrome?
A: Yes.
Q: And I think in your questions with Mr. Aiken, you confirmed that that January 24th, 2018 hyperventilation syndrome, that ends up being the same thing that Dr. Trant diagnosed her with?
A: Yes.
Q: But Dr. Trant admits that he didn't look at these other records where the diagnosis was not hyperventilation syndrome, it was actually syncope and collapse that February 1st, 2018 record from Pee Dee Pediatrics, right?
A: That's what they document, yes.
Q: Okay. And that record that he did not review says

passing out?
A: There is a quotation around that like someone said that, yes.
Q: Okay. And so, passing out is like a syncope, right?
A: Yes.
Q: And there's a quote, symptoms of syncope times two after basketball practice?
A: There is a quotation on that, yes.
Q: And then, the emergency records for December 12th, 2018, they indicate sharp cardiovascular chest pain?
A: Yes.
Q: And they indicate shortness of breath while playing basketball?
A: Correct.
Q: And then are you familiar with December 18th, 2018 episode?
A: No.
Q: It's not on this chart, but are you familiar with that episode at all?
A: I saw no records of that.
Q: And I know you weren't here in the courtroom yesterday, but Emerson Hunt testified that he picked up Taylor from the ground, and she was limp, she was like dead weight. Is that -- is that concerning for you as a pediatric cardiologist that after exertion a child would be limp or dead weight in her

father's arms?
A: Symptoms like that would be concerning, yes.
Q: In the referral order of syncope and collapse, at least these four episodes, they incurred in less than a year, right?
A: It looks that way, yes.
Q: And they are related to basketball, aren't they?
A: They are.
Q: And basketball is a seasonal sport, right?
A: Yes.
Q: So, she is actually having four episodes in a pretty compressed period of time, is she not?
A: There were several episodes. I don't see documentation of all four, but yes, she had more than one episode, yes.
Q: When Ms. Utley got a referral to Dr. Trant, and she and Taylor drove over to Florence, is that all that a patient ought to have to do in order to get some pediatric care; basically, get themselves to a specialist? Should that get them access to appropriate testing and analysis?
A: It is the way to get further testing done, yes.
Q: And if the pediatrics specialist won't order an echo, or won't order a stress test, or won't order an echocardiogram, that's not the kind of stuff that somebody can go to like an urgent care or a doc-in-the-box and go get, right? They need a specialist to do that.
A: Generally, not. There are some institutions that will

perform echocardiograms on patients with just an order from a family care physician, yes.

Q: But the way to get access to that testing, the way to look at what might be wrong with the heart is to go to a pediatric cardiologist, isn't it?

A: Yes.

Q: So, Ms. Utley did everything that you would expect of a mom?

A: Yes.

Q: When you're looking at the summary, Dr. Shuler, you see all these issues, syncope, collapse, chest wall pain, syncope times two, chest pain, shortness of breath, passing out, did Taylor deserve to get some tests?

A: She deserved to be evaluated. And decision-making about having further testing done, I can't say she deserved to have other tests.

Q: How much does a 13-year-old need to show in order to get herself a test?

A: She -- the situation needs to be suspicious enough for me to be worried about potentially dangerous circumstance to order further testing.

Q: Did you need to collapse 10 times?

A: I don't know how to hypothetically answer that question. She didn't collapse 10 times. I'm not sure she collapsed any times but -- you gather as much information about the

situation as you can and you make an informed medical decision-making about further testing, and I feel Dr. Trant did that.

Q: The problem with sudden cardiac death is it's a sudden cardiac death, right?

A: Correct.

Q: If you're waiting for a loss of consciousness, that could be the one time; the patient could die.

A: The -- I don't know the -- is that a question?

Q: If you wait for a 13-year-old with exertional syncope, near syncope, chest pain, palpitations, and dyspnea, if you wait for her to have a loss of consciousness, there may not be any need for tests because she may be dead because you were waiting for her to collapse again; is that right?

A: I don't agree with that train of thought, no.

Q: Do you agree that people can die, that kids can die, that young athletes can die from sudden cardiac death without warning?

A: Yes. The vast majority of patients with arrhythmogenic right ventricular cardiomyopathy their first symptom is sudden death.

Q: So, it's important to get there and test them before that happens, right?

A: Yes. We would have to screen the entire athletic population to do that.

Q: No, no, I don't think you would. How about if you just screen a 13-year-old who comes in with four episodes of exertionally-related syncope, near syncope, chest pain -- that's not the whole population. She, in order to avoid her death, after she made her way with her mom, her mom fought for her to get her to a pediatric cardiologist, she should have been tested, shouldn't she?

A: She should've been evaluated, and she was.

Q: None of the things that Dr. Trant did -- and you're not even sure what he did -- nothing is going to show that he did -- nothing is going to share that her right ventricle was being displaced with fatty fibroid tissue, and her myocardium was thinning. Nothing that he did was going to show that, right? He didn't even give himself the opportunity to discover what was wrong.

A: The testing he did would not show if she at that time had arrhythmogenic right ventricular dysplasia, except for potentially the EKG.

Q: Right, that wasn't given.

A: She had an EKG.

Q: The testing, that's how you detect ARVD. You use a cardiac MRI, you use a stress test, you use an echocardiogram, correct?

A: You are presuming she had ARVD when he saw her.

Q: Right. Well, she had four episodes in less than a year,

sir. What was going on with -- what did Dr. Riemer say that she had?

A: That was two years later.

Q: Right. And this is a progressive -- I know you're not an expert in ARVD, but it's a progressive disease, correct?

A: Correct.

Q: All right. Well, then do you have an explanation for what caused her to collapse and to have shortness of breath, and to have chest pains at all those times in 2018 and 2019? Do you know what those were?

A: I see hundreds of kids that do that all the time, and they don't have ARVD.

Q: Okay. Because you've never diagnosed it, so you don't know really whether they had it or not, do you?

A: Because it's extremely rare, and if we tested every kid with a cardiac MRI that fainted, it would not be possible. There's not enough equipment in the country to do that.

Q: You keep talking about every kid. I'm talking about a 13-year-old -- I mean, that's unusual for a 13-year-old to have four episodes of collapse during basketball; that's unusual, isn't it?

A: It is not unusual to have symptoms like she had with exertion, no.

Q: Four episodes. But that's what the tests are for, correct?

A: No.
Q: The tests are to try to figure out what's going wrong with her rather than telling her to breathe into a paper bag.
A: The tests are for investigating conditions if you don't have a good explanation of why the patient had the symptoms.
Q: Right. And if Dr. Trant doesn't review the records and doesn't do any testing and tells her to go blow into a paper bag, he doesn't have a good understanding of what's going on, does he?
A: He was in the room with the patient and his mother and examined and listened to them and interviewed them; so, he did have an idea of what was going on.
Q: But he didn't look at Dr. Bahan's records, Dr. Shuler.
A: He talked to the patient and her mother.
Q: And so, you're saying that you'd do that, you'd ignore all those records and you would just leave all those machines down the hall and not use them when you had this patient reporting with all these issues, you would just send her home with a paper bag?
A: Are you asking me what I would do?
Q: Would you have sent her home with a paper bag?
A: One of the therapies that I would've suggested would be to re-breathe, yes.
Q: So, you would've sent her home with the paper bag?
A: I don't send anybody home with the paper bag.

MR. LESEMANN: I have no further questions, Your Honor.

THE COURT: Okay.

MR. AIKEN: Just a few, Your Honor.

REDIRECT EXAMINATION OF CLAUDIUS SHULER HAVING BEEN SWORN, TESTIFIED AS FOLLOWS:

Q: Dr. Shuler, did Taylor Price have any symptoms of ARVD when Dr. Trant saw her?

A: She did not have any symptoms specific to ARVD when he saw her.

Q: And you order tests, Dr. Shuler, that are clinically indicated?

A: Yes.

Q: Was any further testing beyond the EKG clinically indicated when Dr. Trant saw Taylor January 24th?

A: I think it is very reasonable that he made the decision not to order any further testing when he saw her.

Q: Okay. The PPE document that we talked about, what is the general audience that that document is intended for?

A: It's intended for the primary care doctor who is doing the sports physicals to encourage them to refer or order further testing if those symptoms are present.

Q: But, when you say a primary caregiver, that's a pediatrician?

A: A pediatrician, an urgent care facility, yes.

Q: So, sports physicals are generally done by the primary

care?
A: Yes.
Q: And referred to you if they are concerned about the cardiac symptoms?
A: Correct.
Q: Looking at Dr. Trant's evaluation and records from January 24th, 2019, would you consider his examination and evaluation grossly insufficient or grossly sufficient or adequate? I think we can use the word adequate. I think that's what Dr. Chang used. Was it grossly adequate or grossly inadequate?
A: It was grossly adequate.
Q: And do you feel that Dr. Trant deviated from accepted standards of medical care in any fashion?
A: No.
Q: Do you believe Dr. Trant deviated from accepted standards of medical care by providing Taylor with a sports clearance for that school year?
A: No.
Q: Was breathing into a paper bag reasonable advice from Dr. Trant to Taylor?
A: For hyperventilation syndrome, yes, it is.
Q: And you don't have any quarrel with his diagnosis?
A: No.
Q: Okay. Excuse me, Doctor.

Thank you, Dr. Shuler. We appreciate you coming.

THE COURT: You can step down. Thank you, Doctor.

MR. AIKEN: Your Honor, may he be excused and released from court?

THE COURT: Any objection?

MR. LESEMANN: None, Your Honor.

THE COURT: Yes, sir. Thank you.

BY THE COURT:

THE COURT: Okay. Is there any reason we shouldn't go to lunch, assuming this next witness is not gonna be 15 minutes?

MR. AIKEN: No, sir.

THE COURT: I didn't think so.

Okay. Ladies and gentlemen, we're gonna go to lunch. I'll ask you to be back at 1:30. Okay.

(REPORTER'S NOTE: Jury exits courtroom @ 12:16 p.m.)

RECESS - 12:17 P.M.

*******OFF THE RECORD*******

ON THE RECORD - 1:40 P.M.

(REPORTER'S NOTE: The following takes place outside the presence of the jury.)

MR. MCLEAN: I simply want to hand up the defendant's requested jury charges.

THE COURT: Okay.

MR. MCLEAN: Those have been provided to plaintiff's attorney, too. But I thought the Court would like to start

studying those. Thank you.

THE COURT: Okay. Anything else before I bring out the jury?

MR. POWELL: Not from the plaintiff, Your Honor.

MR. AIKEN: No, sir.

THE COURT: Bring the jury, please, sir.

(REPORTER'S NOTE: Jury enters courtroom @ 1:41 p.m.)

THE COURT: Okay. You may call your next witness.

MR. AIKEN: Thank you, Your Honor. We'd call Dr. Nicole Cain.

DR. NICOLE CAIN, HAVING BEEN SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION OF DR. NICOLE CAIN BY MR. AIKEN:

Q: Good afternoon, Dr. Cain.

A: Good afternoon.

Q: Please state for this record your full name.

A: My name is Nicole Brooks Cain. My maiden name is Nicole Brooks Nelson.

Q: Where do you live?

A: I live in Mt. Pleasant, South Carolina.

Q: Are you married?

A: I am. My husband is Adrian Cain.

Q: And what does he do?

A: He is the CEO of the Charleston Homebuilders Association, and the Hilton Heah Homebuilders Association. They just

merged.
Q: And do you have any children?
A: I do. I have one daughter, who is 16 years old. Her name is Lillian Cain.
Q: And what is your professional occupation, Doctor?
A: I am a pediatric cardiologist, who specializes in electrophysiology.
Q: Let me hand you, Doctor, your resume. Does look like, Dr. Cain, a complete copy of your CV or resume?
A: It is. I've probably added or need to add a few things since I sent this to you, but it's complete.
Q: Tell us about growing up. Where were you born and raised and about your education.
A: Sure. I was born in Atlanta, Georgia, and I was raised right outside of Atlanta in Marietta, Georgia. I was there until I graduated from high school, and then I went to undergraduate and medical school at Marshall University in West Virginia, which is where my mother is from in West Virginia. I then went to the University of Pittsburgh, UPMC Children's Hospital to do my pediatric residency, and my pediatric cardiology training. And then I came to the Medical University of South Carolina to do extra training in pediatric electrophysiology, and then I've been on faculty since 2019.
Q: When did graduate from Marshall University?
A: Undergraduate 2001, and medical school in 2005.

Q: Okay. Are you board certified?
A: I am board certified in pediatrics and in pediatric cardiology.
Q: Okay. What is the significance, Dr. Cain, of board certification?
A: So, in order to take your boards, you have to complete training. So, I completed my pediatric training and then took my pediatric boards. And then the same for pediatric cardiology. I have trained in pediatric cardiology and then took my pediatric cardiology boards. And then I have decided to maintain certification in both. There are some hospitals that allow you to drop the certification that you don't continue to practice, but I've maintained both.
Q: Okay. Would you tell us about a fellowship?
A: Sure. Fellowship, my fellowship was three years of pediatric cardiology training in Pittsburgh. And then one additional year specifically in heart rhythm disorders.
Q: Okay. Now, you are an electrophysiologist?
A: I'm a pediatric electrophysiologist.
Q: And what does that mean?
A: So, it means that I am the expert in pediatric heart rhythm disorders, and I do procedures -- they are called ablation procedures for the treatment of abnormal heart rhythms and do surgeries to put in pacemakers and cardiac defibrillators.

Q: How many pediatric electrophysiologists are in South Carolina?
A: Two; myself and my partner, Dr. Lanier Jackson.
Q: Okay. How many pediatric electrophysiologists are there in the United States?
A: About 200 of us; so, we all fit in a room when we're at meetings together. We all know each other, and we refer patients to each other.
Q: What certifications do you have, Dr. Cain?
A: For pediatric electrophysiology, there actually isn't an additional certification exam that's recognized by the boards. So, it's just your extra training.
Q: What has been your work history since you became an MD?
A: I have been at the Medical University the entire time. A typical week looks -- I have clinics, so I see patients in clinic two days a week, on Mondays and Thursdays. On Tuesdays and Wednesdays, I perform procedures. So, I am in the main hospital downtown doing procedures. And then on Fridays, I read EKGs, and Holter monitors, and event monitors, and remote pacemaker checks, and all sorts of administrative patient data.
Q: Who refers you to the EKGs that are sent to you? Who refers EKGs to you?
A: Like whose EKGs do I read?
Q: Yes.

A: Okay. I read all of the EKGs from MUSC -- all the pediatric EKGs for MUSC. I read pediatric EKGs for a number of the general pediatric offices in the Charleston area; Georgetown, Waccamaw Hospital, which is now Tidelands Health; I read EKGs for MUSC Marion, once they became and MUSC entity I started reading their pediatric EKGs. I think that's it. Oh, Berkeley Mental Health, I read their EKGs.

Q: Do you read EKGs for McLeod Regional Medical Center?

A: No.

Q: Have you ever been to McLeod Regional Medical Center?

A: No.

Q: Tell us about your professional development that's listed on your CV.

A: Oh, gosh. I mean, like the research, conferences, committees; all of the above?

Q: Okay.

A: What are you asking?

Q: Well, just give us a few.

A: Okay. I'm a member of the Heart Rhythm Society, and then, like I said, we are a small group of pediatric providers, and so we formed the Pediatric & Adult Congenital EP Society, which is called PACES. And so, we meet a few times a year to be up to date, the most up to date on research. I am active in the Women in Electrophysiology subcommittees, because it's a very male dominant field, and so

there are a lot of us that are trying to stick together and support ourselves through careers, and having a family, and trying to balance all of our duties.

Q: Okay. Have you published any articles or literature?

A: Yes.

Q: Are they listed on your CV?

A: Yes.

Q: And tell us about a few of those, or let me ask you this -- I'll short-circuit this ---

A: Sure.

Q: Do any of those publications that you authored have anything to do with the subject matter of this case?

A: No.

Q: Okay. That's fine.

MR. AIKEN: I would offer Dr. Cain, Your Honor, as an expert in pediatric cardiology and pediatric electrophysiology.

MR. LESEMANN: Your Honor, we would not object to the admission of Dr. Cain as an expert in pediatric cardiology, because that is how she was disclosed to us. She was not disclosed as an expert in pediatric electrophysiology.

MR. AIKEN: She's been deposed, Your Honor. We've asked her all these questions.

MR. LESEMANN: She wasn't disclosed in that and that is not a relevant issue in the case at hand. Electrophysiology

is not -- Dr. Cain is expected to testify that Dr. Trant did not deviate from accepted standards of care for a pediatric cardiologist. Dr. Trant is not an electrophysiologist. So, the standard of care for someone who is not a party to this case is not relevant, and it was not disclosed. So, again, Your Honor we concede to the pediatric cardiology. We disagree to the pediatric electrophysiology.

THE COURT: Is she planning on giving any kind of an opinion on electrophysiology?

MR. AIKEN: That's what I was gonna ask her.

BY MR. AIKEN:

Q: What's the answer to that, Doctor? Will your testimony today be related to standard of care for a pediatric cardiologist, or will you have any testimony or do you expect to have any testimony on a pediatric electrophysiology?

A: Well, I'm also a general pediatric cardiologist who sees general pediatric cardiology patients as well.

Q: Yes, ma'am.

MR. AIKEN: I accept that objection, Your Honor.

THE COURT: Okay. Then the Court finds that she is an expert in pediatric cardiology.

BY MR. AIKEN:

Q: Dr. Cain, do you know Dr. Trant?

A: I've met him once or twice at our general South Carolina Pediatric Cardiology meetings.

Q: Are you social acquaintances with Dr. Cain or Dr. Trant?
A: With Dr. Trant, no.
Q: Okay. Have you had dinner with Dr. Trant and his wife?
A: Nope.
Q: Okay. Now, do you -- when were you hired on this case, Doctor; do you remember the approximate timeframe?
A: I do not. It feels like a very long time ago.
Q: That's fine. I want to hand you, Dr. Cain, a letter I sent you on August 4 of 2022. And I'm gonna ask you to read what materials I sent you at that time.
A: Sure.
Q: Do you remember receiving that letter, Dr. Cain?
A: I do. It says, Dear Dr. Cain, Thank you very much for agreeing to review the above-referenced matter on behalf of Dr. Charles Trant. First, please enclose -- or please find enclosed my law firm's check for the sum of $900, which represents your initial retainer. Also, I am sending you via ShareFile the below referenced documents: Summons and complaint; affidavit of Plaintiff's expert, Dr. Frank Cuoco; death certificate of Taylor Danielle Price; forensic autopsy report; ECG from December 12th, 2018; records from McLeod Pediatrics Subspecialties; Florence MUSC emergency room records; Marion MUSC emergency room records; and Pee Dee Pediatrics Marion Physician Services, LLC. Please feel free to contact me with any questions.

Q: Did you review all that material?
A: I did.
Q: Okay. Let me hand you another letter, please, August 15 of 2023.
A: So, Dr. Cain, Attached via ShareFile for your continuing review in this matter are the following: E-transcript of the deposition testimony of Demetrice Utley, mother of Taylor Price, along with four deposition exhibits; E-transcript of the deposition testimony of Emerson Hunt, co-parent of Taylor Price; E-transcript of the deposition testimony of Major Donald Prograis, JROTC leader at Mullins High School. I would like to speak with you further once you have completed your review of these deposition transcripts.
Q: Okay. And did you review all of that material?
A: I did.

MR. AIKEN: I wanted to make sure, Your Honor, that we marked Dr. Cain's CV and put it as an exhibit.

THE COURT: Okay. Any objection?

MR. AIKEN: I think no objection.

MR. LESEMANN: No objection, Your Honor.

THE COURT: Okay.

DEFENDANT'S EXHIBIT NUMBER 2

ADMITTED INTO EVIDENCE

BY MR. AIKEN:

Q: When you're doing procedures, Dr. Cain, what procedures

do you do?
A: I do pediatric heart ablation procedures. So, it's like a heart catheterization where we put catheters, which are like long half-cooked spaghetti noodles into the blood vessels in the crease of the leg up into the heart, and we find what causes abnormal heart rhythms and either burn it or freeze it, depending on where it is and what we find during the procedure.
Q: Okay. Can a regular pediatric cardiologists read EKGs?
A: Yes, absolutely.
Q: And part of your practice is reading EKGs?
A: Yes.
Q: Where do you receive your referrals from? I'm sorry; I might've asked you that.
A: Oh gosh, everywhere.
Q: Everywhere?
A: Yeah. So, we talked about MUSC; Georgetown/Waccamaw, which is Tidelands Health; Beaufort Memorial; MUSC Marion; and local cardiologists or local pediatrician offices.
Q: Approximately, how many patients do you see per day?
A: In a clinic setting?
Q: Yes.
A: My schedule is for 14 patients, and I typically see about 16 patients.
Q: What is your schedule? When do you start and when do you

breakdown for the day?
A: My first patient is at 8:00 a.m., and my last patient is at 2:30.
Q: Okay. Your testimony today will be just about standard of care; is that correct?
A: Yes.
Q: You are not intending to offer any opinions on causation or cause of death?
A: No.
Q: What is your experience with ARVD? Have you ever diagnosed that condition?
A: I have. I probably follow all of the patients in the state, at some point in time, with a diagnosis of ARVD, because it is a condition that can cause abnormal heart rhythms, and so like Dr. Shuler was saying, we share patients across the state. And so, myself and my partner are the two experts when seeing all of those patients. So, I have as large a practice as you can have for a very rare condition.
Q: Okay. You are aware that Dr. Trant first saw Taylor on January 24 of 2019?
A: I am.
Q: Let's start with Tab 2 of that big notebook in front of you, and that's the exhibits from MUSC emergency department from January 24 of 2018.
A: Yes.

Q: Have you seen that record before?
A: I have.
Q: Tell us about your evaluation of that hospital emergency room visit for Taylor Price.
A: At that time, she was 12 years old. And it says that the chief complaint was at a basketball game, and mom states she fell to the ground saying she couldn't breathe, and that her arm and face were tingling.
Q: Was she seen by Dr. Steve Halus?
A: That's correct.
Q: Do you know Dr. Halus?
A: I do not.
Q: And by the way, have you spoken to Dr. Trant about this case?
A: No.
Q: Okay. Thank you. Have you spoken to Dr. Shuler about this case?
A: Other than the brief meeting we had this morning, no.
Q: Okay. What was Dr. Halus's diagnosis on January 24?
A: He said the diagnosis was hyperventilation syndrome.
Q: And what is that?
A: That's when you start to breathe too quickly and blow out too much carbon dioxide and become dizzy and feel faint but don't actually lose consciousness.
Q: What was -- you were talking about the diagnosis. Is

anything in that, in the medical chart from January 24, '18 indicate that Taylor had loss of consciousness?

A: No. It says that she fell to the ground, but she was still talking, which in my mind would mean that she is still conscious. It looks like you did -- her vital signs were appropriate in the ER, her exam was normal. It doesn't look like at that visit any of the testing was done.

Q: And was she discharged from the hospital stable?

A: She was.

Q: Now, did you read Dr. Bahan's medical chart on February 1 of 2018? And that's in Tab 2 or 3 -- 3, I think.

A: As much of it as there is, yes.

Q: Okay. Now, what were your observations from reading Dr. Bahan's chart?

A: I mean, there are a bunch of visits that are clumped together, and they all run onto a hundred pages.

Q: Look at February 1 of 2018. It might be on Page 10 or so.

A: There was a visit that stood out where he did some urine tests, but I don't think that that's the visit that you're asking me to look at.

Q: Did you read Ms. Utley's deposition?

A: I did.

Q: Did you read if she said anything about Taylor passing out or having lost consciousness prior to February 1 of 2018?

A: If I recall, you asked her directly did she ever lose consciousness, and the answer was no.
Q: Okay.
A: Sorry, I'm still trying to find this visit. What date am I looking for? What date did you want me to look at of Dr. Bahan?
Q: Okay. We can move on. It's in the record.
A: Okay.
Q: What is exertional syncope?
A: So, exertional syncope is the complete loss of consciousness that happens while actively doing sports. So, we've all seen tragic news stories of somebody while running collapsing to the ground and not being able to talk or communicate or having any muscle tone or anything else.
Q: Dr. Trant saw Taylor January 24, 2019. Up until that time, did you see any evidence of exertional syncope in any of the records that you have received?
A: I didn't see any description of events where she completely lost consciousness.
Q: Okay. Going that ARVD, what causes that, Dr. Kane?
A: Almost always it's a genetic mutation. So, something in our DNA that makes the muscle replace itself with fibers and fat.
Q: You talked to -- and I don't understand these terms. You talk to us at your deposition about genotype positive.

A: Yes. And phenotype positive.
Q: What do those terms mean? Can you explain that where we can understand it?
A: Of course.
Q: Us lay people.
A: Yes. We talk about this a lot in my patients so you can have the gene for a disease, meaning it was passed down from family members, and we know in your DNA you have the ability to have a disease. But when we actually look, either by ultrasound or by MRI, you don't have any indication of the disease. So, that's considered genotype positive. You have the gene but phenotype negative. You don't have any evidence of having the disease. And ARVC is a disease that is to this point still very elusive and confusing for the medical community, because there are many patients that have the gene, but don't have the disease.
Q: Okay. Typically, the vast majority of patients are approximately what age if they develop phenotypic findings of ARVC?
A: Most of the time it's in the 30s.
Q: Do you have any current patients that have been diagnosed with ARVC or ARVD?
A: I have one patient that's phenotype positive that has findings on ultrasound and on MRI of having ARVC. And I have probably 30 patients that have the gene for ARVC but have

normal studies.
Q: Okay. Open to Dr. Trant's note, if you would. I think that's Tab 12.
A: Yep.
Q: If you'll review that for me.
A: Yes.
Q: What does he put reason for consult at the top?
A: It says thank you for referring your patient for evaluation of shortness of breath and near syncope. Lately she's had no difficulty with basketball practice, including doing suicides. At the last baseball game, she became shortness of breath and felt unsteady. She also felt hot as if she was going to faint. The spell lasted for a few minutes, and then she recovered. Otherwise, she reported no other issues or concerns. Family history is negative for congenital heart disease.
Q: Is the reason for the referral listed at the top of that document?
A: It says near syncopal episodes. And then in parenthesis it says EKG.
Q: Okay. Are you aware of whether or not Dr. Trant actually had the EKG in hand when he saw Taylor Powell -- Taylor Price.
A: I believe in his deposition he told you that he had the EKG.
Q: And you've looked at the EKG yourself?

A: I have.
Q: Was there anything abnormal about that EKG for a 13-year-old child?
A: No.
Q: Are EKGs vastly different when you compare pediatric patients with adult patients?
A: Yes.
Q: Doctor, if you'll read this, if you can. Evaluate this EKG, if you would, Dr. Cain.
A: Sure.
Q: And talk about the V waves in that document.
A: Yeah. So, EKG stickers -- first, the most important part of a EKG is putting stickers where they're supposed to be placed. So, there are twelve stickers with leads that go on your body. There's left arm, right arm, left leg, and right leg. Those are pretty self-explanatory. And then all the Vs. so, V1 through V6. And V1 is actually on the right side of your body in the mid -- in the full line. On the right, V2 is on the left directly across from that. V3 is right underneath that. V4 is in what's called the midclavicular line, but it's also, you know, must in the mid-nipple line of the left side. V5 is -- I'm sorry -- can you hold that?
Q: Yeah, I got it.
A: V5 is right beside V4. And then V6 is actually underneath the axilla or the armpit. So, the stickers have to

be put in the correct place for us to actually use normals in EKGs to begin with. So, a lot of times, especially at this age, I see abnormal EKGs because of developing females and not wanting to touch and move breast tissue, and you know the EKG stickers end up over the abdomen because of privacy concerns. But that's how we do an EKG. Lead 1, 2, 3, aAVR, aVF, and aVL are all leads that are used with the limb leads, so it's vectors between the leads. And then 1, 2, 3, 4, 5, and `6 is actually the electricity immediately under each of those stickers. And so, what an EKG is is looking at the electrical activity of the heart. We look at a lot of things, but there are three parts to each heartbeat. There is the P wave, which is this little lump right in front of each of the heartbeats. That's when the top chamber of the heart beats. It's called atrial contraction. That's the P wave. The next is the QRS, it's really big, because that's when the bottom chambers of the heart beat, and your bottom chambers are all muscle, and so that's -- makes a bigger deflection. And then the T wave is what's after. That's actually repolarization of relaxation of the heartbeat. So, we look at the top chamber squeezing, the bottom chamber squeezing, and then the bottom chamber relaxing. We can't see the top chamber relaxing because it's buried inside this really big electricity from the bottom chamber squeezing. So, that's how I -- that's what makes up an EKG. And then when I read EKGs, thankfully I can do this

fairly quickly because I read like, I don't know, 600 a month. But I look to make sure that there is a P wave in front of every QRS, so that's called sinus rhythm, that means that your heart is in a normal rhythm. I look at the axises, so 1, 2, 3, and aVF, that means your heart is sitting like this in your chest, like it's supposed to. If your heart is turned funny, then the axis is off. I look at the voltages, so how big these are. And actually, each one of these boxes is 5 millivolts, so you count to see how many -- how much voltage there is. We have normals; how much you should be. So, if it's greater than 26 on this side, that would be an indication that your heart is big. And then I look at the relaxation. So, I look at the T waves and make sure that the axis of relaxation follows how the heart is beating.

Q: Point out V1, where is the V1 T wave?

A: V1 is right here.

Q: And is that upright, flat, inverted?

A: Yeah. So, it -- the P wave, the QRS and the T wave are all inverted.

Q: On V1 only?

A: On V1 only, which is normal, because like I said, it's on the right side of your chest, and all the rest of the stickers are on the left side of the chest. So, it's very common in pediatric patients for V1 to be inverted. And then by the time you get over the rest of the muscle mass, all the rest of

them are upright.
Q: Okay. So, how would you describe V2? And point that out for the jury, please.
A: Yeah. So, V2 is right here, so the P wave is here. The QRS, and then the T wave is pretty flat, what we call isoelectric. So, it's not positive or negative in the middle.
Q: Okay. It's flat?
A: It's flat. I mean, there's a little bit of positive upward deflection right here. You can see it's not the best reproduction, but...
Q: How about B3, describe that for me.
A: B3 is the P wave is upright, and the T wave was upright. But QRS is still more negative, but that's normal.
Q: Okay. So, do you see anything whatsoever abnormal for a 13-year-old child ---
A: No.
Q: --- with this EKG?
A: No.
Q: Have you read Dr. Chang's deposition? Do you remember?
A: Yes.
Q: Do you remember, and you may not, what he said about this EKG?
A: Yeah. He said that the T wave was inverted in V3, and so then I had to put everything down and go back and look at the EKG. It made me question myself.

Q: In your opinion, was he right or wrong?
A: He was incorrect.
Q: Okay. Do you remember him saying anything like V1, V2, and V3 were all inverted?
A: I don't remember, because V3 is the one that means the most to me, and so that's just what stands out in my head.
Q: Would an EKG diagnose ARVD?
A: It can -- it certainly can.
Q: And how can it do that?
A: There can be a number of ways. So, the epsilon wave, which you guys have heard -- you're gonna be electrophysiologists by the time this is over. The epsilon wave is what's called a late depolarization, so it's a little extra lift of electricity that you can see in V1 and V2, because those are the leads mostly over the right ventricle. And the -- when the wall becomes replaced with fat, then the electricity takes longer to get through the heart muscle. So, you see this late depolarization.

The other thing that you see is a decrease in all the voltages as your muscle gets replaced by fat, there's not as much muscle in the heart, and so the EKG, the QRS complexes can become a lot smaller.

Q: Doctor, turn in your book if you got it ---
A: Uh-huh, (affirmative response).
Q: --- to the visit at MUSC ER on December 12 of 2018.

A: Do you know which number it is?
Q: I don't have my extra copy. It's got an index. 4.
A: Okay.
Q: And describe that visit to the ER by Taylor on December 12th.
A: This says chief complaint from the nursing triage note, chest -- CP, which is chest pain; and SOB, which is shortness of breath while playing basketball. PTA, which stands for patient denies CP, chest pain, SOB at present. The patient presents with chest pain. The onset was just prior to arrival. The course duration of symptoms is resolved. Location, anterior chest; radiating pain, none; the character of symptoms is sharp. The degree at onset was moderate; the degree at maximum was moderate; the degree at present is none. The exacerbating factor is none. The relieving factor is rest. Risk factors consistent of not hypertension, which means that she doesn't have a history of high blood pressure. Not diabetes mellitus, not smoking, not obesity, not pulmonary embolism, and not deep vein thrombosis. Prior episodes, none. Associated symptoms, denies shortness of breath, denies nausea, denies vomiting, denies diaphoresis, denies anxiety, and denies palpitations. Additional history per mom, child was playing in a basketball game at school when she suddenly felt hot, had some chest pain or tightness, and vomited once. Mom states child continued to complain of being hot, but did

not feel hot to touch. Symptoms had completely resolved by the time they got to the emergency room.

Do you want me to keep going or is that enough?

Q: That's fine. Do you interpret anything that you read so far as Taylor having syncope?

A: No, sir.

Q: I think that's that the visit where the EKG was performed?

A: That's correct. They did vital signs, bloodwork. They looked for anemia, and her hemoglobin was normal. They did a urine collection that showed that she was fairly dehydrated. And they did the EKG.

Q: She was fairly dehydrated?

A: Yes, sir.

Q: What tells us that?

A: The specific gravity of the urine and the color of the urine. So, it was yellow and slightly cloudy, and the specific gravity is like how concentrated your urine is, and her specific gravity is 1.030, which is just an indication of being less than ideally hydrated.

Q: Okay. Does anything in that visit to the ER alarm you on Taylor's health?

A: No, sir.

Q: Then let's look, I think it's Tab 12, and that was the visit with Dr. Trant, which is next in line.

A: Yep.
Q: Do you have that?
A: Yes.
Q: Okay. Let's start off at the beginning. Reason for the appointment, what was that?
A: Near syncopal episodes, and in parentheses, EKG.
Q: And were vital signs taken?
A: Yes.
Q: Was the examination, cardiac examination conducted by Dr. Trant?
A: Yes, sir.
Q: Did Dr. Trant investigate current medicines?
A: Yes.
Q: Past medical history?
A: Yes.
Q: Surgical history?
A: It says denied. Oh, yeah, surgical history, denies having ---
Q: Did he investigate family history?
A: Yes.
Q: Did he investigate social history?
A: Yes.
Q: Did he investigate allergies?
A: Yes.
Q: Did he ask about major hospitalizations?

A: Yes.
Q: And there were none, right?
A: Correct.
Q: And he reviewed the symptoms of Taylor?
A: Correct.
Q: Dr. Trant had the EKG in hand when he saw them?
A: Yes.
Q: You've looked at this evaluation by Dr. Trant?
A: I have.
Q: Okay. Was it necessary on that visit for Dr. Trant to do any further testing beyond having the EKG?
A: No.
Q: Would you have done any further testing?
A: I would not have.
Q: What is your philosophy on testing, Dr. Cain? You told me something -- do you remember what you said?
A: Sure. I mean, all of our goal is to do the right tests on the right patients to make the correct diagnoses. There's a huge push in medicine to make sure that we don't order unnecessary tests, so we're all very thoughtful about when to take the next step for each evaluation.
Q: In your practice, should a medical test be clinically indicated?
A: Yes.
Q: Was there any clinical indication in that visit with Dr.

Trant that further testing or any testing was necessary beyond the EKG?

A: No.

Q: Okay. Do you see any deviation from standard of care by Dr. Trant from that evaluation?

A: No.

Q: Up until that time, does the chart tell you anything about having -- Taylor having complete syncope?

A: No.

Q: There had been mention of another incident, episode at school December 18, when there's no medical record of it.

A: Is that what her co-parent talked about in his deposition?

Q: Yeah, Mr. Emerson Hunt.

A: Yes.

Q: What do you remember about that?

A: I read the deposition.

Q: Okay. And what do you remember about that?

A: What stood out to me was -- I do remember that she -- and please correct me if I'm wrong -- that she went to the sideline, she sat down or slumped down, and he helped her from the sideline into the locker room or into outside of the gym, and she was still -- she wasn't with it. She wasn't herself but she was still talking, not making much sense but still talking to him.

Q: Did that sound like syncope to you?
A: It sounds like near syncope, but not complete loss of consciousness.
Q: Okay. If a patient has near syncope during exercise, what would you do if you saw that patient?
A: I would usually recommend increasing hydration, paying attention to symptoms, and if episodes continue to send me a message, or call my office, or come back. And that's usually when I take the next step in ordering more studies and doing more tests.
Q: Okay. Did Dr. Trant after his evaluation, he invited for Taylor and her mom to come back to see him if they had any -- if she had any other issues, do you remember that in the chart?
A: Yes.
Q: Okay. And are you aware of Taylor ever going back to see Dr. Trant after that visit?
A: I didn't see any record of that.
Q: Are you aware of any episodes that Taylor might've had after she saw Dr. Trant?
A: No.
Q: Okay. Was there any evidence in your opinion of ARVD or ARVC when Taylor saw Dr. Trant?
A: No.
Q: Now, we talked a good bit at your deposition about sports

clearances?
A: Yes.
Q: Tell us about that. Do you do sports clearances?
A: I do not. Very similar to what you heard, I'm sure multiple times, I provide cardiac clearance, but it's -- we rely on our general pediatricians and family practice doctors to do the entire evaluation, and we focus solely on the heart, because I don't have the ability to check sight or hearing. My male patients don't like me doing testicular exams in clinic. So, I just provide cardiac clearance.
Q: Dr. Trant authorized a cardiac clearance for Taylor when he saw her the first of that school year.
A: Correct.
Q: Do you have any issue or problem with that?
A: No.
Q: Was that a deviation from standard of care?
A: No.
Q: Okay. When did we learn, Dr. Nicole Cain, that there was a study done on ARVC and sports ---
A: Right.
Q: --- sometime in 2020.
A: Right. I believe it was in 2021, definitely by 2022, there was a study published that exercise actually makes patients with the gene for ARVC, so the ability to have ARVC, it makes their disease progress faster. And so, before that

study was published, I allowed all my patients with ARVC to continue playing sports, because our goal is to have normal healthy, well-socialized teenagers, and sports means a lot to them. But after that study was published, all of us in the community have restricted specifically our ARVC patients from major cardiovascular participation. So, they can still do some field events, bowling, fencing.

Q: Okay. Was an international task force put out to conduct that study? If you know?

A: No. I don't think it was an international task force -- there was an international task force for the diagnosis of ARVC, but I think that study was just out of a registry of patients of families with known ARVC, and they noticed that patients who -- most of these are adults, and so was adults that ran a lot, that participated in long-distance running, half marathons, marathons, that their disease actually progressed faster. So now, they are doing bench or lab studies to try to figure out why that is, because right now we only know that it was seen in a registry, and so better safe than sorry to restrict ---

Q: Is a stress test part of the diagnostic criteria for ARVC?

A: No.

Q: Was a stress test in your opinion necessary for Taylor when she saw Dr. Trant?

A: No.
Q: When you decide whether or not to clear patient for sports, do you interact with the family and other members or the primary care doctors?
A: I interact with the family when I provide clearance. And then the referring physician, I send a letter back to them with all of my findings and I usually say at the bottom that provided sports clearance.
Q: What do you think of the statement that physicians stood test and not guess? Do you endorse that philosophy?
A: No.
Q: Okay. You only order tests that are clinically indicated?
A: Correct.
Q: Okay. Now, I don't want to get too personal. One of your daughters had maybe shortness of breath when she was 14 or 15?
MR. LESEMANN: Your Honor, I would object to this. It's irrelevant unless her daughter, which I don't think has occurred has died from ARVD. I don't ---
MR. AIKEN: No. Objection to that statement.
MR. LESEMANN: I don't believe that that would be relevant to pursue.
THE COURT: Okay.
MR. AIKEN: Talking about what she would do?

MR. LESEMANN: It's sort of the golden rule issue there, bringing her own daughter into it when her daughter, I don't believe has ARVD, and I don't believe has died.

MR. AIKEN: She has not.

(REPORTER'S NOTE: Bench conference is held off the record in the presence but outside the hearing of the jury.)

BY MR. AIKEN:

Q: Dr. Cain, how do you distinguish shortness of breath caused by a cardiac issue? What happens to the patient?

A: So, shortness of breath from a heart issue is when you have heart failure. And so, when your heart muscle isn't squeezing very well, too much blood gets backed up in the lungs, and that causes you to have shortness of breath. A lot of people will just say heart failure. Shortness of breath is not usually from any other cardiac reason.

Q: Okay. Do you have patience with shortness of breath?

A: I have lots of patients with shortness of breath, yes.

Q: Do you have a lot of patients with chest pains?

A: I do.

Q: Do you have a lot of patients with chest wall pain?

A: Yes.

Q: How many of those patients with those conditions have true cardiac disease? Can you give me a percentage?

A: Yeah, less than one percent.

Q: Okay. And when you have some shortness of breath caused

by cardiac, your heart ---
A: Uh-huh, (affirmative response).
Q: --- does your lungs fill with fluid?
A: Yes.
Q: Would tell me how that process happens and how does the fluid get resolved?
A: The fluid gets resolved with medication, so ---
Q: Treatment.
A: --- Lasix or water pills treatment, exactly. It doesn't go away on its own.
Q: And that's by treatment generally by a pediatric cardiologist?
A: Yes.
Q: Okay. How does -- what are the patient's symptoms that he or she has shortness of breath caused by your heart? Do they feel good, feel bad, sick patients?
A: They generally feel bad all of the time. They have trouble laying flat on their back, they need multiple pillows to kind of keep themselves propped up at night. They have exercise intolerance, not just with some sports but with all sports. They are not able to participate in recess or participate in PE. They have trouble even getting like from the car into the grocery store or, you know, shopping. When you have -- when you have shortness of breath from heart failure, you have it all the time.

Q: Okay. What is a careful cardiac investigation?
A: For me, it's a very thorough history and physical exam.
Q: Does that also mean just referring the patient to a cardiologist ---
A: Oh ---
Q: --- pediatric?
A: Yes.
Q: Okay. And that constitutes a careful cardiac examination?
A: Yes.
Q: Okay. When you look back at Dr. Trant's records, his evaluation from January 24th, would you call that a grossly inadequate or a grossly adequate review for Taylor?
A: Yeah. I mean, it was a very adequate pediatric cardiology visit.
Q: And of course, I think, in your opinion she required no further evaluation, no further testing?
A: At that time, correct.
Q: We talked about the PPE in this trial.
A: Yes, you have.
Q: Tell us about that.
A: The preparticipation sports evaluation or physical is a way in which to try to get all -- everybody on the same page with doing an evaluation and clearing patients to participate in sports.

Q: Who is that document intended for, the general audience?
A: The general pediatricians, family practice doctors, PAs and nurse practitioners that work in urgent care settings, orthopedic surgeons who just go to the high school and do sports physicals. So, it's anybody that is going to clear somebody to play sports.
Q: Is it specifically intended for a pediatric cardiologist?
A: No. It is intended to provide education to the people who are providing the clearance.
Q: Do you ever use that document in your practice?
A: I use it in a bunch of PowerPoints and lectures that I've given on sudden cardiac death and on preparticipation sports physicals.
Q: Do you use the form for preparticipation sports physicals that's in that document?
A: No. I do not.
Q: What do you use when providing cardiac clearance?
A: I write a letter that's then stapled, most of the time, to the sports physical, if they have been withheld from sports but their pediatrician is already filled that out. Otherwise, I'll provide the family with a letter.
Q: Dr. Trant's sports clearance that you have reviewed ---
A: Uh-huh, (affirmative response).
Q: --- does that last forever or does that only last until the end of the school year?

A: At last for as long as the symptoms are -- that don't change.
Q: Okay.
A: But every year, at least in South Carolina you are required to have an updated physical.
Q: And who generally does that?
A: Whoever -- whoever the parents find to do it. So, you -- ideally, it's your pediatrician or your family practice doctor who has a relationship with you and has known you for a long time, but you can go to a minute clinic and pay $29 and get a sports physical done.
Q: Okay. Excuse me, Dr. Cain. Excuse me one minute, please.
A: Sure.
MR. AIKEN: Bear with me, Your Honor, for one minute.
THE COURT: Yes, sir
BY MR. AIKEN:
Q: Doctor, does a echocardiogram automatically diagnose ARVC, if it's present?
A: No.
Q: What's your experience with that? What can you tell us about that?
A: Until the disease is very progressed, there aren't changes on ultrasound or on echocardiography.
Q: Dr. Chang believes Taylor had ARVD when she saw Dr.

Trant. Do you believe that to be true?
A: Again, this goes back to genotype or phenotype. So, she likely had a gene that predisposes her to have ARVC, but it's very unlikely that she had a phenotypic finding or actual changes of her heart at age 13.
Q: I think I asked you this, but from the time Dr. Trant saw her until she tragically died, almost three years later, have you seen any evidence of any further symptoms of shortness of breath, chest wall pain, chest pain?
A: I didn't see anything in any of the records that I reviewed.
Q: ARVC or ARVD is a progressive illness?
A: It is. And very poorly understood.
Q: I'm sorry?
A: And very poorly understood.
Q: Okay. Do you think Taylor's death was, as Dr. Chang said, completely preventable?
A: That's a very difficult question. It was certainly tragic.
Q: Absolutely.
A: I unfortunately don't think it was preventable.
Q: Ma'am?
A: I unfortunately don't think that it was preventable.
Q: Okay. Thank you, Dr. Cain. I'm sure these other lawyers will have questions. I appreciate your time.

A: Yep.

THE COURT: Yes, sir.

MR. LESEMANN: Thank you.

CROSS-EXAMINATION OF DR. NICOLE CAIN BY MR. LESEMANN:

Q: Dr. Cain, is it true that you have never made a new phenotypic diagnosis of ARVD in a patient in your career?

A: I have one patient with phenotype positive.

Q: But you didn't diagnose that patient?

A: Correct. I inherited her.

Q: Okay. So, I'll ask the question again. Is it true that you have never made a new diagnosis of ARVD in a patient?

A: That is true, a phenotypic ARVD in a patient.

Q: Yes. Which means, based on review of an echocardiogram, or cardiac MRI, a stress test, all the tools that we've been talking about for the last couple of days, you've never discovered a case of ARVD using any of those tools?

A: That's correct.

Q: So, when you are discussing with Mr. Aiken about whether or not these tools can discover ARVD, still you have never seen it yourself and diagnosed yourself?

A: I have looked a lot for it, and I have never diagnosed it.

Q: And you've never been an expert witness before today, correct?

A: I have not; that is correct.

Q: And you actually treated patients that have ARVD has been discovered, that they have it, correct?
A: That's correct.
Q: And so, they didn't die immediately. They were able to receive treatment?
A: That's correct.
Q: Okay. You mentioned the difference between genotype and phenotype. So, there is genetic testing that can be administered that can help determine whether a patient who is presenting with the multiple exertional episodes may have a gene that would predispose her to ARVD, correct?
A: That's a very long and nuanced answer. Would you like my entire explanation of it?
Q: Well, if it's really long, maybe I can ask the question differently. There is genetic testing that could be utilized to help determine whether the patient has the gene?
A: Currently in 2024, the genetic testing for ARVC is positive in about 60 percent of patients who you know have the disease.
Q: So, how about in 2019?
A: Probably closer to 30 or 40 percent.
Q: Okay. So, it's a tool?
A: It's a tool.
Q: All right.
A: It is by no means -- genetic testing is very complex and

nuanced, so of patients who you know have the disease, 30 percent of those actually have a genetic finding.

Q: Well, you can give a genetic test to someone at any point, correct?

A: You can.

Q: Okay. And so, you wouldn't want to wait until you necessarily know that they have ARVD, because the patient at that point might be dead.

A: You also don't want to order genetic testing without a certainty that somebody has a disease, because you come up with variance of unknown significance and other things that we're not sure if it's real and not sure if it's unreal, and then patients can be denied life insurance and health insurance in the future. And so, I'm quite cautious about who I order genetic testing on, all of us, because we don't want to impact future insurance for our patients.

Q: Okay. So, do you believe the reason why Dr. Trant would not have considered genetic testing for Taylor before she died was because he may have wanted to protect her ability to get insurance?

A: No.

Q: Okay. Do you have any explanation for why specifically Dr. Trant failed to present Taylor for any genetic testing?

A: She didn't have any findings at that time that would make one suspicious that she had arrhythmogenic cardiomyopathy.

Q: Okay. So, she's 13 years old, right?
A: That's correct.
Q: And she has four exertional episodes, correct? Yes?
A: Four exertional episodes just period? Yes.
Q: Okay. And those are exertional episodes that Dr. Bahan referred to specifically as syncope?
A: That's what his referral note said.
Q: Okay. And in the medical records, it also says that she was passing out.
A: Do you care if I look at that? Because I believe that was in quotation marks, but I don't remember.
Q: Oh, that was in the summary. Do you know -- I mean, how long did you spend reviewing these records, Dr. Cain?
A: Over the last year and a half, probably 12, 14 hours.
Q: Okay. Could you tell this jury how much time that Dr. Trant spent reviewing those records?
A: I cannot.
Q: Do you know if he even reviewed all of the things that you reviewed?
A: I was listening to the previous testimony, can I answer and stop this line of questioning that he -- in a letter that you gave Dr. Shuler said that he didn't review Dr. Bahan's note?
Q: He said he didn't review -- he admitted he didn't review Dr. Bahan's records at all. Did you know that before today?

A: I did not.
Q: Does that sound like somebody who was doing everything that Taylor deserved?
A: It sounds like somebody who is practicing modern medicine.
Q: Oh, wait. Modern medicine involves not looking at people's records? Is that what modern medicine is, Dr. Cain?
A: It is unfortunate that we have many, many medical systems that don't always communicate with each other, and we don't always have the ability to see all of the prior evaluations before we walk into a room and see a patient. In an ideal world all of our medical records communicate with each other and we can see everything that's happened before. But there are many times when I walk into a room with no patient information other than what the parents tell me.
Q: In an ideal world, when a pediatric cardiologist has a referral for syncope and collapse, and he has those medical records from that referring pediatrician, in this ideal world, that pediatric cardiologist reviews those records, right?
A: I am not entirely sure -- in the referral that you're ---
Q: I'm -- all the records, the referral record said syncope and collapse, the medical records said syncope, and the medical records said passing out, the medical records said collapse, they said cardiovascular chest pain, they said difficulty breathing. Can you tell this jury before you came

in here today to testify that Dr. Trant did everything right, and did everything he was supposed to do, you didn't even know if he looked at the records.

A: I don't think it's pertinent to my testimony that I don't think that he did anything wrong in the visit.

Q: Okay. So, you're able to make a determination and tell a jury that you feel like a pediatric cardiologist did everything right regardless of whether they looked at the records?

A: That's correct.

Q: If they don't look at the records, why do they even know that this 13-year-old is in their office?

A: It's based on what the family tell you.

Q: Now, the family is not a doctor.

A: No, but the family knows why they went to the ER, what symptoms they're having.

Q: I never heard the word syncope until I was involved in this case. Is that something that the average person knows?

A: I don't use the word syncope when I'm asking families about their symptoms. I use more laymen's term such as ---

Q: Like collapse, like passing out?

A: Yes.

Q: And those are the terms that Taylor and her mom did use, showing from the medical records at least that you read, correct?

A: There's only one mention of collapse, and that's when she fell to her knees and was complaining. I didn't see other uses of the term collapse.
Q: Did you look at all of them? You're saying that there's only one -- I mean, it's gonna take -- you know ---
A: I know it's a lot of pages. I promise, I looked at them all.
Q: All right. So, let's do this. Why don't you turn to Tab 8. This is a summary that includes -- it's been admitted and it includes information from the medical records. And so, could we agree that the -- on January 24th, 2018, that Taylor was at a basketball game, and she fell to the ground and could not breathe?
A: She was saying that she could not breathe, yes.
MR. AIKEN: Your Honor, I object to that line of questioning, he is referring to the summary that they prepared. It has the information they want and not the medical records themselves.
THE COURT: Well, from my understanding, this summary was admitted into evidence.
MR. LESEMANN: Yes.
THE COURT: And so, I think he has a right to ask her about anything that's in evidence. Now, you know, she can explain from the records, but I think ---
MR. AIKEN: Well, he's asking about the medical records.

This is just their summary.

THE COURT: I understand. So, you have a right to look up where it is in the records and ask her about it.

A: Okay.

MR. LESEMANN: Thank you.

BY MR. LESEMANN:

Q: So, you said that she -- I'm sorry; I got distracted. Did you say that she said that she collapsed or that she said that she fell to the ground?

A: It says at the basketball game, mom states she fell to the ground saying she couldn't breathe and that her arm and face were tingling.

Q: Okay. You've been to a basketball game before, right?

A: I have.

Q: And so, the parents were up in the stands.

A: Uh-huh, (affirmative response).

Q: And the kids are playing on the court.

A: Uh-huh, (affirmative response).

Q: All right. And so, there's a moment where her mom is not right there with her, right?

A: I'm sure, presumably.

Q: And so -- and you were not at that game?

A: Of course not, no.

Q: Okay. And you weren't there in early February 2018 when she had another episode, correct?

A: I was not.
Q: And you weren't there in December -- on December 12th of 2018 when she had a third episode.
A: That's correct.
Q: And you weren't there on December 18th of 2018, when she had a fourth episode?
A: That's correct.
Q: Okay. And so, you don't know whether she collapsed or not?
A: That's correct.
Q: And you don't know whether she lost consciousness or not?
A: No, not as much as anybody in this room does.
Q: But when you weren't here yesterday, Mr. Hunt testified that he had to -- he didn't help her up, he had to pick her up. She was deadweight and she was limp.
A: But she was still speaking to him, I believe in his deposition.
Q: That was 15 minutes later. If you've got a 13-year-old who has just been playing basketball who just gets herself off the court before she collapses, and she's gurgling, she's -- she's limp, she's deadweight, and this gets reported to you as pediatric cardiologist, are you gonna do anything for that patient?
A: Sure. But it has to be reported to me in order to know that that has happened.

Q: Were you on the phone when Metri was talking to Donna at Dr. Bahan's office about what had happened to get that referral?
A: No.
Q: And do you know if that conversation is what led Dr. Bahan to say syncope and collapse, and syncope times two on his medical records?
A: There's no record of phone conversations in any of the medical records. So, no, I -- I was not on the phone.
Q: Yeah. You don't know. And so, when Dr. Bahan sent a referral form to Dr. Trant that said syncope and collapse, you think Dr. Bahan had a reason for doing that?
A: I'm sure he had a reason for doing that.
Q: Because he believed that she had had syncope and collapse, right?
A: I cannot comment on what his beliefs were.
Q: Because you've never spoken to him?
A: I have not spoken to him, no.
Q: Okay. But if she had syncope and collapse, like Dr. Bahan diagnosed her as having, and sent her to Dr. Trant for that reason, that deserved more than a paper bag, didn't it?
A: No.
Q: It didn't deserve more than a paper bag?
A: No.
Q: Dr. Cain, you mentioned, I think, that there was a study

in 2022 and you kind of had an epiphany about your athletic patients that were in sports, and you decided that due to the study you needed to start holding them out; is that right?
A: I didn't have an epiphany. The entire medical community had an epiphany all at the same time.
Q: And so, up until 2022 when this study -- you don't -- I know you didn't remember who published it, but up until 2022 when it was published, your statement that the standard of care was that you didn't need to hold athletes with cardiovascular symptoms out from a sport?
A: My statement wasn't that I -- it wasn't about cardiovascular symptoms. I said that my patients with ARVC I allowed to continue to play sports.
Q: Wow. We talked about the PPE, I'm gonna hand that to you. Do you know, was the PPE, Fourth Edition, it was published in 2010, correct?
A: Yes, that's correct, by the American Academy of Pediatrics.
Q: All right. I'm sorry. Dr. Cain, I need to back up. You had patients up until 2022 that had an active diagnosis of ARVC, and you allowed them to keep playing sports?
A: A genetic diagnosis of ARVC, yes, I allowed them to keep playing sports.
Q: Oh, a genetic diagnosis. Okay. So, maybe they didn't actually have it at all?

A: Well, they have the ability to have ARVC, yes. That is having a disease. Having a gene is the same thing as having a disease.
Q: Because you tested them based on symptoms that presented to you, correct?
A: I tested them based on family history most of the time.
Q: All right. And what if the family doesn't know their family history?
A: Then you ask them to ask around and keep asking and dig or you just treat the patient based on their symptoms.
Q: Or you just give them a test, right?
A: No.
Q: No? All right. So, you said the genetic test is not a hundred percent reliable, but I know you'll agree that an EKG, that's not a reliable method of detecting ARVD, is it?
A: Not in early stages, no.
Q: Detection rate is maybe about a third; is that right?
A: Or less.
Q: Or less?
A: Uh-huh, (affirmative response).
Q: So, that's why you don't just rely on an EKG when you've got somebody who is presenting with serious symptoms, correct?
A: I rely more heavily on the history.
Q: Do a lot of people die of ARVD without their family knowing that that was what they had?

A: It's a very, very rare disease.
Q: One in 2500 is what Dr. Reimer testified to yesterday.
A: In adults probably, but in pediatrics it is exceedingly rare to have ARVC.
Q: Because it's also rare for someone to present with four episodes of collapse, shortness of breath, and chest pain and less than a year all related to exercise, right?
A: That is not rare, no.
Q: That's not rare? Is it rare to have someone present that's 13 years old and otherwise physically healthy, is it rare to send that patient home with no testing?
A: No.
Q: Is it rare to give that patient 13 minutes of your time?
A: Not necessarily, no.
Q: Is it rare to not look at the records?
A: If they're are available, it would be rare. If they're not available, that's not surprising.
Q: You, in your deposition, you said you needed to look at all the data that's available to you, correct?
A: That's correct.
Q: And the standard of care would demand for a pediatric cardiologist, who is trying to prevent sudden cardiac death in athletes, it would be incumbent upon a pediatric cardiologist to review all of the records that were available to them, correct?

A: That are available, correct.
Q: And that would be particularly the case when those records are from the pediatrician that's actually diagnosed syncope and collapsed and sent you the patient, right?
A: I don't -- I cannot comment that Dr. Trant had the entire medical record from Dr. Bahan's office.
Q: Because you didn't ask, did you?
A: There was a referral sheet. Just because there is a referral sheet does not mean that you have the entire office visit or the entire medical record, unfortunately.
Q: So, before you came in here to testify on Dr. Trant's behalf, did you even figure out, did you even ascertain whether those records were available?
A: I did not, because it wouldn't have changed my evaluation of the care that day.
Q: So, your evaluation of the care would not change if the doctor that had given the diagnosis of syncope and collapse, had presented records, and they were in the ER at McLeod, and they were not looked at; that doesn't bother you at all? You're still a hundred percent behind how Dr. Trant handled his care of Taylor?
A: That's correct.
Q: That referral form, Exhibit 10 -- you know what, I don't know that we actually got ---
A: I don't think that we did, no.

Q: Yeah. Sorry. Let me back up a second, because there was something important here. Before we go to Exhibit 10, Dr. Cain, if I could hand that back to you.
A: Sure.
Q: So, we talked about that 2022 study when you were letting your patients that had the gene for ARVD to keep playing sports.
A: That's correct.
Q: Do you see the section that says investigation of athletes with cardiovascular symptoms?
A: I do.
Q: All right. And so, Taylor was an athlete, correct?
A: That's correct.
Q: Okay. And she had cardiovascular symptoms, correct?
A: She did.
Q: All right. So, this section right here, it'd be relevant to caring for Taylor to look at that section, right? Yes?
A: Sure.
Q: And so, what does it say in that first sentence, Dr. Cain?
A: Athletes identified with cardiovascular symptoms such as exertional syncope or near syncope, chest pain, palpitations, or excessive exertional dyspnea require a careful and thorough cardiovascular evaluation to exclude underlying heart disease before allowing an athlete to return to sport.

Q: So, before returning to sport their needs to be a careful and thorough cardiovascular evaluation, correct?
A: Correct.
Q: All right. The EKG was done before Dr. Trant -- the visit with Dr. Trant, wasn't it?
A: It was done in the ER about a month before the visit.
Q: Okay. And so, we can agree that there wasn't a new EKG done, right?
A: That's correct.
Q: And there wasn't a stress test that was done, correct?
A: That's correct.
Q: And there wasn't an echocardiogram that was done, correct?
A: That's correct.
Q: And there wasn't a cardiac MRI that was done, correct?
A: That's correct.
Q: All right. And there was no genetic test that was done, correct?
A: That's correct.
Q: Do you know how long that Dr. Trant spent with Taylor and her mom?
A: Well, you told me it was 13 minutes, but I ---
Q: Do you know any different?
A: I don't know any different, and I also don't know that that's the truth; I don't know.

Q: And you said that Dr. Trant had the MRI in his hand when you were asked by Mr. Aiken did he have the MRI -- I'm sorry; excuse me -- there was no MRI to be in his hand because it wasn't taken -- the EKG?
A: Yes.
Q: All right. Metri said he had nothing in his hand when he walked in, but you weren't there, right?
A: No, I wasn't there.
Q: So, you don't know what he had?
A: I don't think that I said that he had it in his hand.
Q: Oh, okay.
A: I said that he had it, period.
Q: Cause it was in the records?
A: Because -- yeah.
Q: When did he review it?
A: I don't know.
Q: How long did he review it?
A: I don't know.
Q: Did he review it before the visit?
A: I don't know.
Q: Did he review it after the visit?
A: I don't know.
Q: Do you have privileges at McLeod?
A: I do not.
Q: Do you review EKGs for McLeod?

A: I do not.
Q: Have you ever done that?
A: I don't think so, no.
Q: When Dr. Bahan sent Taylor to Dr. Trant, what was the reason that he said he was sending her?
A: Now we're back to Number 10?
Q: Yeah. Exhibit 10.
A: So, the diagnosis says ICD-10 R55 syncope and collapse. But then in the rest of ---
Q: No. I just had asked you what the diagnosis, what the reason for the referral was.
MR. AIKEN: I think she can finish, Your Honor.
MR. LESEMANN: Well, I -- she answered the question. The rest is non-responsive.
MR. AIKEN: I would ask for the Court to allow her to finish her thought on that question.
THE COURT: She can answer his question, then you have a right to explain the answer if you need to.
MR. LESEMANN: Thank you, Your Honor.
A: Okay.
BY MR. LESEMANN:
Q: So, I asked what was the diagnosis on the referral order?
A: So, on this referral order, it's two pages from Pee Dee Pediatrics, the diagnosis is syncope, ICD-10 R55, syncope and collapse. And then it says schedule at provider's discretion.

It has the patient information, insurance, and contact information. It has her allergies, her medication, her previous things that she's been diagnosed with from the pediatrician's office. And no other records are included from any of the pediatric visits. It's just these two pages.

Q: I appreciate that. I had just asked you what was the reason for the referral.

A: Okay.

Q: And what was the reason for the referral?

A: It says R55, syncope and collapse.

Q: Do you know whether Dr. Trant ever looked at this?

A: I don't know. But there's not much information to look at on this one piece of paper.

Q: Well, there's a pretty important piece of information, isn't there, the diagnosis?

A: The diagnosis of syncope and collapse with the ICD-10 code is a very frequent thing that is chosen by referring pediatricians, because the alternative, when you try to do pre-syncope, it's called dizziness and giddiness, that's the ICD-10 code for being dizzy. And not very many of us like to refer a teenage female for giddiness to a cardiologist. And so, we're way more likely to choose the syncope and collapse ICD-10 code when given the choice between those two things, because it's more likely to get approved by insurance, and it's more likely to get you into the office faster.

Q: Did -- any indication that Taylor was having giddiness?
A: No, of course not. It's a terrible ICD-10 code, that's why we don't use it very much.
Q: Right. Thank you for all that explanation. But again, Dr. Bahan chose the one that said syncope and collapse.
A: He did, but then provided no information about why he chose that code or any documentation of any conversation or history of present illness that happened in his office.
Q: Okay. Do you need all that explanation to know what syncope means?
A: No.
Q: Do you need any explanation to know what passing out means?
A: Me, Dr. Nicole Cain? No, I don't need an explanation to know what passing out means.
Q: Do you need an explanation to know what collapse means?
A: Yes, I do.
Q: Okay. But when Mr. Aiken asked you, you had a very clear definition of what syncope was.
A: Yeah.
Q: Do you know if Dr. Bahan is suffering under some different definition than what you have?
A: Yes, probably.
Q: But you have never spoken to him?
A: I have not.

Q: Okay. And if we could look at Tab 11.
A: Sure.
Q: Are you familiar with an appointment log?
A: No, but I can make myself familiar.
Q: Okay, wonderful. Thank you. So, Tab 11 is in evidence and it's an appointment log ---
A: Okay.
Q: --- for Dr. Trant showing all the patients that he saw that day. You can see the black boxes there?
A: Yes.
Q: That's for redaction purposes. If you go to the third page, do you see Taylor's name?
A: I do.
Q: Okay. And if you go to the fourth page, do you see the unredacted section again?
A: I do.
Q: What does the appointment log at McLeod Physician Associates and Dr. Trant's office, what does the appointment log indicate as the reason for Taylor's visit?
A: It says syncopal episodes, which is generated from the referral.
Q: Okay. And so, syncopal episodes would mean likely multiple instances of syncope?
A: I am not entirely sure who enters this information into Dr. Trant's patient log. In my practice, it's usually the

scheduler who is on the phone with the family. And they put in exactly what is in the referral.

Q: Now, Metri's deposition, that was taken after Taylor had already died, right?

A: Yeah, unfortunately.

Q: And so, this appointment log, was this prepared when Taylor was still alive?

A: I'm sure not, no.

Q: No, this was the appointment log that showed when she went in to see Dr. Trant.

A: Oh, I thought you physically meant this set of four pages.

Q: No. But this appointment log, this existed on January 24th, 2019, right?

A: I'm sure, yeah.

Q: And it said syncopal episodes?

A: It did.

Q: And then that referral form, that existed before Taylor died?

A: That's correct.

Q: And that said syncope and collapse?

A: It did.

Q: And we looked at the section of the PPE, Fourth Edition, now this has been around since 2010, right?

A: Yes.

Q: So, this wasn't something that just came up in 2022?
A: That's correct.
Q: This has been around. And not just for pediatric cardiologists but also for even just pediatricians, right?
A: That's correct.
Q: And it says it's not just syncope, it's exertional syncope or near syncope, chest pain, palpitations, or excessive exertional dyspnea; all of those, right?
A: That's correct.
Q: And can we agree that Taylor had more than one of those symptoms?
A: That's correct.
Q: Okay. And that means that even this document, this PPE, that meant that a careful and thorough cardiovascular evaluation was required for Talor? Yes?
A: It was required before being cleared to play sports, yes.
Q: Well, she was cleared to play sports, wasn't she?
A: She was, after a careful and thorough cardiovascular evaluation.
Q: After a careful and thorough evaluation that you can't tell us how long it was and you can't tell us what occurred during that visit.
A: Those are statements and not questions.
Q: And you -- can you tell us what happened during that visit?

A: I was not present, no.
Q: And can you tell us how long it was?
A: I cannot.
Q: Okay. And Mr. Aiken asked you a question of whether Taylor and her mom followed up with Dr. Trant. How quickly after that January 24th, 2019 visit did he submit his letter of resignation?
A: I don't know.
Q: If he submitted a letter of resignation less than two weeks later, that would be news to you?
A: Yes. I mean, I know that he retired, but I did not commit the date to memory.
Q: Well, one reason maybe that Taylor never saw Dr. Trant again is because he submitted a notice of resignation on February 5th, 2019, nine days or so after they were there?
A: There wasn't a question there, so ---
Q: Yeah. No, I said -- it was a question. Is that probably an explanation of why they never crossed paths again?
A: You mean, their -- yes, probably why she never saw specifically Dr. Trant again. He was replaced by now Dr. David Steflik, who is a pediatric cardiologist at McLeod. There are about 14 of us in Charleston. I think six or seven in Columbia. And about six pediatric cardiologists in Greenville. So, there are plenty of pediatric cardiologists around.

Q: But Taylor did go see Dr. Trant, not you, right?
A: That's true.
Q: Would you have reviewed the records from Dr. Bahan?
A: Are you asking before the visit, after the visit, anytime?
Q: Well, before sending somebody home in a paper bag or with a paper bag, would you have read the records?
A: If I had the records available ---
Q: Yes.
A: --- I would've reviewed the records. If I didn't have records available, I would ask the family to sign a release of records so that I could request that the records be sent to me. But that assuredly does not happen during a clinic visit. It happens weeks to months afterwards. So, I wouldn't necessarily have reviewed the records before making a diagnosis and treatment plan.
Q: So, you'd make sure that you had reviewed the records before you made a diagnosis and maybe a treatment plan?
A: No, that's not at all what I said. I said I would review available records.
Q: Okay.
A: Or request records.
Q: All right. So, if the records were available, you'd review them?
A: That's correct.

Q: Before you made a diagnosis?
A: Yeah.
Q: And before you refused to order any tests?
A: I think refuse is very strong word.
Q: Well, did Dr. Trant offer to do any tests? You may not know.
A: I don't know.
Q: Right. I know you're here today to testify on his behalf, but you don't know if he offered any tests?
A: I don't. But I also don't know that he refused to do any tests.
Q: Any reason to believe that Metri and her 13-year-old daughter, after having her collapse all those times would've been disinterested in tests?
A: No.
Q: Does she seem like somebody who cared about her daughter?
A: Absolutely.
Q: So, you don't know whether Dr. Trant offered any tests?
A: I don't.
Q: Now, workup, right, a thorough workup, that's different from a referral, right?
A: It depends on who you're asking.
Q: Okay. A referral is a referral, right?
A: A referral is a request for an evaluation by a subspecialist, usually.

Q: All right. And a workup means a workup, right?
A: That's correct.
Q: And careful and thorough means checking everything, right?
A: No.
Q: It doesn't?
A: No.
Q: And you're a specialist in rhythm disorders, correct?
A: I am.
Q: And so, what are the best ways to detect structural defects in the heart?
A: Wait, just -- to clarify. I thought wasn't allowed to be an expert for rhythm disorders by your objection beforehand. So, I'm happy to answer your question as a general cardiologist ---
Q: No, I just -- right ---
A: I want to make sure that I am playing by the rules.
Q: Sure. Oh, certainly. No, it's just that it was not disclosed and not relevant to the case, but I'm just sort of saying that you know a lot about rhythm disorders, yes?
A: I do, yes.
Q: And how do you determine -- what are the tools that are available to determine structural abnormalities in a child's heart?
A: Structural abnormalities can be determined by ultrasound,

cardiac CT, cardiac MRI, fetal echo, fetal MRI, intracardiac echo, transesophageal echo; we have lots of tools.

Q: And so, those are the tools that you can use, and does McLeod have those tools to your knowledge?

A: McLeod, to my knowledge, has the ability to do transthoracic echocardiograms on the outside of the chest, but at least in pediatrics, I don't believe that they -- well, I know that all of those patients come to MUSC for their cardiac MRIs, cardiac CT scans, transesophageal echoes. McLeod can do a fetal echocardiogram, but then results are usually referred to MUSC if there's an abnormality.

Q: Okay. So, McLeod can send patients to MUSC to get a cardiac MRI?

A: Yes.

Q: And is there machine also in Columbia?

A: I don't -- I pretty sure that Prisma does -- all of the pediatric MRIs happen in Charleston at MUSC, because we have a specific cardiologist who is trained at the interpretation of pediatric cardiac MRIs. That's his specialty.

Q: In order for Metri and Taylor to come get a cardiac MRI in Charleston, they need Dr. Trant to send them, right?

A: No.

Q: They need a referral, right? Can we drive up and get a cardiac MRI?

A: You need a referral, but it doesn't have to be from a

pediatric cardiologist.
Q: Okay. But that's who people see when they think they have a problem with their heart, right?
A: Generally.
Q: And when a patient has a problem with their heart, do they deserve to get some tests?
A: They deserve to have a visit and have their story listened to and their symptoms evaluated. And then for those of us who have trained a very long time in our specialty to practice medicine in pediatric cardiology to make an evaluation of what's happening.
Q: Do you think that Metri and Taylor came to Dr. Trant to have their story listened to?
A: Yes. That's what history taking is in a medical office.
Q: No, no, no. I mean, do you think that they came to a place with technology to try to figure out what was wrong with Taylor's heart?
A: Yes.
Q: Dr. Trant didn't use those tools, did he?
A: He used the tools that he found were appropriate during the clinic visit.
Q: But to find a structural problem, to maybe explain why this 13-year-old girl keeps falling down, he didn't use any of those tools, did he?
A: And echocardiogram would not have diagnosed why she was

falling down, in my belief.
Q: In your belief, but it provides for a -- it provides for visual view of the heart, correct?
A: And echo does sometimes provide good pictures of the heart.
Q: And genetic testing could maybe tell you whether from her father's side of the family, from her biological father's side of the family, whether that gene was present?
A: In about 30 percent of the time, if she had structural changes, the genetic testing would be positive.
Q: Well, we won't know now because she didn't get those tests before she died?
A: Did you get those tests after she died?
Q: There's no reason to get tests after someone is dead, right?
A: There certainly is, but we can ---
Q: Doctor ---
A: --- look, we can have this conversation another time.
Q: Well, Dr. Riemer was clear and unequivocal that Taylor died of ARVD.
A: Right. I'm not talking about Taylor's death. I really care about the rest of the family.
Q: Oh, oh, sure. No, I think that they should get tested, too. They've learned more than they ever would've wanted to know about this. But, Dr. Trant knows about these diseases,

right?
A: He does.
Q: And he's not just looking for ARVC, right? He'd be trying to look for all the different causes of sudden cardiac death?
A: That's correct.
Q: An EKG is not the way to do that, is it?
A: There is no good tool that is perfect for looking at causes of sudden cardiac death. We, as a pediatric electrophysiology community, have actually reviewed all of the literature, and instead of focusing all of our attention on preparticipation sports physical screening athletes with EKGs, screening athletes with ultrasound. We have turned all of our attention to making sure that everybody knows CPR and that AEDs everywhere, because our ability to predict who is going to die suddenly as a medical institution is terrible. But, if everybody knows how to do CPR, and there are AEDs everywhere then we have better outcomes and we're able to treat patients who do have an event.
Q: Because a lot of people that end up in that situation have never been to a pediatric cardiologist before, right?
A: Some people have not, some people have.
Q: But what you've been to a pediatric cardiologist, there are all those tools that are available to help determine whether you've got a structurally sound heart. Yes?

A: Sorry, it wasn't a question. Yes. There are plenty of tools available.
Q: And none of those tools got used on January 24th, 2019, did they?
A: No. The tools got used. Well, yes, and EKG, a history, a physical exam, a family history, a thorough cardiac evaluation, physical exam. Those are all tools with clinical expertise.
Q: But those tools don't tell you if that right ventricle is thinned out, do they?
A: No, but rarely does the ---
Q: And those tools don't tell you ---
MR. AIKEN: Let her finish.
Q: Those tools don't tell you if there's fibrofatty tissue in that heart, do they? You've got to use the specific tools that can actually let you look at the heart to find that, right?
A: An ultrasound rarely tells you if there is fibrofatty tissue either.
Q: Well, that's what the cardiac MRI is for, right?
A: That's correct. There's a very high index of suspicion though before we get there.
Q: And from your perspective, four episodes in less than a year of collapse, passing out, syncope, chest pain, and difficulty breathing, that's not enough for suspicion in Dr.

Cain's opinion?

A: That's correct.

MR. LESEMANN: I have no further questions, Your Honor.

THE COURT: Okay.

MR. AIKEN: Less than five minutes.

THE COURT: Okay. Can y'all wait five more minutes before you take a break? Okay.

MR. AIKEN: I'll talk fast, Your Honor.

REDIRECT EXAMINATION OF DR. NICOLE CAIN BY MR. AIKEN:

Q: Did Taylor Price demonstrate any signs or symptoms of structural damage to her heart when she saw Dr. Trant?

A: No.

Q: Was there any clinical reason why Dr. Trant should have ordered these various tests that we've talked about?

A: No.

Q: Now, let's look real quickly at the summary of Taylor Price's visit, and this is prepared by the plaintiff's attorneys.

A: Yep.

Q: But I want you to actually look at the chart. It's on Tab 3, Page 48.

A: Okay.

Q: Let me know when you're there.

A: I'm there.

Q: At the bottom of Page 48, do you see HPI, history of

present illness, at the bottom of Page 48 in this chart, Tab 3.

A: No.

Q: Speak up just a little bit, Dr. Cain.

A: Sorry. No, I don't see it on the bottom of Page 48. For me, 48 has urine results, allergies, problems and procedures. Under Tab 3?

Q: In this one Page 10 of 100, at the top right corner.

A: 10 of 100?

Q: 10 of 100.

A: Oh, at the bottom, 10 of 100, I see HPI, yes.

Q: Okay. What's it say under history of present illness?

A: It says patient with symptoms of syncope times two after basketball practice. Patient with poor feeding during the day or hydration. Mom concerned about diabetes or hypoglycemia. Patient with improvement of symptoms when drinking juice after symptoms began.

Q: On the right-hand of Page 11 of 100, Page 49, what was Taylor's general appearance?

A: Generally appeared active and alert; level of distress, no acute distress; level of alertness, attentive.

Q: What was under cardiovascular system?

A: It says heart sounds normal, S1 and S2; and femoral pulse, no murder, gallops, or rub, and regular rate and rhythm.

Q: Is that completely normal?
A: Yes.
Q: Was under lungs?
A: It says auscultation, which just means listening, no wheezing, rales, crackles, rhonchi, tachypnea, or retractions, and clear to auscultation.
Q: What was Dr. Bahan's assessment?
A: It says assessment and plan, syncopal episodes likely from dehydration, plus or minus hypoglycemia, with recommended pre-hydration before basketball and frequent small meals, and protein bars before practice.
Q: Okay. After Dr. -- that's all for that chart. After Dr. Trant retired, I think, in May of 2019, did McLeod replace Dr. Trant with another pediatric cardiologist?
A: Yes. Dr. David Steflik, but I'm not entirely sure what his start date was.
Q: I'm sorry?
A: I'm not entirely sure the day that he started. I don't know if they overlapped, but it was shortly after. Dr. Steflik trained at MUSC, and then started at McLeod as soon as he finished his training.
Q: As far as you know, did Dr. Steflik take an over for Dr. Trant's patients?
A: Yes.
Q: Okay. The referral that we've been talking about, is

that generally an administrative function in most practices?
A: Yes.
Q: Have all your opinions today, Dr. Cain, been based upon a reasonable degree of medical certainty?
A: Yes.
Q: More likely than not?
A: Yes.
Q: Better than 50/50?
A: Yes.
Q: Okay. I think I got that done within five minutes. Thank you, Dr. Cain.
A: Thank you.
MR. AIKEN: May she be excused?
THE COURT: Any objection?
MR. LESEMANN: None, Your Honor.
THE COURT: Thank you, Doctor.
A: Thank you.
THE COURT: Any reason we can't take a break?
MR. LESEMANN: No, sir. No reason we can't take a break.
THE COURT: We're gonna take a break.
MR. AIKEN: Absolutely.
(REPORTER'S NOTE: Jury exits courtroom @ 3:20 p.m.)
RECESS - 3:20 P.M.
*******OFF THE RECORD*******
ON THE RECORD - 3:54 P.M.

BY THE COURT:

THE COURT: Do I need to let the jury call home and tell them they're not gonna make it for supper?

MR. POWELL: I will defer to Mr. Aiken, what his direct is. That might present a natural stopping point. I was kind of going through mine and tweeking it down. I think I'm a little bit more than an hour on my cross. But if he does his direct and we finish, that could give the parties a chance and then Your Honor to talk about argument and go over some charges and the verdict form, so we could get some work done and not have that.

MR. AIKEN: Well, the problem is, if I just do my direct, then I won't be able to talk to Dr. Trant tonight because he'd be under oath still. So, I need to be able to talk to him.

MR. POWELL: We'd be okay with that, Your Honor. We wouldn't have an objection to that.

THE COURT: With him talking to him?

MR. POWELL: If he just has -- does his direct, I think that would be unfairly prejudicial if he wasn't allowed to talk to his client the night before closing argument. Obviously, he couldn't come in here and change everything he said, or if he did, we'd talk about it in cross, but we'd have no objection to him talking to his client if he's in the middle of, you know, after direct before cross.

MR. AIKEN: That'd solve the problem.

THE COURT: Okay. That's fine.

MR. POWELL: Maybe I'm being reasonable.

MR. AIKEN: That's the second example of reasonableness.

THE COURT: It's not like we're trying a gang-related murder trial where witnesses' testimonies change periodically, so...

Okay. So, we ready for the jury?

MR. POWELL: Yes, Your Honor.

MR. AIKEN: Yes, sir.

(REPORTER'S NOTE: Jury enters courtroom @ 3:58 p.m.)

THE COURT: Okay. You may call your next witness.

MR. AIKEN: Thank you, Your Honor.

The defense would call Dr. Charles Trant.

THE COURT: All right, sir. If you'd come around and place your left hand on the Bible and raise your right, please, sir.

DR. CHARLES A. TRANT, JR., HAVING BEEN SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION OF DR. CHARLES A. TRANT, JR. BY MR. AIKEN:

Q: State your full name.

A: Charles Amon Trant, Jr.

Q: And where do you live, Dr. Trant?

A: I live in Florence.

Q: Have you lived in Florence since you've been working at

MPA II and McLeod?
A: I moved to Florence in 1995. MPA II was -- became a separate entity at some point after that. So, the first few years of my employment was at McLeod Regional Medical Center. And then they transferred the physicians over to MPA.
Q: Who is this lady sitting on the front row back here?
A: That is my lovely wife, Elaine.
Q: And how long have you and Elaine been married?
A: Since 1984.
Q: Do you have any children?
A: Two children, David, who is 35.
Q: What does David do?
A: He is a clinical psychologist in Atlanta. And my daughter Allison Green is a special ed teacher, just like her mommy was, and they live in Hartsville.
Q: Do you have any grandchildren?
A: I do. I have Addie, who is five; and twin grandsons, Carter and Luke.
Q: You retired, I think, in May 2019?
A: Yes.
Q: Since you have retired, how do you spend your time?
A: So, I like photography, so I spend a lot of time out taking pictures. During COVID when everything was all locked down, I decided to do some writing. I had done some earlier. And because we couldn't go anywhere, one book turned into

another, and now I've got 14 novels.
Q: And what type of novels are they, Dr. Trant?
A: Mostly science-fiction, science-fiction, science fantasy, and one of them is medical fiction about a young boy with diabetes.
Q: Do you help your children with daycare for their children?
A: Right. So, part of the reason I retired when I did was that Allison, my daughter, became pregnant. She's a schoolteacher, her husband is a schoolteacher, and daycare is crazy expensive. My wife decided she would be daycare for the baby, and I knew that would be -- could be difficult by herself. My plan was to retire when I knew what chapter 2 was going to be. A lot of my physician colleagues retired and said we're just gonna play golf every day. And after a week and their back is hurting, they're back at work, because they just couldn't do it, and then they were miserable. And so, I went from being an attending physician to granddaddy.
Q: Okay. And how many grandchildren do you have now?
A: Three, still the three.
Q: So, how often do you handle daycare with Elaine for your grandchildren?
A: Sure. So, at first, when Addie was a baby, my daughter would drop her off on her way to school, and pick the baby up on the way home. So, it was 7:30 in the morning until

whenever our daughter could show up. That could be anywhere from 3:30 to 5:30 depending on after-school meetings and stuff. It's better now because the kids are in school. The boys are in 4K -- excuse me -- 3K, and Addie is in regular kindergarten. So, we drive over to Hartsville and pick them up about 1:30, and then depending on the day, we either go to physical therapy, or speech therapy for the boys, and we do that five days a week. And we're at their house until one of the parents gets home, which could be anywhere from 4:00 to 5 o'clock.

Q: Where were you born and raised, Dr. Trant?

A: I was born in Pensacola, Florida. And then my family moved around quite a bit. By the time I was in high school, we were in a little town near Pensacola called Gulf Breeze, Florida. And I graduated high school from here.

Q: When you were growing up, did you participate in any activities like scouts or anything like that?

A: Yeah. I was a Cub Scout and then Webelos Scout, and then Boy Scout, and earned my Eagle Scout rank, that's ---

Q: Okay. I didn't know what that was.

A: Yeah. This was -- during my Eagle Scout ceremony, this is the pen that was -- that I pinned on my mom. And after she passed, I wear it in her honor.

Q: Okay. Tell me about your home life growing up, Dr. Trant, with your mom and your dad.

A: My parents faced some challenges. When Dad was in college, he was pre-med, and my mom was in nursing school, and they had amazing plans, and then mom got pregnant. And in 1958, the option was get married. Mom went to her nursing school professor and told him the truth, and they immediately kicked her out of the program for moral turpitude. Different times back then.

Q: What did your dad do?

A: He dropped out of school, got a job, and he didn't deal with it well, and the drinking got worse and worse as the years went by.

Q: Did he ever demonstrate any violence to you or your siblings?

A: There was -- toward the end of my parents' marriage, which is when I was in college ---

MR. POWELL: Your Honor, a little -- we were willing to give a decent amount of leeway, but as to how and why Dr. Trant got into medicine and his personal story, we think this is getting a little outside of what is admissible and relevant.

MR. AIKEN: I think he has the right to tell the jury who he is.

THE COURT: Okay. Go ahead.

MR. AIKEN: Thank you.

THE COURT: I gave y'all a lot of leeway that way.

MR. POWELL: Yes, sir.

MR. AIKEN: Thank you, Your Honor.

A: Toward the end of their marriage, the drinking got really bad, and one night -- well, Dad would always stop by the liquor store on the way home. That bottle would be empty even before he got home or shortly after getting home, and it was -- my sisters and I just try to stay out of his way as much as we could until he fell asleep. And that was every night. And then one night one of my younger -- one of my sisters, I had four younger sisters, he beat her up real bad. Mom took the girls -- I was in college in Pensacola, and during the week I stayed at my grandmother's house, which was closer to the school. Mom called me and told me what happened, and anyway, she left. Then Dad disappeared for a long time.

Q: Where did you go to college, Dr. Trant?

A: I started at Pensacola Junior College, which is now Pensacola University. It was a two-year school back then. And then I -- when I graduated from there with an associate degree in biology, or excuse me, associate degree in science, I then went to the University of West Florida, also in Pensacola, and got my bachelor's degree in biology.

Q: Okay. How did you end up in medical school? What was that process like?

A: So, yeah, I was pre-med. And in my junior year, my pre-med advisor dropped me from the program because my 3.35 GPA

wasn't -- he didn't think that was good enough. Part of the issue was I was paying for medical school -- excuse me, paying for college -- I was paying for it by working jobs, and also I got a music scholarship, which was great, but it also required me to do lots of things for the music department, which means I wasn't -- those hours I was with them couldn't be hours studying. And I really appreciated them giving me the scholarship, but it did cost me some grades.

Q: So, you didn't have that proverbial silver spoon growing up?

A: Oh, no.

Q: And you helped pay for your college?

A: Oh, I paid for everything.

Q: What jobs did you do pay for college, Dr. Trant?

A: I taught drum lessons. The main job was working at a Tastee-Freez in downtown Pensacola.

Q: Did you ever do any janitorial work?

A: That was later. So, after I graduated from the University of West Florida, I got accepted into graduate school at the University of North Carolina Chapel Hill. And it was right before I was supposed to leave to go to graduate school that Dad beat up one of my sisters. And when he disappeared, we were really stuck, because he was the one with the job. Mom had no skills, no marketable skills. She was an amazing mom, but -- and I couldn't leave. So, I tried to find

jobs that would fit my associate and bachelor's degree, and those still -- they didn't exist back then either, really. And so, I got a job working at Hardee's as a nighttime cleanup man, a janitor.

Q: Where did you attend medical school?

A: At East Carolina University in Greenville, North Carolina.

Q: And when did you receive notice that you had been accepted to medical school?

A: Right. So, after I finished my -- about a third of the way through my -- well, let me back up. So, I stayed home, and did that janitorial work, helped Mom with the girls and that kind of stuff. And then Mom got a job. Things were getting better. And so, Mom and I sat down and said, you know, can I go back to school, can I go up to UNC? They only gave me a one-semester deferment. And we agreed that it was -- that that was okay. So, I went to Chapel Hill. And it was wonderful, but I realized pretty quickly that the academic environment, spending all of your time writing grants and writing grants, and trying to get money and that -- I loved the teaching, I mean, that's of my passions, but the -- the rest of the job being an academic professor, I discovered that really wasn't anything like I thought it was. So, I decided to try to get to medical school. So, I finished up whatever -- I finished my master's degree, finished up the

prerequisites that I hadn't completed back at the University of West Florida, took the MCATs, applied to medical school, got on the waiting list in several places but didn't get in. At that point, Elaine and I decided to go ahead and get married. And she was living in a little town called Siler City, North Carolina. If you have ever watched the Andy Griffith show when they talk about Siler City ---

Q: Absolutely.

A: That's a real place. I lived there. And the lady who played Aunt Bee actually lived there. I met her. It was very -- there's some very surreal things about at. I wanted to be a doctor, and there weren't any -- there were very few jobs in Siler City. But at the hospital, they had a job that I was qualified for, which is basically -- now you call it a nursing assistant. Back then they called it being an orderly. I worked the 3:00 p.m. to 11:00 p.m. shift. In a talk to the doctors, and I talked to the nurses, and they knew I was trying to get into medical school. So several of them, one doctor in particular, took me under his wing and taught me amazing -- he just -- he was so generous with his time that when I was an attending physician, I tried to be as generous with the people coming up behind me. The other great thing about that job, even though it required a lot of mopping floors and whatever, I got to see medicine from a nursing standpoint. I wasn't a nurse; I'm not saying that, but all of

my supervisors or nurses. And it really was a great learning experience. It made me a better physician because I knew what the nurses did every day, and I knew what frustrated them, and I tried not to do those things. It was a great experience. I would have rather been in medical school, but it was a great experience.

Q: Okay. And what happened next?

A: So, we're in Siler City, I'm doing this job. I reapply to medical school, do all the interviews, back on the wait list. We are waiting and waiting. About a month before classes were supposed to start, hadn't heard anything, and Elaine and I had a difficult conversation, you know, come August 1st and you're not a medical school, what are we gonna do? I didn't know. And then one day I got home from work, phone rings, East Carolina, we have a slot if you want it. So, we spent the next two or three weeks getting out of our lease, renting a truck, finding a place to live, getting her a job. It was a little crazy, but I was in med school.

Q: So, that was East Carolina?

A: East Carolina.

Q: When you graduated from that university, what did you do? Where did you go, the first school?

A: So, the process of after -- at the end of the fourth year of medical school, the process is we go around and apply to different residencies. Each residency makes a list, each

student makes a list, and they put it in the computer, and they do a match. And on match day, they take you into the auditorium, and they hand you an envelope, and mine said Duke.
Q: Okay. And when did you complete medical school?
A: So, I graduated medical school in 1989. Then I was in Duke residency three years, and then I did my pediatric cardiology fellowship for three more years, graduated from there in 1995, and then came to Florence.
Q: The last question on that, how did you pay for all that?
A: Well, residency and fellowship, I was an employee of Duke, so that was my first paying job. But all the way through undergraduate and medical school, we paid for that.
Q: Okay.
A: Or I paid for it, and then medical school came along.
Q: What was your fellowship in, Dr. Trant?
A: Pediatric cardiology.
Q: And you are licensed to practice pediatric cardiology in South Carolina?
A: Well, I was licensed to practice medicine, and after I retired, I decided not to renew my license.
Q: Okay. I might've asked you, are you board certified in pediatric cardiology?
A: Yes, I ---
Q: Or were you?
A: I was. I passed the pediatrics boards, which were

required before you can do the pediatric cardiology boards. Passed the pediatric cardiology boards and continued the board certification process up until I retired. And if you went to the website, they would say that I was retired in good standing.

Q: Okay. Has your license to practice medicine ever been suspended, revoked, or limited in any fashion?

A: No, nope.

Q: How did you end up in Florence?

A: When I was at Duke, we were looking, me and the other guy in my fellowship named Blake were comparing notes and looking for jobs. He wanted to work in Savannah because that's where his family was from, and he ended up getting a job there, did great there. I applied at several places, came down to two, either Mobile, Alabama, and I'd heard about in the job in Florence. They were looking for somebody to come in who could do pediatric critical care and pediatric cardiology to partner up with the gentleman that was already there, but by himself. And so, he -- his plan was to continue the ICU, give up the cardiology and have somebody else younger come in and actually do a pediatric cardiology practice.

Q: Has your entire career been with either McLeod Regional Medical Center or later MPA II?

A: Yes.

Q: How many pediatric cardiologists were there when you were

practicing medicine in the region?
A: Well, at McLeod, there was Dr. Jerry Atwood, who was mainly the intensive care doctor. And then when I came it was just me -- it was the two of us until he retired. And for the probably last 15 years of my practice, I was the pediatric cardiologist there.
Q: For how many counties -- how many counties could you see patients from?
A: So, most of my patients came from the 13 counties of the Pee Dee region, but I also got patients from Fayetteville, and from Orangeburg. I had a few from Columbia. I had one from Jacksonville, Florida that would drive up to see me, which I -- when I found out he was doing that, I'm like, I can find you somebody closer, but he wanted to see me.
Q: Okay. When did you retire?
A: In May of 2019.
Q: Okay. When you retired, did MPA II hire another pediatric cardiologist to take your place?
A: Yes. I think his last name is Steflik. He was -- he trained at MUSC, and was practicing with Tidelands Health, and I think his office was in Myrtle Beach. And so, when I retired -- when I decided to retire, I started transferring patients to him because he's a young cardiologist, really well qualified, and he had some space in his practice to absorb the patients, and then he just decided to move to Florence. So, I

sent them to him down there, and then he just brought them all back.

Q: Okay. Do you know when Dr. Steflik was hired by MPA II?

A: I think it was July 2019. He had to close his practice and...

Q: Were you still sending patients to him while he was not in Florence?

A: I was -- as I was winding the practice down and making sure that everybody had a medical home, he was the one I was sending them to. But then, when I found out he was coming up, we obviously stopped transferring the patients out and just got all the records back.

Q: Do you know if there was ever a lapse of pediatric cardiology coverage in Florence after you retired?

A: It's my understanding that McLeod reached out to, I think it was the folks in Columbia, to make sure the echos got read, EKGs got read, and -- there wasn't anybody in the office for that for basically the month of June, but there were -- but patients could call to the office -- the office was still open, patients could call to the office and then -- with questions or concerns, they would be directed to call one of the other practices.

Q: Have you ever diagnosed the patient with ARVD?

A: Not primarily.

Q: Okay.

A: I had one family where the mother had ARVD, and when they moved to the area and she got set up with her adult cardiologist, that person then sent the children to me, and I followed the children along until they moved away.
Q: What causes ARVD?
A: It's -- there's a lot of debate on that. There's -- as the pathologist said, there's evidence of a genetic cause, but unfortunately even in patients we know who have the disease, the genetic testing is negative somewhere around 50 percent, which makes it not a reliable screening test for this problem. There is other data that suggests that it's acquired. That it may be caused by like other -- other cardiomyopathies, certain viral illnesses will cause the heart to become dialated and poorly functional.
Q: Okay. I want to go through these records briefly, real quick.
A: Okay.
Q: Let's start off with Tab 2, that's the visits to MUSC January 24th, 29018.
A: Yes.
Q: What is your observations from that ER record? Under chief complaints ---
A: Right. So, do you want me read something specific?
Q: Well, just what -- history of present illness, what the diagnosis was.

A: So, my -- so, the patient presents -- I'm reading under history of present illness, patient presents with difficulty breathing and complaint asthma, became short of breath, and appeared to have some carpopedal spasms.

Q: What is that?

A: So, it's related to the diagnosis that Dr. Halus came to, which is hyperventilation syndrome. During hyperventilation syndrome, and especially in the early puberty years, the part of the brain that controls breathing is having -- it sometimes gets it wrong. Let me explain that better. Imagine the child is two years old and the brainstem is controlling the breathing. Now fast forward to age 12, the child is much taller, the hormones are changing all over the place, and that part of the brain that controls breathing can't do it the same way that it worked when she was two years old because she's not the same person in almost any way. Most of the time, the brainstem still get is -- I'm sorry -- most of the time, the brainstem still gets it right, but in some kids it makes a mistake and it says breathe, breathe, breathe, and then the kid starts (panting), and it's scary. And the longer they breathe like that, they start getting dizzy. And then in some cases, the muscles of the hand are very sensitive to this change, and they'll develop these nasty cramps, carpopedal spasms. The bones in the hand are called the carpals, the feet are the pedal section of our body, so carpopedal spasm

means cramps in your hands and feet. And, I'm sorry ---
Q: Is carpopedal spasm caused by a cardiac condition?
A: Absolutely not.
Q: Okay.
A: If you have -- especially a early teenage patient with these -- with an episode of very sudden fast, fast breathing, lasts for a period of time, and then just as suddenly disappears, that's not cardiac -- there's no cardiac condition that causes that. And then when you add in the hand spasms, that is diagnostic of hyperventilation syndrome.
Q: Okay. Was Taylor released from the hospital -- was she discharged from the hospital in stable condition?
A: Right. She was observed for a period of time, was found to be completely stable, and they sent her home.
Q: Do you see any evidence or symptoms of ARVD at that time, January 24th?
A: No, no.
Q: Let's go to Dr. Bahan's records. The next visit was February 1 of 2018. Try to find Page 10, or whatever it is ---
A: Which tab is it? Tab 3?
Q: February 1, 2018.
A: Which page are you on; do you know?
Q: February 1, 2018, if you can find it.
A: Yes. Okay, got it.

Q: You got it?
A: Yep.
Q: The date is February 1.
A: Yes.
Q: Okay. Tell me what Dr. Bahan saw Taylor for at that point?
A: It says passing out, blurred vision, thirsty, and sweating.
Q: Okay. And tell me what his analysis or impression was.
A: So, syncopal episodes likely from dehydration, plus or minus hypoglycemia with recommended pre-hydration before basketball, frequent small meds [sic], and a protein bar before practice. If I could just add one little thing.
Q: Yes, sir
A: So, under the history or present illness, it says patient with syncope times two after basketball practice. Patient with poor feeding during the day for hydration. Mom concerned about diabetes or hypoglycemia. Patient with improvement of symptoms when drinking juice after symptoms began.
Q: Does juice help ARVD?
A: No. There is no cardiac condition where drinking juice is gonna make the symptoms disappear.
Q: Okay. Let's quickly go over to the February -- December 12, 2018 visit at MUSC or MRMC or MSUSC? That a ---
A: Tab 4, yes.

Q: You got it? Okay.
A: Yep.
Q: Analyze that chart for us quickly.
A: Right. So, the patient presented with chest pain, but she was not in chest pain when she arrived. It had already resolved. And under -- she had a chest x-ray and an EKG, and diagnosis, chest wall pain.
Q: And what is that?
A: So, it's one of the -- if not the most common type of chest pain in this age group. It's certainly very high on the list. And what we think is going on is during all these rapid growth phases, the bones are growing in certain rates, and the ligaments that hold the bones together are growing but not necessarily always at the same rates. If you've ever had growing pains, I know I did when I was a kid, that's what these are. So, when, you know, a lot of -- I've seen this so many times, the kid is -- the child is complaining of chest pain, and one of the first things I would do is say, can you show me where, and they pointed. And I said can you give it a little rub, and they go, ow. It hurts when they rub on it. That's just wall pain. And there is no heart condition that gets worse when you press on a bone.
Q: Okay. And then you saw Taylor January 24th?
A: There we go.
Q: Now, Taylor was referred to you by Dr. Bahan?

A: That is my understanding, yes; that is correct, yes.
Q: Okay. Had Dr. Bahan sent you patients before, his office?
A: A lot, yes.
Q: Okay. Did you receive the referral order from Dr. Bahan's office, if you remember?
A: Well, I -- unfortunately, this has been so long ago that I don't have an independent recollection of when or what I received in what order, but the referral note was part of the charge. Did that answer your question?
Q: Yes.
A: Okay.
Q: You didn't talk to Dr. Bahan or did you?
A: I don't have -- I don't remember talking to him about this case, no.
Q: Okay. Do you remember reading any of the chart of Dr. Bahan?
A: I don't have an independent recollection of reading the chart.
Q: Okay.
A: It was my standard practice to review any and all medical records that were available to me either before I went in to see the patient or shortly thereafter just to make sure there was nothing missing. Getting medical records is always a struggle, and we did the best we could to get everything we

could in a timely manner.
Q: Did you review or receive records by fax at any time, a hard copy?
A: All the time. Yeah. I mean that was the primary way that records would come in. And when we switched over to the electronic medical record, we still got faxes in, and I would look at the fax, and then the records should be scanned into the computer.
Q: Do you know if a referral order was faxed over?
A: I don't know. I don't know.
Q: I'm sorry?
A: I don't know.
Q: That's fine. Let's talk about your visit with Tyler.
A: Okay.
Q: Tell me about it. What was the reason for that appointment?
A: Right. So, what I wrote here is near syncopal episodes.
Q: Okay.
A: When I -- my standard practice was review the records, go in and see the patient. And I almost always had a clipboard in my hand to jot down some notes. And the reason I did that was because I didn't want to make the other patients have to wait with me going in the room and typing a bunch of stuff. So, I would jot down pertinent information, any pertinent pieces of the physical exam, what I told the family, and then

I to go on to the next case.
Q: Okay.
A: So, that was my standard.
Q: What was the history of present illness for Taylor?
A: So, she was referred to me for shortness of breath, and I wrote on here near syncope. And the reason I wrote that is because when I -- my standard practice was other family members were in the room, but the one person who knows what this feels like and what's going on is the patient. And so, most of the history most of the time came from the person who is feeling this stuff.
Q: Okay.
A: All right.
Q: And then what was done?
A: So, we talked about that she'd had no problems with basketball practice, including running suicides, but she had had an episode of shortness of breath and felt unsteady, hot, felt like she was going to faint. This lasted for a few minutes, and then she recovered. Reported no other issues or concerns, family history negative for congenital heart disease.
Q: Okay. Did you see anything in that history that was symptomatic for ARVD?
A: No.
Q: Okay. And you did have the EKG, I think?

A: I had the EKG, right.
Q: And what was your interpretation of the EKG?
A: Normal.
Q: And that was taken December 12th of '18 at MUSC?
A: Correct.
Q: Did you order your own cardiac test, echocardiogram?
A: In this case I did not, because I had the EKG in my hand, it was about a month old, and the data showed that it was done correctly. There are ways that we can look at the squiggles to see if they had the leads placed in the correct positions. So, it's a good test, it's less than a month of age. So, therefore, I went ahead -- so, I didn't see the need to repeat another EKG.
Q: Okay. When do you order a test, Dr. Trant?
A: So, after I evaluate the patient and developed the differential diagnosis in my head like Dr. Shuler talked about, I then -- I'm sorry -- I then formulate questions and then decide on which test can answer those specific questions.
Q: Okay.
A: If I have a good faith belief in -- if I feel like I have more than enough information to determine what is going on at that particular time with those particular complaints, then further testing isn't indicated.
Q: Okay. Now, a lot of testimony has centered on the fact, Doctor, you did no testing yourself. And what's your reaction

to that?
A: I didn't order -- to order, there has to be a reason. One of my attendings at Duke loved her -- one of her favorite questions to ask the medical students that she was teaching who wanted to order a whole bunch of tests, she would say what's the question? What are you asking this test to tell you? If you don't have a specific question, why are you ordering the test. You will get a result back, but you won't know what it means. If it comes back negative, is it a true negative or false negative? If you don't know why you ordered it, you can't answer that question. If it comes back positive, true positive or false positive? Every test we have has false negatives and false positives. They all do. So, we have to be smart about what we are ordering and why we are ordering it to make sure we are getting the best data.
Q: Now, your assessment was what?
A: So, hyperventilation syndrome ---
Q: We've talked about that.
A: --- which we've talked about, hyperventilation, and a vagal reaction.
Q: Okay. And tell us quickly, what is a vagal reaction?
A: So, just like that -- just like the problem with hyperventilation, which is coming from the part of the brain, and another part of the brain controls heart rate, blood pressure, temperature, those kinds of things. And the nerve

that carries those instructions is called the vagus nerve, V-A-G-U-S. During puberty, that system also gets it right most of the time, but every so often it'll get it wrong. And suddenly, the patient's heart rate might drop, blood pressure might drop, both might drop. They'll feel hot and tingly, and really uncomfortable. It lasts for a short period of time, and then goes completely away all by itself. If you have low blood pressure from a heart problem, that doesn't go away all by itself. That has to be treated with medications and/or open-heart surgery. And hers was temporary; she felt bad but then it resolved all by itself.

Q: So, what were your recommendations?

A: So, my recommendations are -- so, her symptoms were most consistent with the combination of hyperventilation and hypervagontia; that's that vagal spell stuff. Both of which were related to all the changes related to puberty. We spent several minutes discussing usual treatments. I recommended changing her breathing habit during the spells to avoid panting. We also discussed using a paper bag. Also recommended super hydration and added salt, and I invited them to call if the symptoms -- excuse me -- should the symptoms persist or not respond as expected.

Q: Was the paper bag gonna treat Taylor?

A: Now, it's -- it's -- most patients, most early teenagers who have these vagal spells and hyperventilation, it goes away

fairly quickly. As they continue to mature, things just -- the brain figures it out and the problem stops happening. So, the paper bag trick, that's what I called it, was so if the patient went into another one of these spells, it was the thing that they could do by putting the bag over their mouth and nose, breathe in through the nose out through the mouth that slows their breathing down right away. And by trapping some of the carbon dioxide in, they breathe it back in, it makes the spell feel better faster. Some of these kids had real terrible problems with this and required significant medications, both with the vagal spells and with hyperventilation. With the vagal spells, some of them required amazing amounts of water. I had to put some on salt tablets, some on a drug called Florinef, just because it can -- it can be a difficult problem to control. Fortunately with Taylor, at least as best as I can tell from the record, after my visit -- well, I expected the problems to disappear, and that's what seems to've happened. Now, the -- I'm sorry. Go ahead.

Q: Okay. You invited Taylor and her mom to come back if the symptoms didn't get better. Was Dr. Steflik available to see Taylor after you retired?

A: Absolutely.

Q: So, if she had called the office, it's more likely than not she would've received an appointment?

A: Yes.
Q: Okay.
A: And, to ---
Q: Go ahead.
A: I've heard them ask, you know, well, Dr. Trant didn't schedule any more appointments. And the reason was, at least two, one, I expected the symptoms to disappear fairy quickly, so there was no point for them to come back to the office and say she's great. And number two, I knew just based on -- even on just short interaction I could tell that Taylor had a great mom, who is also a nurse. I literally had a nurse in the house monitoring my patient every single day. So, if anybody is gonna notice something changing, something getting worse, not getting better like it's supposed to, she would have noticed, and I know she would've called.
Q: Okay. And you signed a sports clearance for Taylor?
A: Yes.
Q: How long is that sports clearance for?
A: So, in general, it's good until they have their next preparticipation physical, which would be at the next, for the next academic year. So, basically, she was cleared through that academic year. So, I saw her in January; she was cleared through that semester.
Q: Okay. Did you ever see any sports clearances after yours?

A: Yeah. She had apparently had -- I think there are two preparticipation physicals signed that are in the charts in the records.
Q: Let me hand you one. It's in that book, but I've got it handy right here.
A: Okay.
Q: 5 and 6; I've got it here. Look at 5 and 6.
A: Okay. All right.
Q: What's the date of this high school athletic preparticipation physical?
A: It looks like 7/16/19.
Q: And that was after you saw Taylor?
A: Yes.
Q: Okay. Now, if you would, look at the Page 599, first page or second, the bottom numbers, the Bates at the bottom?
A: Yes, uh-huh, (affirmative response).
Q: What does it say about sports? Top right corner, Page 599 at the bottom, bottom right.
A: I'm not sure I understand what you're ---
Q: Let see if we can find that page
A: That's -- yeah, that's this one. Okay. So,
Q: All right. It talks about sports up here?
A: Oh yeah. I'm sorry, yes. So, she is cleared for sports, track and bball. I'm assuming that means basketball.
Q: Okay. And she had some more sports clearances even after

that time, did she not?
A: Yes. So, then in -- yes. So, on 9/9/20, she had another sports clearance, and she was cleared for cheering.
Q: Okay. Are you aware of any episode that Taylor had with shortness of breath, chest wall pain, chest pain, after you saw her until she tragically died?
A: There was nothing in the record that I saw that documented that.
Q: And Taylor tragically died almost three years after you saw her?
A: Yes.
Q: Thirty-four months; is that right?
A: Yeah.
Q: Do you think Taylor's death was preventable?
A: That's a difficult thing to answer. There are people around the world who are working on better screening, better treatment for ARVD. But sadly, the -- one of the most common stories is the patient died suddenly, and the diagnosis was made at autopsy, just like in Taylor's case.
Q: If shortness of breath -- let's do this quickly -- is caused by a cardiac condition, what symptoms would you have?
A: Right. So, it's almost always from heart failure, so that the muscle, the pump is no longer able to do what it needs what it should be doing, and the patients start to accumulate fluid in the lungs. It's called pulmonary edema.

It takes time for that fluid to build up. And even after we start medications or do surgery, it takes time for that fluid to go away. So, if somebody has suddenly short of breath and then it's gone in a few minutes, that's not cardiac shortness of breath.

Q: Okay. Look at Tab 1 there's a picture of Taylor in the hospital, and I think that was either on December 12 or December 17; I don't remember. I think it was December 12th.

A: This picture here?

Q: Yes.

A: Yeah. So, this is a picture of her when she was in the hospital for that episode of chest pain.

Q: Okay. And what's your observation of that picture?

A: Well, if I were walking through the hospital and saw somebody on the bed playing with her phone, I wouldn't think she was in pain, and certainly not in distress.

Q: Okay. That's fine. If a patient has cardiac shortness of breath, is that patient sick?

A: Well, if the patient is cardiac shortness of breath, cardiac chest pain, those patients almost always are in bad shape, because their heart is in trouble and they don't -- it doesn't come on, last for a few minutes, and then go completely away. It doesn't go away until we address the problem. A good analogy that I've used with a lot of families is it's like driving around with a mostly flat tire.

Q: Keep going.
A: Sure. You may not notice anything while you're sitting in the driveway. You may not notice much when you're driving 10 miles an hour. But every time you get up to 60 miles an hour, that car is gonna be all over the road. And it doesn't have to be just with basketball. If she was doing physical training with ROTC or doing vigorous cheerleading things, those kinds of activities I would expect to produce the same symptoms that are produced when she was playing basketball. And the fact that it did over here but not over there is not the kind of consistent issue that you see with true cardiac symptoms.
Q: I think the last thing, Dr. Trant, I want to show you -- we are not gonna go through it, but the jury can see it. The history of present illness is like a summary like the plaintiff did. Have you looked at that?
A: I have.
Q: Okay. Does that look accurate?
A: Yes.
Q: Okay.
MR. AIKEN: Taylor, I'd rather just introduce it, with no objection, instead of going ---
MR. POWELL: The one we talked about earlier?
MR. AIKEN: Paron me?
MR. POWELL: The one we talked about earlier?

MR. AIKEN: Yes.

MR. POWELL: No objection.

MR. AIKEN: Instead of taking the time to go through it, may I just introduce that into evidence as a defendant's exhibit.

THE COURT: Yes, sir. I understand there's no objection.

DEFENDANT'S EXHIBIT NUMBER 3

ADMITTED INTO EVIDENCE

BY MR. AIKEN:

Q: Excuse me one minute, Dr. Trant.

A: Yes.

Q: Thank you, Dr. Trant. Please answer any questions counsel may have.

THE COURT: I assume you can't do this before 5 o'clock?

MR. POWELL: Not on my best day, Your Honor.

MR. AIKEN: I'm fine if we resume tomorrow morning under the same conditions we talked about.

MR. POWELL: Yes, sir.

BY THE COURT:

THE COURT: Ladies and gentlemen, I was in hopes Monday that we'd finish this case today, but we're not. So, I'm gonna have to bring you back in the morning. In the morning, we should finish Dr. Trant's testimony. At that point, we should do closing arguments. I will charge you on the law and give you this case to decide. So, sometime tomorrow night

you're gonna get to go home, whenever you can get your verdict in this case. But you should hopefully get this case by lunchtime tomorrow. Okay?

So, if you'll be back at 9:30 in the morning, just giving you the plans for the rest of the week, and should finish, you know, I can't anticipate not. I have strange things happen sometimes, but we should be able to give you this case by tomorrow afternoon for your deliberations. And you can take as long as you want to. Once you get it, you can take whatever time you need to get through the evidence and make your decision. So, you won't be rushed. And if we need to come back at some other time, we will do that until you reach your verdict. Okay?

But be safe, and I'll see you at 9:30 in the morning. If you have an emergency, call us.

MR. RICHARDSON: Your Honor, if Dr. Trant wants to step on down off the stand, I don't have an objection.

THE COURT: That'll be fine.

(REPORTER'S NOTE: Jury exits courtroom @ 4:50 p.m.)

RECESS - 4:50 P.M. - END OF DAY FOUR

*******OFF THE RECORD*******

NOVEMBER 8, 2024 - DAY FIVE

BY THE COURT:

THE COURT: Bring in the jury.

(REPORTER'S NOTE: Jury enters courtroom @ 10:10 a.m.)

THE COURT: Okay, ladies and gentlemen. I know y'all don't think I have a clock, but we've been working trying to resolve some legal matters, and that's what took so long.

I'm gonna try to give you a plan about today. When we finish the testimony in this case, I think the clerk is gonna bring y'all lunch where we can hopefully resolve this case today. So, what'll happen is we'll -- we will finish the testimony, I hope around 12 o'clock. We'll break for lunch and feed y'all lunch in the jury room. We'll deal with some legal matters while y'all are back there eating lunch, and then we'll bring you back out and do closing arguments. I'll charge you on the law and give you this case to decide. Okay?

So, that's kind of the plan for the day. I hope it'll work out.

Yes, sir?

MR. POWELL: Thank you, Your Honor.

CROSS-EXAMINATION OF DR. CHARLES A. TRANT BY MR. POWELL:

Q: Good morning, Dr. Trant.

A: Good morning.

Q: Dr. Trant, let's start off, can you tell me what if anything you disagree with that you heard from Dr. Anthony Chang in this courtroom this week?

A: So, the first thing is that he said that her -- that an echo would've shown changes of ARVD when she was five years old. There's absolutely no evidence or anything like that

that would -- he can certainly speculate that that's true, but to say it as a matter of fact is not supported by the data. During his deposition, he said ---

Q: Thank you for that, Dr. Trant. My question was what you heard in this courtroom today, because that is the evidence this jury is presented with, that you disagree with Dr. Chang?

A: Okay. He -- when he was talking about the EKG and Mr. Aiken pointed out things he said in his deposition, he said that he made mistakes.

Q: And do you recall him giving some context that upon looking closer -- did he testify here in court that he agreed with the testimony you gave yesterday that that EKG from December 12th, 2018 was normal?

A: He changed his testimony from his deposition ---

Q: In court this week, did you hear -- thank you for that answer -- did you hear him testify that he looked closer, upon closer inspection the EKG from December 12th, 2018 was normal; yes or no, sir?

A: Yes, he said that.

Q: And you've been in this courtroom all week, correct?

A: Yes.

Q: Again, what I say, what the attorneys say, none -- that is arguments, and the Judge will tell the jury about that when he tells them what the law is. But you were here for opening statement when I spoke to these folks, correct?

A: Yes.
Q: And did you hear me tell them that the evidence will show in trial this week that the plaintiff is not here arguing and will not dispute that that EKG was anything other than normal?
A: Okay.
Q: Did you hear me make that statement? Again, that's not evidence.
A: I don't recall you saying it, but I'm not gonna argue with you.
Q: Okay. Anything else that you heard from Dr. Chang in this courtroom this week that you disagree with as we start off here today, sir?
A: Yes. He said that a single episode of chest pain during exercise requires a full cardiac evaluation. He said -- I think he said that two or three times.
Q: Okay.
A: But I don't think he really meant it the way it sounded, because if he's correct, then a basketball player goes up for a rebound, gets elbowed in the chest, he's running up the court and the referee sees him rub his chest, according to the rule that Dr. Chang appears to be establishing, that student has to leave the game, not go back to practice until he has a full cardiac evaluation. It doesn't matter that we know why his chest is hurting, he got elbowed in the chest. So ---
Q: And ---

A: I'm sorry.
Q: I'm sorry. I didn't mean to interrupt you, sir.
A: So, the point isn't one episode of chest pain during exercise, it's suspicious chest pains during exercise. That's not what he said, but that would be a standard I would agree with.
Q: Have you heard any evidence in this courtroom in this trial this week or this case at all that Taylor Price, any of her events were because anybody elbowed her in the chest?
A: No.
Q: Any other specific disagreements from what he testified to here in trial that you disagree with before we move on?
A: Not that I can think of.
Q: Okay. Dr. Trant, you saw Taylor Price in your office on January 24th, 2019, correct?
A: Yes.
Q: And I just want to make clear -- I think I understood your testimony yesterday, you do not have any independent recollection of that visit, correct?
A: Yes.
Q: And that's fair. You saw a lot of patients and it's been a little time, so that wasn't -- I'm just confirming you don't have an independent recollection, correct?
A: (Indicates affirmatively.)
Q: And so, when you were testifying yesterday and responding

to Mr. Aiken's questions, and some of your responses were that you felt comfortable because you knew the mother, Ms. Utley, was a nurse, and that Ms. Utley -- a nurse, if anybody, would know what if the symptoms persisted or returned -- you had no knowledge at that time that she was a nurse, did you? You're not able to testify to that here today?

A: I don't -- I mean, she is a nurse.

Q: Yes, sir.

A: But ---

Q: Let me ask this in a better way.

A: Yes.

Q: You are not able to truthfully testify that you knew then when you saw her on January 24th that she was a nurse, can you?

A: My ordinary practice was to ---

Q: And thank you for that. Dr. Trant, this question is, are you able to truthfully testify here in court this week that you knew then that Ms. Utley was a nurse? I'm not asking about your ordinary practice, sir.

A: Well, I think my ordinary practice is relevant to your question.

Q: And again, I thank you for that, but the question is a yes or no question. Are you able to truthfully testify to this jury in this Marion County Courthouse right here that you knew on January 24th that Ms. Utley was a nurse? That is a

yes or no question. And if you can't answer that, then we can move on.

A: I can't give you a yes or no answer. I -- I can't tell you whether I knew at the time, and it was my ordinary practice to know ---

Q: That ---

A: Let me finish, please.

MR. POWELL: Your Honor, I would ask for the witness to answer the specific question. It's just yes or no, and if the answer is no, that's okay.

A: Okay.

MR. POWELL: If the answer is no, that's okay.

THE COURT: He says he can't tell you, but he also has a right to explain his answer.

MR. POWELL: Yes, sir.

A: All right. So, my ordinary practice was to know about the family, not just the patient. And the parents' occupation, especially when the parent is in the medical field, was very important to me because that changes how I explain things. If I know mom has knowledge of medical terminology, I'm going to use those kinds of terms. Where if I know mom doesn't, then it would be unfair and inappropriate to throw out big medical words that would be confusing to the family.

BY MR. POWELL:

Q: Thank you for that response, and I understand the context you're trying to give. As part of your ordinary practice, if a patient doesn't volunteer it, do you ask parents of minors what their occupations are? Is that anywhere on any of your templates or screening documents that you utilize?
A: It's -- I don't think it appeared on any of the documents, but as part of the conversations with the family, those -- that kind of information almost -- especially that information usually came up especially when family members were in the medical field.
Q: Can you testify truthfully when you knew with certainty as you talked about yesterday that Ms. Utley was a nurse? Well, let me -- I'll try to say that better way. That was a bad question. You testified about your comfort with her being a nurse, and that a nurse, if anyone, would recognize and understand if symptoms changed or persisted, and that mom, a nurse, would know to get her daughter back to you. When you were talking about that with such certainty, at what point do you know, and are you able to say rather than talking about your best practices, I knew Ms. Utley was a nurse, and I can talk about that. When did you learn that and recall knowing that for certain?
A: It was during the course of these proceedings.
Q: Okay. Which did not begin until after Taylor Price passed away, correct?

A: Yes.
Q: Okay. Thank you.
Dr. Trant, at the time you saw Taylor Price, you were a board-certified pediatric cardiologist, correct?
A: That's right.
Q: And to become board certified requires advanced education, correct, and training?
A: Yes, sir.
Q: That education takes place some in medical school?
A: Well, it starts with the -- with the pre-med curriculum that prepares you for medical school. Then medical school, residency, and fellowship.
Q: And throughout that process that you just described, you learned and are taught how to conduct a proper medical evaluation, correct?
A: Yes.
Q: Dr. Trant, you were trained that a proper medical evaluation must be impartial, correct?
A: Yes.
Q: Dr. Trant, by impartial, what we mean is you're not an advocate for any predetermined diagnosis, correct?
A: Of course.
Q: Dr. Trant, you were trained that a proper medical evaluation, it must not only be impartial, but it must also be objective, correct?

A: Yes.
Q: Dr. Trant by objective, what we mean is you're trained that you can't cherry-pick evidence or only look at certain evidence -- you can't cherry-pick records or only look at certain records to support a desired medical opinion or diagnosis, can you?
A: No.
Q: Dr. Trant, your training and you know that a proper medical evaluation must not only be impartial and objective, but it must also be complete, correct?
A: Well, complete is one of those terms that can mean different things to different people.
Q: Well, then let me follow up -- that might've been a poor question. By complete, what we mean is you must consider all relevant available information, correct?
A: Available information; that's correct.
Q: Dr. Trant, you are trained, and you know that the opposite of a proper medical evaluation, would one way to describe that, would that be a biased medical evaluation or an incomplete medical evaluation?
A: I would agree with incomplete.
Q: Okay. We'll go with incomplete.
Then, Dr. Trant, by an incomplete medical evaluation, what we're talking about would be the kind when a doctor chooses only certain available information that supports a

desired conclusion or diagnosis, and possibly ignores other things, that would be an incomplete evaluation, correct?
A: Yes.
Q: Dr. Trant, you are trained, and you know that there are risks in conducting an incomplete medical evaluation, correct?
A: Yes.
Q: Could one of those risks be potentially either intentionally or unintentionally misleading a patient about their injuries or their condition?
A: Potentially.
Q: Could one of those risks be not fully informing a patient about their injuries or condition?
A: Potentially.
Q: And could one of those risks, if you were testifying about such a thing, be possibly misleading a jury about a patient's injuries or condition at the time you treated them?
A: Potentially.
Q: Dr. Trant, let me ask you this, on January 24th, 2019, you had a choice to make. So, can you please tell this jury did you conduct a proper medical evaluation, one that was impartial, objective, and complete like you were trained and you know to do, or did you conduct an incomplete medical evaluation?
A: I completed a -- I did a complete and proper medical evaluation.

Q: Okay. And Dr. Trant, there is no dispute in this trial, you looked at the EKG from Taylor Price's December 12th, 2018 visit before you saw her; we can agree on that, correct?
A: Yes.
Q: Would that have been what you did right before you walked into the room, so that knowledge is fresh in your mind?
A: That would be my general practice, yes.
Q: If Taylor Price was the first patient you saw that morning, would it have been the last thing you did before walking into that room so that was fresh in your mind?
A: Yes, probably.
Q: Dr. Trant, how long would it normally take you to review an EKG like the one -- and I can bring the posterboard over if you need -- but in the context of Taylor's visit, knowing that she had an EKG conducted roughly a month prior, and you'd never seen it before, how long would take you in your -- with your training and expertise to review and feel comfortable understanding that EKG?
A: A minute.
Q: Okay. That's fair.
Dr. Trant, would you please open Exhibit 19 in front of you entitled document logs.
A: This?
Q: Yes, sir.
Dr. Trant, what I've displayed on the TV screen is the

actual Microsoft Excel spreadsheet that was produced to me. And I'll represent that highlight is one that I added. Does that appear to be a -- the printout you're looking in Tab 19, does that appear to be the same thing?

A: It looks different.

Q: And I'm not at the top column. We scrolled through -- okay. Do you have any disagreement, Dr. Trant, as you look at those first couple of pages, and I'll scroll up in a moment, in the column doc name of what you're looking at, do you have any disagreement that that is referring to the document, where it says REF/BAHAN/PDS, do you have any disagreement that that would be the referral order that is in fact in the -- Taylor Price's electronic medical records?

A: I don't know if that shorthand refers to the referral order or not.

Q: Okay. Dr. Trant, will you hold your place in there and also flip to Tab 18, the one just prior to the document that's -- and that's a 27-page document. I'll give you a moment to flip through it.

A: Not in Tab 18.

Q: Yes, sir. And these are -- and there was testimony from Ms. Christina Stewart that these are the actual documents that were uploaded to Taylor Price's electronic medical record. And as you flip through these, what I am specifically referring to, and I'll allow you to flip through the whole

thing, but it's the second from the back page that is typed referral order, but I'll give you a minute to flip through all 27 pages so that we're on the same page.

A: Okay.

Q: And going back to what's on the screen in front of you now -- I guess we can kind of go back and forth. So, that front page there ---

A: Yes.

Q: Would you agree that is the actual referral order?

A: I won't dispute it.

Q: Okay. Is there any other document in the 27 pages you looked at that you think under any circumstances could be abbreviated shorthand to REF/BAHAN/PDS?

A: No.

Q: Okay. So, can we agree that this document -- this Excel spreadsheet that that is talking about the referral order, this title?

A: For the sake of argument, let's say it is.

Q: Okay. And Dr. Trant, I'll give you -- again, this is the document log audit trail, which is basically an electronic footprint showing many things, and obviously the titles speak to what it shows, but this particular audit trail shows for every document that was part of Tab 18, all 27 of those pages, this exhibit shows who looked at that document. It shows who scanned that document in, and so the scan date there says

January 22nd, 2019, and that would be two days before Taylor's visit, correct?

A: Yes.

Q: And if you go back to 18, at the very top of that second page, is there a date on there of January 22nd, 2019, 9:18 a.m.?

A: Yes.

Q: And then about halfway across the page, doe that appear that it was faxed over?

A: It looks like, yes.

Q: Okay. And so, this document that was faxed, assuming from Dr. Bahan's office, because that's not in evidence. Somebody named Temple Mixon scanned it into the electronic medical records two days before the visit, correct?

A: That's what it appears to show, yes.

Q: And you've got the -- if you'll go back now to Tab 19, and starting on Page 1, and it's a couple of pages back and forth. And you go through, and as you're looking on your document, these two columns scanned by, obviously for that every reference it shows the same person, Temple Mixon, as the one who scanned it in. Who is Temple Mixon? Was she an administrative assistant?

A: She was my secretary, yes.

Q: Okay. And then the second column says log action username and it starts with Temple Mixon, but then there's

Maryland Summerford, R.N. (spelled phonetically), and I assume that she was your nurse?

A: My nurse, yes.

Q: Do you know who Jamie Benton is?

A: I actually don't.

Q: Okay. Well, whoever Jamie Benton is, according to the audit trail, she did not look at this until after Taylor Price passed away. That was somebody in that medical record in February of '22, but as you flip through those first couple of pages, for every column that has the same document, REF/BAHAN/PDS, go through all of those and take your time, because this is an important question. Tell me if you see Charles Trant in either of those two columns for any of the rows that talk about that document, the referral.

A: Nope.

Q: So, Dr. Trant, according to the electronic medical records, the audit trail, you would agree that there is no evidence that you looked at the referral order from Dr. Bahan that was scanned in two days prior to Taylor's visit?

A: Yes.

Q: Would you agree that there are other -- that there is evidence on this TV and in your document 19 that people from your office looked at it, your nurse, and your secretary?

A: Yes.

Q: Okay. And if you'll flip back to Tab 18, that was the --

just the 27 pages representing all of the documents that were -- without saying where they came from, that is all the documents that were in Taylor's electronic medical records.

A: Okay.

Q: I'll give you a moment to flip through those. You would agree that nowhere in that Tab 18, the documents from Taylor's medical records, there's nothing in there from the January 24th, 2018 emergency room visit, is there, in Tab 18?

A: (No response.)

Q: Let me ask this a better way. There is no -- there are no medical records in Tab 18 from that first January 24th, 2018 emergency room visit, are there?

A: Not -- not that were scanned into the computer, yes.

Q: Okay. And there are no medical records of the December 12th emergency room visit other than the one-page EKG, correct?

A: That's right. No records that were scanned into the computer, yes.

Q: And other than the referral order from Dr. Bahan, the referring physician, Taylor's pediatrician, there are no medical records other than that one page -- or front-and-back referral order from Dr. Bahan in Tab 18, correct?

A: That were scanned into the computer, yes.

Q: Well, and thank you for that answer. But electronic medical records, that has been not only standard at all McLeod

Physician Associates II practices going back to when the HITECH Act, the federal statute was passed in 2009, correct?
A: I'll take your word for that.
Q: Okay. And you said there's no record of any of those medical records having been scanned. Are you telling me that there is some hard file that your office maintains that contains documents that do not get scanned into the electronic medical records?
A: No. I'm saying that we had records faxed in all the time. And the process of scanning things in is imperfect.
Q: Is it so imperfect that -- are you trying to say that all of Taylor's prior medical records may have been scanned but somehow none of them were scanned in because it was so imperfect?
A: I can't -- I'm not gonna speculate.
Q: Okay. Dr. Trant, you cannot testify that you ever looked at the January 24th, 2018 medical records until after this lawsuit was filed, correct?
A: Could you repeat the question, please?
Q: Yes, sir. And I'll try to ask it in a better way. Thank you for that.

Are you able to truthfully testify to this jury that you ever reviewed the January 24th, 2018 emergency room records at any point prior to Taylor Price's death?
A: As we've already established, I don't have any

independent recollection; so, I can't say that I did or did not do it. But it was always my standard practice to review all available records, and I never refused, unlike your colleague yesterday said many times during his cross-examinations that I refused to review the records. That's crazy. I would never refuse to review available records.

Q: Well, and thank you for that answer, and your testimony will speak for itself if the jury needs to have testimony read again to them when they're deliberating this case. But would your answer be the same as to the other medical records that we were just talking about that are not in Taylor's electronic medical records? Would you have the same answer?

A: Yes.

Q: Okay. If you'll flip back to Tab 18, please. And this is a front-and-pack printout, but if you turn over to the first page, would you agree that that is the -- I'm sorry -- the December 12th, 2018 EKG of Taylor that you did review?

A: Yes.

Q: And if you need to turn your binder sideways, can you -- does it appear that that EKG, it says -- well, let me ask you this, if you turn it sideways, does it appear that this is a printout of the fax or the scan of a fax?

A: I, I can't say one way or the other.

Q: Okay. Well, let me just ask you this. What does -- what does that document say if -- and you can turn it sideways,

it's a -- or you can just hold my copy. If you can just read across the top there. What does that say?

A: From CHS ECG, and then a phone number, 124 at 8:31 -- 08:31, and then some more numbers.

Q: Okay. And can you tell the jury what your understanding of CHS, what does that mean?

A: That would've been Carolinas Hospital System, which is now MUSC in Florence.

Q: Okay. And so, and if you need to look at mine again, was there also the date January 24th, 2019 at the top of that?

A: Yes.

Q: And a time that says 8:31 or 08:31?

A: Yes.

Q: Do you have any understanding, and I don't know the answer to this, so in medical records, would 08:31 always represent 8:31 in the morning? Do medical records sometimes use military time or would they state a.m. or p.m.?

A: I would -- my interpretation of that would be 8:31 in the morning.

Q: Okay. And if the evidence shows Taylor Price was the first visit or the first patient you saw that morning, January 24th, would you agree that 08:31 must mean it was sent that morning, because you reviewed it and the electronic medical records show you reviewed it at 8:28, according to McLeod's clock.

A: Okay.
Q: So, would it -- would you also agree then that Taylor Price's medical records from what was then CHS, and is now MUSC Florence, they were available to you on -- from that December 12th or December 12th, 2019 visit?
A: It tells me this EKG was available. I don't know what other records may or may not have been available at the time.
Q: Okay. And I understand, and you're obviously probably more knowledgeable than I am, one medical practice, if it's not affiliated with another, they can't just send medical records on their own of a patient to each other, can they?
A: No.
Q: A patient or their representative must authorize that, correct?
A: It's a medical release form that the family signs, yes.
Q: So, this EKG from the December 12th visit, whatever needed to have been signed, either the paper version or the electronic version, that must've been -- wouldn't that have had to've been done for this to've been sent from CHS, which is totally separate and distinct from your practice?
A: Yes.
Q: So, by that same logic, if the EKG from that December 12th, 2018 visit was not only available, but had been sent and was in your practice's electronic medical records, would it not also be fair to say that at least for that December 12th

visit, all her records were available?
A: No. The EKG comes from one department, medical records would come -- the notes and stuff would come from a different department.
Q: At CHS?
A: At CHS -- yes, at CHS. So, I can't say when or even if other medical records were made available to me that morning.
Q: Do you have any understanding as to whether or not different departments at CHS, one hospital, would require a patient to complete separate, distinct medical information release forms or would one form for CHS, as long as the patient didn't constrict the dates, that would then give the authority to release where the patient directed them to any department at CHS?
A: I don't know.
Q: Okay. Dr. Trant, will you please flip to Tab 11 in the book in front of you? And this is -- if you need to unclip your binder to kind of organize it, that's totally okay and appropriate, because this is four-page printout from an Excel spreadsheet. But as you look at this, would you agree that the top of the first two pages, there is a row that goes all the way across with certain categories?
A: Okay.
Q: And as you look at this printout, the third category that states appointment.

A: Yes.
Q: Under that column as you go down on all four pages, does that appear to show dates starting on January 21st, 2019, and ending on January 24th, 2019, the day you saw Taylor Price?
A: This looks like it's many -- it's several days' worth of visits.
Q: Yes, sir. And that was my question. Here I'll try to organize them here because it is kind of a -- so, the first and second page appear to go across like this.
A: Okay.
Q: And obviously, I've got notes and highlights on my version. But if you need to take them out to look at them like this, then if you have the first and third page, does it appear, judging by the numbers in sequence, that those line up if you placed them on top of each other, and then the second and fourth page also line up, they have a number on the far righthand column.
A: Okay.
Q: Is that an accurate statement?
A: I think I follow what you're trying to say, yes.
Q: Yes, sir. And if you -- if flip back to the first page, what I was asking you about is -- I guess all the way to the first, I'm sorry, because that's the one with the -- this column here that I'm pointing to, the third from the right, if you go all the way down on every page you indicate -- does

that show a series of dates?
A: Yes.
Q: And those dates -- if you need a minute to look at all four pages, would you agree that those dates range from January 21st, 2019 to January 24th, 2019?
A: Yes.
Q: Okay. And then if you look at just the first two pages, and you don't need to look at them side-by-side, those are the ones that actually have the title at the top. I guess that row that goes all the way across. Now, just to make sure we're talking about the same thing. There's various categories, appointment, schedule, arrival time, check-out, visit date, insurance, reason for visit. Do you see that at the very top across from Page 1 and 2?
A: Yes.
Q: Will you please look at line 51. And if you need to reference from one of those two pages that has the categories at the top. I'm looking at the one of the far right where it says reason. And I'll -- this may make it easier to follow for you here, sir.
A: You're talking about this page right here?
Q: Yes, sir. But then if you kind of -- because there's no title column there, would you agree that this column is the same.
A: Yeah.

Q: And so, this is the reason, correct?
A: Yes.
Q: Would you please read the reason from McLeod Physician Associates II's records of appointments for Line 51, which is Taylor Price?
A: Yes. It says syncopal episodes.
Q: Thank you, sir.

Dr. Trant, would you please go to the second to the last page, well, let's first -- please flip to Tab 21, we'll move on from this one.

Actually, I apologize, Dr. Trant. We'll go back to 19; I'm sorry.

If you'll kind of flip all the way to the end and it might be easier to go -- this might make it easier. As you're flipping through pages on the action name, can you find the one that has your name, Trant, Charles. My version is highlighted, yours is not; I'm sorry. But I'll give you a moment, and I'll put it up here on the screen for you if that makes it easier.

A: So, the pages aren't numbered.
Q: Yes, sir.
A: Is it -- is it the one that says EKG/CAROLINAS/PDS?
Q: Yes, sir. And it's highlighted here on the screen for the jury to see it. And again, this is the audit trail showing in the lefthand column is the document name that

corresponds to the documents in Tab 18. And this audit trail shows who did what. The audit trail, again, is the electronic footprint.

A: Okay.

Q: So, on this line, and if you're looking at yours, that's okay. Would you -- do you have any reason to disagree that where I'm pointing to, the highlighted portion says 2018-12-12 EKG/CAROLINAS/PDS. Is there any reason to disagree that that is talking about the one-page echocardiogram -- I'm sorry ---

A: EKG.

Q: --- EKG that we were just talking about that is in the electronic medical records that you reviewed.

A: I think that's probably correct.

Q: Okay. And again, this is the audit trail from your practice. And you testified earlier if Taylor were the first person you saw in the morning, and correct me if I'm wrong, would -- looking at that EKG, would that be the last thing you did before you walked into the room so that that information was fresh in your mind and you've reviewed it, and you understand it to talk to the patient and her mother?

A: I can't testify to exactly when I -- I mean, it looks like I accessed the computer at 8:28 in the morning.

Q: Correct.

A: And so that would ---

Q: That would show at least when you opened the document.

A: That's when I pulled it up in the computer, so that is probably -- I mean, I could -- that would be my interpretation would be that's when I looked at it.
Q: Fair. Would you also agree that 8:28, that's the earliest you would've accessed it according to this audit trail, if there's no other record in Tab 19 of you accessing it. And I'll represent to you there isn't, but I'll give you a chance to review that if you need to for that answer.
A: So, it is certainly possible that there was a hard copy that I looked at at some other point, and then also looked at the electronic copy at this particular moment. Q: Would you agree that this audit trail, this is -- according to -- looking at the electronically, 8:28 is the earliest you would've accessed it and reviewed it that day on January 24th?
A: To review it electronically, yes, but that's not the only way it might be that documents could be viewed.
Q: Let's talk about that a little bit, we talked earlier about how the scanning process is imperfect, but when the scanning process works, if a medical record came in from another practice to your office, and was received by your staff, what was the normal practice to do with those documents?
A: So, it's actually a difficult thing to say this far out knowing that we were -- at least my office was still very much

in a transitional process from paper charts to electronic charts because we got papers faxed in. There were times when my nurse would put a patient in a room, and the EKG would be -- I had a little clipboard that I would use to make notes, and the EKG would be on the clipboard.

Q: Okay. I'm sorry, I didn't mean to interrupt you.

A: And then in the -- it would be scanned into the computer later. And then I might open it up and look at it later when I'm doing the note to make sure that I remember things correctly. There are just so many different ways that this could have been done, it's not possible for me to say today with any degree of certainty how it was done other than to say that the EKG was -- that I reviewed the EKG.

Q: And we don't dispute you reviewed the EKG. We're not arguing about that, sir.

A: Okay. Okay.

Q: When the process did work, and he -- and I understand your context that you just gave, sometimes it might come in and go on your clipboard and then be scanned in maybe later that day or that week with some notes, but once a medical record was scanned in, and it's been -- you know, it didn't slip through the cracks, didn't fall off the fax machine, it was scanned in, was there any policy or practice to then still maintain a paper copy once it had been scanned in and it was part of the electronic medical records?

A: Usually not.
Q: Okay. So, the line above, EKG, Carolinas Peds, and it says scan date, that's the same day as the visit, correct?
A: Yes.
Q: All right. Temple Mixon, correct?
A: Yes.
Q: And so, it was scanned in at 8:26 in the morning, correct?
A: That's what it says, yes.
Q: Okay. And if you go back to Page 2 of Tab 18, if you need to, the actual EKG, when we turn it sideways, and are looking at the fax information ---
A: I'm sorry. Where are you now?
Q: Yes, sir. The Tab 18.
A: Okay.
Q: I believe it's the front and back, so second page, the EKG or ECG, however you want to refer to it.
A: Okay.
Q: Do you agree with me that there is a date on there of January 24th, 2019, correct?
A: Yes.
Q: And obviously, the time may be off by a few minutes here or there, but the time on that says 08:31, correct?
A: Yes.
Q: Would you have any reason to disagree that give or take a

few minutes, according to what you're looking at, the actual EKG, that it was faxed that morning, January 24th?

A: That's what this data would indi -- would suggest, yes.

Q: Okay. So, then would it be fair to say that you wouldn't have looked at that in paper form a day before, two days before, in preparation for this and then refreshed your memory with the electronic version?

A: I'm not sure I understand your question.

Q: Sure. And we talked earlier about, you know, just how things could occur with the transition and you indicated that sometimes when things are faxed in, you've got a paper copy on your clipboard, and then maybe it gets scanned in later, and I'm not disputing that happened and don't have any reason to disagree with you, but if that happens and it is scanned in later, from what we just looked at, the actual fax sheet of the EKG that shows that same date, January 24th, 2019, and within a few minutes of -- I believe that one says 8:31 or 8:34 a.m.

A: Well, that's the fax machine clock. It could be -- I'm sorry. Keep going.

Q: Feel free to finish your answer there if you'd like to provide context.

A: I'm good. I'm good.

Q: Is there anything you can point to that would show that that EKG was sent any other day than the morning of January

24th?
A: Which was the day I saw her.
Q: Correct.
A: Yeah.
Q: And so, following up on that logic, the hypothetical or the possibility we were talking about earlier where a document may come in and you may have it on your clipboard and it gets scanned later, you would agree that could not have happened here because it was scanned in within minutes of it being faxed.
A: I have to go with -- if it says it was scanned in at that particular time, then I'm not disagreeing with that. And I opened it up a few minutes later, and I'm not disagreeing with that.
Q: Okay. And again, I'm not quarreling with the time on that fax because that's another hospital's fax -- you know, it could be the fax machine, I'm not quarrelling over minutes. I'm -- this is McLeod Physician Associates II's records, this is their audit trail. And if you'll flip back then to -- as we're doing that again, according to McLeod Physician Associates II's audit trail, that document was scanned in January 24th, 2019. And you reviewed it that morning, 8:28 a.m. and 34 seconds.
A: Okay.
Q: If you'll go back to Tab 11, which is also McLeod

Physician Associates II's records, the records of your appointment logs. And I'll bring mine over because it's -- we talked about earlier that there's no dispute you reviewed that EKG at 8:28 a.m. and 34 seconds that morning. If you look at my two here that are on top of each other, so you can see the columns. You see this column here where I'm pointing to checkout?

A: Yes.

Q: And then it goes all the way down. Do you agree that the portion on mine that's highlighted, that that is the line for Taylor Price?

A: Okay.

Q: What time does McLeod Physician Associates II's records indicate Taylor Price checked out that morning?

A: At 8:41.

Q: Thank you, sir. 8:41, they checked out 13 minutes after you reviewed the EKG, correct, according to the electronic records.

A: That's what it sounds like, yes.

Q: And Dr. Trant, now we'll flip to Tab 21 or Exhibit 21 in front of you, and I'll give you a minute to get there.

A: Okay.

Q: Dr. Trant, Tab 21 is -- this is more of electronic audit trail information from McLeod Physician Associates II, and what this is the audit trail for is the progress notes. As

you're looking at this, will you please flip back and forth to Tab 12? Are you on Tab 12, sir?

A: Yeah.

Q: That is the progress note from Taylor's January 24th visit to your office, correct?

A: Yes.

Q: And you talked about that with Mr. Aiken, and then there was -- we'll go through that in a little bit, but what this -- if you'll flip back now to Tab 21, this is the electronic footprint showing everyone from McLeod Physician Associates II that was in the progress note; and more importantly, what they did. So, I'll give you a moment to get back there.

Would you please flip to the second to last page of Exhibit 21.

A: Okay.

Q: I'll turn the screen around so we can show the jury this.

As you're looking through that, that's a printout from the spreadsheet, but it's a large spreadsheet, it's a lot of pages; would you agree with that?

A: Yeah.

Q: So, there was a lot folks were -- and you know, one of these lines, this is just -- it could represent something as simple as adding a blood pressure, and there's a line for it, because electronic medical records, they are very detailed in showing -- you know, once something is electronic, who is

doing what. And so, going down the -- the employee name on those -- there's a lot of activity in that document, correct? And just -- well, let me ask this a better way. That document shows a lot of activity from you and your colleagues that led to the creation of that three-page progress note, correct?

A: Yes.

Q: Okay. And are you on the second to last page?

A: Yes.

Q: Do you see the line that I've now highlighted on the screen?

A: Yes.

Q: And so, this is -- that's you, Charles Trant. Patient name -- and this is all for Taylor Price, there's no other patients here, a patient named Taylor Price, January 24th. And what this is the progress notes access logs. That's what it says, log, timestamp. Would you please read the date and time on the highlighted portion that I'm pointing to or that line in your version of what the log timestamp box says?

A: It says 11:43 in the morning.

Q: And if you go two columns over, it says user action. Would you please read for the jury what that user action was by you?

A: Created.

Q: Okay. And now will you please read -- this is XML data. Would you please read the data that is in that box?

A: It says she is currently stable. Her symptoms are most consistent with a combination of hyperventilation and hypervagotonia, both of which are related to all the changes related to puberty. We spent several minutes discussing both, including the usual treatments, recommended changing her breathing pattern during the spells to avoid panting. We also discussed the use of a paper bag. Also recommended super hydration, added salt as needed. I invited -- it says him, that was a typo -- her to call should the symptoms persist or not respond as expected.

Q: And I'll keep this up on the screen, but will you flip back to Page 12, the progress note from that visit with you on January 24th, 2019?

A: Yes.

Q: And flip to Page 2.

A: Yes.

Q: As you look at the very bottom of the page of your progress note, which is the record from that visit under treatment, and then it says, one, hyperventilation syndrome, and then, Notes: -- after that Notes: is that this word-for-word?

A: Yes. Yes, it is.

Q: So, can you please explain to this jury why that wording that was your treatment that was in Taylor Price's visit, why that wasn't created until three hours after she and her mother

checked out that morning and had left your office?
A: Sure. Absolutely. So, I had a very busy practice. And so, I would see patients, make some notes, and then go on to the next patient, so they don't have to wait. And then when I got to the end of the morning, I would do my notes. And that's what that was. So, I got to the end of the morning, and before I went to lunch, I finished up my notes.
Q: And when you say make some notes, are you talking about like earlier like on a clipboard, like physical notes?
A: Yes.
Q: And so, you'd agree those physical notes, those would also be part of a patient's medical record, correct?
A: I didn't keep the hard copies because everything that I documented, all the little cryptic notes, which were handwritten and very difficult to read for anybody else, those weren't kept because it was all transmitted into the electronic medical record.
Q: But, yes or no, those notes, those are part of the patient's medical records, correct?
A: I would call them notes to myself, so that later I could create the patient medical record.
Q: And again, you testified earlier you have no independent recollection of this visit. Ms. Utley testified when you came in that room you had nothing in your hands, no clipboard. Do you have any reason to disagree with that, or can you disagree

with that with no independent recollection?
A: It was my standard practice to have my clipboard. And I can't comment on her memory this many years out whether I had something in my hand or not.
Q: There was nothing that would've prevented your practice from scanning those notes in and they being maintained in the electronic medical records just like the other documents that are in Tab 27, would there?
A: There'd be nothing to prevent it, but I also saw no reason to include it because it wasn't anything in one document that wouldn't -- that didn't appear in the other.
Q: Well, sure, let's talk about that. If you go back to Page -- Tab 18, I'm sorry, which those were the documents that had been scanned in and were maintained in the electronic medical records. And while you're flipping to that, would you -- I'll let you flip to it. I'm sorry.
A: Flip to what; I'm sorry?
Q: Tab 18, please.
A: Yes, I'm -- I'm here.
Q: Would you agree that a patient's name, date of birth, primary care, phone number, and health insurance card or health insurance policy number, that -- that's all over the electronic medical records, correct?
A: Yes.
Q: So, if that's all over the medical record, what would be

the point of scanning in a copy of their Medicaid card? If it's already documented all through the medical record, and it was duplicative, why would you scan, or why would your practice scan that document in, but not your handwritten notes if they're transmitted under the same logic?

A: Well, whether the administration wants -- I mean, we scan in the card so that we can have the information for future reference. I'm not sure I understand what you're meaning by scanned in throughout everywhere. I'm not following that.

Q: And if you'll go back to your progress note, Tab 12, please. Are you there, sir?

A: Yes.

Q: At the top right of Exhibit -- Plaintiff's Exhibit 12, the progress note, do you see Taylor Price's date of birth?

A: Yes.

Q: Do you see her mother's information as guarantor, Utley, Demetrice?

A: Yes.

Q: Do you see insurance, Select Health Peds Subs?

A: Yes.

Q: So, if that information is already in there and electronically documented, why would your office scan in her Medicaid card if they've already got that in there, they don't need that -- that don't need to keep it once the input it electronically but not scan in your notes, if your notes

somehow reflect something that you did at a different time than the electronic footprint showing exactly what you did and when you did it?

A: I don't have any control -- at the time, I didn't have any control over what the administration placed on these different forms. I'm really not understanding your point. I made notes to myself to make sure that I didn't forget something. And I also tried to be respectful of other patients in the practice and not make them wait while I go in the office and type up a note.

Q: How long do you think that took you to type up?

A: Not a clue; a minute, maybe. I'm a pretty quick typer, so...

Q: Does it seem like it would actually take more time to write the notes down, put them somewhere, come back and log in electronically three hours later, and then type the same thing you had already written?

A: Some patients are way more complex than others. And some of the notes where -- would require significantly longer than what you might think this one case might have. So, it's -- again, it was just -- it was just a way of trying to be respectful for the rest of the people coming through that they weren't having to wait on me typing.

Q: And thank you for that explanation, Doctor, and I guess I don't follow, because by the same logic, with some patients

being way more complex -- for a hypothetical patient that has lots of complex issues, multiple diagnoses, maybe even multiple tests that you're contemplating, that would take you a lot longer to write those handwritten notes then it would have for you to write Taylor Price's hypothetical handwritten notes, right?

A: Well, I didn't write in my handwritten note all that. I would write down just cryptic, not shorthand, not actual old-fashioned shorthand, but just a few little notes about what they said, anything on the physical exam that was pertinent. I could write all that down in seconds.

Q: Okay. But for someone who has much more complex issues you're dealing with, would it take longer than it would if you'd taken to document Taylor Price's hypothetical handwritten cryptic notes?

A: I don't know how somebody else's complex child compares in this case.

Q: Well, it was just hypothetical question. If they have complex issues, more complex than you thought Taylor did, cause -- would you agree we now know that Taylor Price had a very complex issue that required attention?

A: Well, that begs to question. As the pathologist stated, some cases are genetic, some cases are acquired, and she could not say to a high degree of medical certainty if Taylor had ARVD on the day I saw her. It could've been an acquired

process that she developed after my visit. I'm not saying that it was or was not. I'm saying that is -- she said that it was absolutely possible.

Q: And thank you for that answer. But she gave no testimony whatsoever as to what was present at any point prior than when she diagnosed her postmortem. And her testimony will speak for itself if the jury needs to hear it later. But, for a hypothetical person that you -- even at the time of the hypothetical visit you thought had complex issues, the process you described of -- even in shorthand and cryptic notes, writing things down, and then having to come back three hours later, four hours later, and then type it in or dictate it into an electronic platform, even though you could write it in shorthand quicker than typing it, wouldn't duplicating that under any circumstance in any patient be inefficient and ultimately take up more of your time?

A: Well, it's the process I used, and it worked really well for me for many, many years. The fact that you find it inefficient; I'm sorry you feel that way.

Q: I didn't say I found it inefficient. I was just asking you your thoughts on duplicating the process rather than doing it once.

Dr. Trant, if you'd please flip to Tab 14 in your binder.

A: I don't have a 14. It goes from 13 to 18.

Q: That means somebody's been messing with your binder. I

got it.

Dr. Trant, I will hand you what should've been Plaintiff's 14 in your binder.

A: Okay.

Q: Are you familiar with that letter?

A: Yes.

Q: Is that your signature on that letter?

A: Yes.

MR. POWELL: Your Honor, at this point, the plaintiff would move into evidence Dr. Trant's February 5th, 2019, Letter of Resignation.

MR. AIKEN: I do object to that. I don't understand the relevance.

THE COURT: How is it relevant?

MR. POWELL: What's that, Your Honor?

THE COURT: How is it relevant?

MR. POWELL: Your Honor, we think it's relevant for a lot of reasons. This letter was dated less than two weeks after the visit with Taylor Price. The arguments that could be made, if it comes in, I'll make those arguments in front of the jury, or the inferences that could be made, I think that is relevant testimony as to what Dr. Trant might've been thinking or why he might've done or not done some things in his visit with Taylor Price two weeks prior.

MR. AIKEN: That's unadulterated speculation,

unadulterated speculation.

MR. POWELL: Your Honor, they've already talked about his retirement. There's no secret that he retired.

MR. AIKEN: He can ask him why he wrote the letter, why he resigned, that type of thing, but he can't speculate on the reason.

THE COURT: Yeah. I mean -- let me see the letter.

Let me see y'all at the bench a minute.

(REPORTER'S NOTE: Bench conference is held off the record in the presence but outside the hearing of the jury.)

MR. POWELL: Withdraw our request to admit it.

THE COURT: Okay.

MR. POWELL: Your objection has been granted without even arguing it.

MR. AIKEN: Okay. Thank you.

MR. MCLEAN: Good argument.

MR. POWELL: Court's indulgence, Your Honor.

BY MR. POWELL:

Q: Dr. Trant, if you'll please look at what I've just placed back in there as Plaintiff's -- it's Tab 16, and I'll give you a minute to review it.

A: Yes, sir. Okay.

Q: Dr. Trant, are you familiar with that?

A: Yep. I wrote it.

MR. POWELL: Your Honor, Plaintiffs would move in --

Plaintiff's move in Exhibit 16 into evidence. It is a letter to the editor that Dr. Trant just admitted that he wrote.

THE COURT: Any objection?

MR. AIKEN: The letter to the editor?

MR. POWELL: The first one.

MR. AIKEN: Yeah, I do object. What's that relevant for? It has nothing to do this case. It's completely irrelevant.

MR. POWELL: Your Honor, there are portions of that letter that I won't state in front of the jury that we believe go to Dr. Trant's opinion about the proper PPE protocol and what is done in practice and what should be done.

MR. AIKEN: Dr. Chang testified in his deposition those letters have nothing to do with his opinions.

MR. POWELL: He said they had nothing to do with Dr. Chang's opinions. We believe it's relevant as to Dr. Trant's opinions at the time he wrote the -- before he saw Taylor Price and before she died.

THE COURT: All right. Hold on a minute and let me read it.

MR. AIKEN: Your Honor, do you have a copy?

THE COURT: Yes, sir. I have a copy.

MR. POWELL: It's -- and Your Honor, it would be the same argument for 16 and 17, and I recognize Mr. Aiken will have the same objections. We would make -- we have the exact same position and there'd be no distinction unless he says

otherwise.

MR. AIKEN: I do, indeed, object.

MR. POWELL: Judge, since there's two of them and you haven't read them, if there's gonna be an argument, it might be a good time for the jury to take a quick break.

BY THE COURT:

THE COURT: Okay. I'll send y'all to the jury room. Don't discuss the case.

(REPORTER'S NOTE: Jury exits courtroom @ 11:22 a.m. The following takes place outside the presence of the jury.)

MR. POWELL: Dr. Trant, if you need to come down off the stand, you're welcome to, as well.

DR. TRANT: Thank you.

MR. POWELL: Just remember you're still under oath.

DR. TRANT: Yes.

MR. POWELL: And, Your Honor, Mr. Aiken is headed downstairs, so I'm sure you don't want to hear from us until he gets back.

THE COURT: Okay.

MR. AIKEN: May I be excused?

THE COURT: Yes, sir.

RECESS - 11:22 A.M.

*******OFF THE RECORD*******

ON THE RECORD - 11:36 A.M.

THE COURT: I don't know whether he's objecting to 16. I

think 16 does a really good job ---

MR. POWELL: Well, 17, Your Honor, it would be the second page. I know, but 17 ain't coming in.

MR. POWELL: Okay. Even without redacting the stuff abut the other bill that's totally irrelevant?

THE COURT: No, 17, he's talking about ---

MR. POWELL: And I totally understand, that's not relevant or admissible. I was just saying subject to redacting that, because the language in 17 that's not in 16 is the without further testing, but ---

THE COURT: 16 is exactly what the other cardiologist testified about. I think it -- but if you object to it coming in, it's probably relevant. I think it hurts you and helps him, but that's y'all's call.

MR. POWELL: We would argue it's relevant. That it helps us, it says until we complete the evaluation. So, they can -- if they objection, we'll respect however Your Honor -- it's whatever Your Honor wants to do.

MR. AIKEN: I couldn't hear that.

MR. POWELL: He said 17 is not coming in no matter what, so we don't need to talk about that. He said 16 ---

THE COURT: 17 is not relevant in this and his opinion about guns, and even that ---

MR. POWELL: Totally get that.

MR. AIKEN: How about 16?

THE COURT: No, that's 17.

MR. POWELL: 17 is out; we're not talking about that.

MR. AIKEN: I know.

THE COURT: 16 we can talk about. 16 brings, I think it's a least it is the testimony in this record that based on the record that -- that, you know, Dr. Cain, I think, talked about we can't test every athlete, and he's expressed ---

MR. POWELL: Your Honor, we can withdraw. We just won't -- another good argument by Boone, we don't necessarily -- it wasn't a hill we needed to die on. We withdraw it.

THE COURT: I think it hurts y'all and helps him.

MR. POWELL: Dr. Trant, take 16 and 17 back out of that one, sir.

We'll, you can take the actual documents out just so there's no inadvertence because you're the last witness.

THE COURT: That's probably why they weren't in there.

MR. POWELL: Leave the tab. That's part of 18.

Thank you, Your Honor. They're out of the book again.

THE COURT: All right. So just from a timeframe ---

MR. POWELL: Ten minutes at the most. I'm wrapping up.

THE COURT: I'm not rushing you; I'm just trying to ---

MR. POWELL: I understand, Your Honor. And I want to respect the jury's -- the jury's time and the food, so, we're close.

THE COURT: That's the hardest thing to do is keep

moving.

MR. POWELL: Yes, sir.

(REPORTER'S NOTE: Brief break in record while counsel sets up video equipment.)

(REPORTER'S NOTE: Jury enters courtroom @ 11:36 a.m.)

MR. POWELL: May it please the Court, Your Honor?

THE COURT: Yes, sir.

CONTINUATION OF CROSS-EXAMINATION OF DR. CHARLES TRANT BY MR. POWELL:

Q: Dr. Trant, I believe you testified to us yesterday, and I just want to confirm, on January 24th, 2019, you did in fact undertake to perform a PPE on Taylor Price, correct?

A: No, I did a cardiology clearance. PPE is a preparticipation examination done generally by primary care providers, and she already had an active valid PPE clearance, and my role was just to give cardiology clearance.

Q: Thank you for that answer, Dr. Trant. That is not how you testified under oath at your deposition on April 4th of this year.

A: I may not've fully understood your question at the time.

(REPORTER'S NOTE: Portion of Dr. Trant's video deposition published for the jury. Audio not transcribed herein.)

Q: Dr. Trant, you did not -- that -- and for the record, that was Page 53, Lines 21 through 24 of Dr. Trant's April 4th, deposition testimony.

Dr. Trant, you did not accidentally forget to order an echocardiogram on Taylor, did you?

A: No.

Q: Dr. Trant, you did not accidentally forget to order a stress test or an exercise test on Taylor Price on January 24th, 2019, did you?

A: Well, I don't -- I don't order tests that are not indicated.

Q: And thank you for that answer, Dr. Trant. It's just yes or no, did you -- did you mean to and just accidentally forget to or -- the question is yes or no; you didn't accidentally forget to order a stress test or exercise on Taylor on that did, did you?

MR. AIKEN: Your Honor, I would be happy for Dr. Trant to say yes or no, but I would like for him to explain it.

MR. POWELL: Right, all the context as long as the first part is a yes or no would be my request.

A: Could you repeat the question?

BY MR. POWELL:

Q: Yes, sir. You did not accidentally forget to order a stress test or an exercise test on Taylor Price on January 24th, 2019, did you?

A: I did not forget to do it because it was not indicated.

Q: And you did not accidentally forget to order a cardiac MRI for Taylor at that visit either, did you?

A: No, because it wasn't indicated.
Q: Would another way to explain the context you gave, and thank you for that for those answers, would it be fair to say that you made a decision not to order those tests, each and every one of those tests on Taylor Price, because -- building on that, because you didn't forget, you made the choice not to, correct?
A: I -- I'm sorry. Say it again.
Q: Yes, sir. And I'll try and ask it in a better way; sometimes I can ask bad questions. The decision whether or not to order any of the following on Taylor Price on January 24th, 2019, and the test we're talking about is an echocardiogram, a stress test or exercise test, or a cardiac MRI, my question is to all of those tests. You made a choice based on what you thought was appropriate, that was a choice you made not to order those tests, correct?
A: That is correct. I made a choice based upon my evaluation of the patient. She had noncardiac complaints, as we have described in other parts of the testimony, and we don't do cardiac tests when the patient has noncardiac issues.
Q: And that choice you made and the context and the explanation you just gave, based on your extensive education and training, that choice you made was one you made consciously, correct?
A: Yes.

Q: And knowingly?
A: Yes.
Q: Okay. You knew you could order those tests if you desired to, correct?
A: Yes, but ordering tests that are not indicated and charging people money for tests that I know are not indicated, I find that unethical.
Q: Tell me about that. Why would you feel -- and not talking about people, let's just talk about Taylor Price, her visit, January 24th, 2019, would you -- would you have the same answer it would've been unethical for you to order an echocardiogram on her that day?
A: If I -- if I had a good faith basis, a good faith understanding of what was going on with the patient, and I haven't heard anybody say that she didn't have hyperventilation syndrome, didn't have chest wall pain, didn't have vagal spells, to do cardiac tests for those reasons makes no sense, because those tests -- those -- an echo is not gonna show me hyperventilation syndrome. So, to charge them or Medicaid money for a test that I know isn't indicated -- well, if I did that often enough, I would suspect the Medicaid people might want to talk to me about ordering inappropriate tests.
Q: Do you have any specific recollection in your career, while employed under McLeod Physician Associates II or the

previous -- you worked for in Florence of ordering an imaging test, like an echocardiogram or a cardiac MRI, and being told by Medicaid, no?

A: Oh, yeah, all the time. We ---

Q: Do you have a specific recollection of Medicaid saying we're not gonna do that?

A: We -- one of the problems with pediatric cardiology is that they -- insurance companies, Medicaid, they all have adult echo standards. I would order the echo, my secretary would get on the phone, call Medicaid to get preauthorization. And often enough, they would say no because they don't know what tetralogy of fallot is or double inlet left ventricle is. It doesn't show up in the adult standard criteria. And then I would have to write a letter, and then they sometimes said no. And then I would have to call the medical director, at which point he would say why did we say no. I'm like, it beats the heck out of me. And then it would get approved. So, that was unfortunately a -- maybe not a weekly occurrence, but certainly every month. And some of those -- some of those instances, I had to go all the way to corporate to talk to those folks, hours out of my life on the phone trying to get these things approved.

Q: As it relates to Taylor Price, we don't know if they would've approved it because you didn't order any tests; yes or no, what you recall?

A: We don't know if they would've approved it, but if I had ordered an echo for hyperventilation syndrome, vagal spells, or chest wall pain, which was the truth, they absolutely would've said no, and they would've asked me why are you ordering tests -- why are you ordering cardiac tests when you know these problems aren't cardiac.

Q: What if you ordered any of those for syncope and collapse, which was in your medical records signed by Dr. Bahan?

A: If I -- if I have a -- by the time I would've ordered that test, I would've already come to the conclusion that she was having vagal spells. So, to then cheat the system and put syncope down there, well, I -- I hope you're not recommending that I cheat the system.

Q: Are you saying that Dr. Bahan cheated the system by putting syncope and collapse as to the diagnosis multiple times but specifically in your referral, your referral order to you that was in your records?

A: Well, we're not sure who created that referral note. Frequently that's done by administrative people, and then electronically signed. And the big point is when I was in the room talking to the one person who knew what all of this felt like, excuse me, Taylor was -- at least according to my note, was very clear that these were episodes of near syncope, not syncope and collapse.

Q: Again, according to your note, correct? You have no independent recollection?
A: Which was -- which -- yes, but was based upon conversations with the one person who knew, the person that none of the other experts talked to, that you didn't talk to ---
Q: I unfortunately couldn't talk to her, sir.
A: Well, I -- yes.
Q: You testified that specific -- just talking about the referral order that did make it to your records and was in there and could've been looked at, but that there's no record electronically of you looking it up, do you have any dispute that Dr. Bahan electronically signed that?
A: I have no way of knowing if he did that or not. Oh, he may have. I can't say for certain that that's -- that that electronic signature was created by him. It probably was. I'm not accusing him or his office of anything, but I'm not gonna testify that I know how that document was created.
Q: But, again, you're not accusing him of trying to cheat the system by putting syncope and collapse ---
A: He's not trying to order an echocardiogram. He was just -- he was asking for a pediatric cardiology evaluation.
Q: Isn't that the process of how he gets his patients to someone who does order the echocardiogram, the pediatric cardiologist?

A: I'm not sure I understand your question.
Q: Yes, sir. You said he's not trying to order an echocardiogram when he put syncope and collapse on that referral order.
A: Right.
Q: Isn't him referring his patient to you, the only pediatric cardiologist for the 13 counties of the Pee Dee, with the diagnosis syncope and collapse on that referral order, isn't that the step he takes for his patient to get to a specialist like yourself that does order it or can order an echocardiogram, or other imaging or testing we've talked about?
A: Yes. And if I could phrase it a different way, he used the form to refer the patient to me, and then relied upon my training, knowledge, and experience to decide which tests, if any, were indicated.
Q: Thank you. And Dr. Trant, there's been a lot of talk in trial this week about the PPE, and we just saw a video of you previously testifying you did in fact undertake to perform a PPE or the video said preparticipation physical evaluation or sports physical that you testified to. As we look at -- I'm just explaining the context -- as we look at this, and this is from the Fourth Edition of the PPE, does require mean require when it's used in this context?
A: Well, it's -- if it's performed in consultation with a

cardiologist and may include those things. So, this is written for primary care physicians so that they'll have an understanding of when they should make a referral. Once the patient gets to me, it is my job to decide which of these tests, if any, are indicated.

Q: And the context I'm asking about, there are two references, warning symptoms that require cardiac workup before returning to exercise. And the second reference is athletes identified with cardiovascular symptoms such as exertional syncope, or near syncope, chest pain, palpitations, or excessive exertional dyspnea require a careful and thorough cardiovascular evaluation to exclude underlying heart disease before allowing an athlete to return to sports. And so, having just read those statements, do you take issue with the word require in those two contexts, doesn't require mean require?

A: Warning symptoms that require cardiac workup. She got a cardiac workup. Athletes identified with these symptoms, syncope or near syncope, doesn't include vagal spells. Chest pains doesn't include chest wall pain. Shortness of breath does not include hyperventilation syndrome because all of those are very common issues of puberty. I had chest wall pain when I was her age. I had vagal spells when I was her age. So, the -- Dr. Bahan did the right thing. He sent her to me. I did a careful evaluation, and then invited the

family to call back if there's any questions, concerns, or worries.

Q: And I understand your answer, and thank you for that. And I get you're making a distinction as what a cardiac workup is. And you're making a distinction as to what a careful and thorough cardiovascular evaluation means.

A: Because I'm -- I'm sorry -- go ahead.

Q: But as it goes to both of those, and we can -- the question is not about what you define those to mean, does require in the sense of require cardiac workup, and does require in the sense of require a careful and thorough cardiovascular evaluation -- does the word require mean require?

A: It required Dr. Bahan to make the referral. At which point, she got a cardiac workup that was careful and thorough. It just didn't include -- it just didn't include a lot of tests, because again if I know -- if I know the patient has chest wall pain, what am I asking the test to tell me?

Q: And again, I'm not asking about the test. My simple question is does require mean require?

A: I don't -- require of whom?

Q: I'm not asking of whom. I'm just saying does the word require mean require?

A: Well, you're using the same -- you're -- could you -- you're not providing a definition. It's like saying left

means left.
Q: I'm asking you your understanding of the definition. I agree left means left. I think require means require, but what I say is not evidence in this case. I want to know from you ---
A: I'm sorry. So, you're asking me to define the word require?
Q: I'm asking you a yes or no question. In these contexts -- I understand your distinction about what comes after require and what satisfies those, but does the word require mean require?
A: That's a tautology. You can't say -- you know, does blank mean blark, and that -- I don't know how that ---
Q: Without saying what we're talking about is required, are you aware of anything in the PPE or in a peer-reviewed journal that you can point to -- again without saying what is required in terms of what it's related to, but just the word require, is there anything in this document that you're aware of or any medical peer-review journal that changes the word -- the definition of the word require or does just what word without anything else before or after, does require mean require?
A: That question doesn't make any sense.
Q: Thank you, Dr. Trant. No further questions.
THE COURT: Do you have any questions?
MR. AIKEN: Me?

THE COURT: Yes, sir.

MR. AIKEN: Yes, sir.

REDIRECT EXAMINATION OF DR. CHARLES A. TRANT, JR, BY MR. AIKEN:

Q: Dr. Trant, when you order an echo, do you get paid for that?

A: Yes.

Q: When you order a stress test, do you get paid for that?

A: Yes.

Q: When you order a cardiac MRI, do you get paid for that?

A: That I would not, because I'm not the one who reads the -- the hospital would get paid for the technical portion and the radiologist would be paid for the interpretation.

Q: Okay. But other than the cardiac MRI, do you get paid for basically every test that you order?

A: Well, not exactly, but there are a number of procedures that I performed in the office and in the hospital that were billable events.

Q: Okay. But regardless of whether you get paid or whether you don't get paid, you order any test that you think would be clinically warranted, and clinically appropriate?

A: They have to be both clinically -- it has to be clinically appropriate or else I'm not gonna order it.

Q: Let's talk about this for a minute. If you're sure that Medicaid won't pay for a test for some reason, but the family

might still want a test, would you give them the option -- well, you can't get it paid, but I want you to have whatever test you want as long as you are willing and can pay for it?

A: I'm not sure that ever came up.

Q: Okay.

A: If a test was indicated, then we would do it. If the test wasn't indicated and the family still wanted it, I would want to know what are you looking for? What is it about this test that you want? What is the question you have that you want this test to answer? And if the answer is, I just want to see what the heart looks like, that's a lot of money for -- I mean, anyways -- go ahead.

Q: Now, I don't think you were given an opportunity to discuss all of your disagreements with Dr. Chang, and part of that was the EKG finding.

A: Yes.

Q: Look at Page 16 of 21 of the complaint, which is the vehicle that gets us in court.

A: Okay.

Q: Read the highlighted section.

A: Failed to recognize abnormalities in Taylor Price's December 18th, 2018 electrocardiogram that would have required immediate follow-up and testing.

Q: And you heard Dr. Chang say in this courtroom that the EKG was normal?

A: Yes.
Q: But you also read his deposition when he was under oath?
A: Yes.
Q: And what did he say in his deposition under oath?
A: So, five different times during his deposition, he specifically said the EKG was abnormal, and he pointed specifically to what he was calling abnormal, and based upon those findings, then I should have done more testing. But the EKG wasn't abnormal.
Q: When is the first time you heard that?
A: That the EKG was abnormal?
Q: No, normal from Dr. Chang.
A: In this courtroom two days ago.
Q: And you had not heard that before?
A: No.
Q: And you've not seen an amended complaint giving us notice that was going to be his testimony and in the courtroom that he didn't get when he was deposed?
MR. POWELL: Your Honor, I would object as to mischaracterization. The complaint is not Dr. Chang's testimony. There's no evidence that Dr. Chang was even engaged at the point the complaint was written. The complaint is a legal document that he is free to publish, just as we were -- the request to admit pursuant to the rules and the caselaw, but it's a misrepresentation of what's even in the

complaint, because there's no reference to Dr. Chang in there at that point.

MR. AIKEN: Dr. Chang is their expert. He was testified about that. He came to court and changed his testimony.

MR. POWELL: Dr. Chang testified about nothing in the complaint. And, Boone -- Mr. Aiken -- I apologize -- had a chance to cross-examine Dr. Chang ---

THE COURT: Hold on a minute. You pointed out his deposition and pointed out his testimony in court. So, the jury has that information.

MR. AIKEN: Okay. I'll move on.

THE COURT: Okay.

BY MR. AIKEN:

Q: Look at the first page of that document, on the side where it has a stamp on it. It has the date of when that complaint was filed, on the side margin.

A: July 13th of 2022.

Q: Okay. And moving to a different area, Dr. Trant. If a patient is referred to you for a potential cardiac issue, and you do what you need to do to rule out cardiac issues, then do you just stop your thought process on what's wrong with this patient?

A: Generally, not. I mean, the patient didn't come to me for just a cardiac answer, and then when the heart is fine, I just say, yeah, not the heart, go see somebody else. Most of

the time, I tried to figure out what's wrong, so we can give this -- they're in my office, let's find out what's really going on. And then hopefully give this family some good news. Or if it's not, give them the answer so they can start making the appropriate plans.

Q: Has that happened to you in real life?

A: Yeah, several times.

Q: Give me one example.

A: Right. So, I had a young man sent to me for possible congestive heart failure ---

MR. POWELL: Objection, Your Honor. This is well beyond the scope of cross-examination, some hypothetical young man that I hadn't asked about.

MR. AIKEN: I disagree. I think it's completely relevant. Their expert has said all these deviations of Dr. Trant and what he would've done ---

THE COURT: Okay. I'll allow the question.

MR. POWELL: His ability to cross-examine our expert was when our expert was on the stand and then rebuttal or redirect is for new items brought up on cross-examination, which this was not, Your Honor, and it's not ---

MR. AIKEN: The Judge understands that, and I think the Judge ruled.

THE COURT: We're not -- he's not talking about your expert. He's talking about his opinion, right?

MR. AIKEN: Yes, sir.

MR. LESEMANN: But he's talking about hypothetical patient that we've got no idea who this person is or anything.

MR. AIKEN: It's a real patient. I'm just trying to explain that once a cardiac issue is ruled out by Dr. Trant, he doesn't stop. He tries to find out what's wrong with this patient from these symptoms.

THE COURT: And he's testified to that.

MR. AIKEN: Well, I just asked him to give me an example in real life with one of his patients.

MR. LESEMANN: We shouldn't be talking about other patients who hadn't had ARVD and hadn't died. We should be talking about ---

MR. POWELL: And whose medical records we ---

MR. LESEMANN: --- the one patient this case is about.

THE COURT: You can ask him his thought process when he deals with patients and his thought process in dealing with this patient. Okay?

MR. AIKEN: Okay.

BY MR. AIKEN:

Q: What is your thought process when you see a patient?

A: That I -- that they're -- my thought process is if there is something wrong, let's find out what it is.

Q: And does that happen?

A: Yes.

Q: And have you found issues that were not anticipated?
A: Yes.
Q: From your referral?
A: Yes.
Q: And speaking of the referral, we've talked a lot about this audit trail.
A: Yes.
Q: And I think you testified the referral order was faxed to you?
A: I -- seems that's -- I think that's correct.
Q: Okay. So, other than the audit trail, you receive other documents sometimes by fax.
A: Yes.
Q: Sometimes by scan, sometimes by hard copy.
A: Email, yes.
Q: So, an audit trail is not really the complete documentation of what you receive?
A: No.
Q: Okay. Dr. Chang testified that you should've run a cardiac MRI.
A: Yes.
Q: What do you say to that? Do you agree ---
A: Well, a cardiac MRI is a wonderful test. I've certainly ordered many of them through the years. But there has to be a question. There has to be a reason to do the test. And at

the time that I saw her, her complaints were not cardiac. Therefore, doing a cardiac MRI would've been -- it wouldn't be reasonable to order tests without a good -- there's got to be a reason to order the test. I'll just say it that way.

Q: Does that same logic applied to a stress test, and echo, or any other test?

A: Any test I order has to be indicated.

Q: Now, you sat down with Taylor and her mom?

A: Yes.

Q: And you talked with both of them about what was going on?

A: Yes. That's what the note indicates.

Q: Okay. And Dr. Chang had hindsight; he knew what happened, right?

A: He did have the benefit of hindsight. And I -- yes, I'll just leave it at that.

Q: And you did the best you could analyzing Taylor's problems?

A: Yes. My intention was to go in there and find out what's going on, and if there are problems, to address each and every one of them. I mean, I try to do the best to my -- go ahead -- I'm sorry. Go ahead.

Q: Now, Mr. Powell tried to suggest that somehow your resignation was related to your treatment of Taylor?

A: Yeah. I don't have any idea -- let me just categorically deny that Taylor Powell -- Taylor Price, sorry -- Taylor Price

had anything to do with my decision of when to retire. It had everything to do with my daughter being pregnant, and transitioning from physician to granddaddy. That was the entire rationale for choosing when to pull the trigger.

Q: We know Taylor tragically died on December 17th?

A: I know; I'm so sorry.

Q: When did you learn of Taylor's death?

A: When I got served.

Q: The suit papers?

A: Yeah.

Q: You didn't know anything about it before?

A: No, and it was -- and it was -- I'm not comparing what I felt to the family in any way at all.

Q: I understand.

A: But learning that a patient of mine had passed away hurts; it always did.

Q: Do you take any responsibility for Taylor's death?

A: I have nothing but sorrow for the pain that this family went through. But looking back at the record and now with my benefit of hindsight and reviewing all the records, I still don't see where I should have done something different. The data was clear. So...

Q: At any time during your visit with Taylor, did you depart from good care, from standard of care?

A: No.

Q: Thank you.

THE COURT: You can step down, Doctor.

A: Thank you.

BY THE COURT:

THE COURT: Okay. Ladies and gentlemen, we're gonna try to take a lunch break. They're gonna bring you lunch, I hope. But while you're back there, I need you to do one thing for me. I don't know any of you. I mean, you've been together all week. I need you to select a foreperson. It needs to be from the original 12. So, when you go back there over lunch -- that person has no greater vote than anybody else. They'll simply preside over the deliberation and fill out and sign the verdict form. So, when you're back there eating your lunch, if you'll elect a foreperson and let the bailiff know when we bring you back out to finish this case.

But you can go to the jury room. She says lunch will be here in about five minutes. I'm gonna deal with some legal matters, and then when you finish lunch, we'll deal with these matters and get you back out to finish this case.

But you can't discuss it yet. Okay?

Thank you.

(REPORTER'S NOTE: Jury exits courtroom @ 12:09 p.m. The following takes place outside the presence of the jury.)

THE COURT: Okay. We'll take a break and y'all get the verdict form and charges together and then we can do that?

MR. POWELL: Yes, sir. I'll work on the tweeking the verdict form real quick and then share with them and we can get together.

THE COURT: Okay.

RECESS - 12:10 P.M.

*******OFF THE RECORD*******

ON THE RECORD - 1:25 P.M.

BY THE COURT:

THE COURT: The only objection you had in the charge conference in my chambers discussing the potential charges, and basically we reviewed the charge that I had in my book, as well as the plaintiff's charge is almost identical, and the defense charge. And most of them were the same except I agreed to charge gross negligence as spelled out. The defense gave me their charge, Number 10, I think, which basically is gross negligence, as it was defined by Judge Anderson. Now, in the charge that the defense gave me, it left out one sentence. The sentence it left out was that gross negligence is a relative term, meaning the absence of care that is necessary under the circumstances. So, I agreed to add that back in. In my understanding, that's over the objection of defense counsel.

MR. MCLEAN: We do object to the inclusion of that sentence, but we understand and respect the Court's ruling.

THE COURT: Okay. And then you also wanted me to charge

the statute, let's see, 33-86-180. And under the circumstances of this case, I am not going to charge that, but I understand your objection.

MR. MCLEAN: Yes, sir.

THE COURT: And let you put it on the record.

MR. MCLEAN: Yes, sir. Correct.

THE COURT: And you had some -- you had some other objections about me defining reckless and willful.

MR. MCLEAN: Well, that would've followed -- right. We did submit a proposed charge on the definition of the terms reckless and willful, since they are in the charitable immunity statute, but I understand the Court is not gonna charge the language directly from the charitable immunity statute. So, that may make that objection moot. Nevertheless, we would ask for a charge as submitted on the definition of reckless and willful that we handed up. It was our charge -- proposed Charge Number 22-1.

THE COURT: Okay. And that comes under the gross negligence aspect.

MR. MCLEAN: Yes, sir. It comes -- we contend that it does. We contend that the charitable immunity statute uses the -- has language in it which states an action against the charitable organization pursuant to this section constitutes a complete bar to any recovery by the claimant by reason of the same subject matter against the employee of a charitable

organization, whose act or omission gave rise to the claim, unless it is alleged and proved in the action that the employee acted in a reckless, willful, or grossly negligent manner. That's the language from the statute. We ask that the Court charge that statute, and I understand the Court's ruling. We ask -- we submitted our proposed Charge Number 10, which was an edited version of that statute, to leave out reference to caps under the Tort Claims Act and other language that's not pertinent to this action. We ask that the Court charge that statute as edited, our Charge Number 10, and then further give a charge on what the words reckless and willful mean as set forth in our proposed Charge 22-1. The reason being, the terms are used in the -- your defining gross negligence for the jury. We believe that you should also define and tell the jury what reckless and willful mean under the statute, because it uses all three terms. The terms are in there for a reason. The General Assembly could've chosen not to use all three terms. They're in there; they've gotta mean something. And we believe the statute should be charged as written, and we should be entitled -- and the jury should be charged on the explanation of what those three terms mean.

THE COURT: Okay. You want to respond to that?

MR. POWELL: Just very briefly, Your Honor, just to make sure we've made our record, as we talked about in chambers. The verdict form that the parties have agreed on that will be

the final verdict form, the words reckless and willful are not on there. And I agree with Mr. McLean that the words must mean something if the legislature put them in the statute, but what should also mean something is if those words are separated by a comma and the word or. They are not all required to be met in order to meet that statutory exception. Any singular one of those could meet it. We are not arguing that there was reckless conduct as that statute defines. We are not arguing there was a willful conduct. We have made this case purely on our position that there was grossly negligent conduct. And as we aren't arguing those points to the jury, we're not seeking it on the verdict form, there's no testimony or evidence of it, you only have to meet one of those, not all of those under the statute. And that would be the position just for the record that we made back in chambers, Your Honor.

THE COURT: And I -- in those willful and wanton, there are commas between them, and I think that the interpretation of the statute is you only have to prove one of them. And there have been no evidence and no allegations in this case that it was reckless or willful, and we are defining gross negligence in my charge to the jury. So, I think that is the issue before this jury is to whether they thought that Dr. Trant was grossly negligent or not, and I will define that to them. So, I am going to respectfully deny your charge, but

you are covered on the record.

MR. MCLEAN: Yes, sir. Thank you, Your Honor. I understand your ruling.

THE COURT: Yes, sir. Thank you.

Okay. Anything before I bring the jury in?

MR. POWELL: Nothing from the plaintiff, Your Honor.

MR. AIKEN: No, sir.

THE COURT: Okay. They have selected a foreperson, which appears to be Juror 19 on your list, Number 75, Sharon Emanuel.

MR. POWELL: Juror 19/75?

THE COURT: Yes, sir. That's the note I got from the bailiff.

MR. AIKEN: Your Honor, we do have one matter.

THE COURT: I'm sorry. What?

MR. AIKEN: We do have one more matter.

THE COURT: Okay.

MR. AIKEN: Okay.

MOTIONS:

MR. MCLEAN: Before we move into closing arguments, I think now would be the appropriate time to renew our directed verdict motions.

THE COURT: All right.

MR. MCLEAN: And I could certainly lay those out for the Court again. The Court is very familiar with them, and

they're on the record. If I may just very briefly just mention them in strictly summary form, with no argument, just for the benefit of the record.

THE COURT: Okay.

MR. MCLEAN: We moved for directed verdict and renew that motion for a directed verdict as to Dr. Trant individually based on absence of proof of gross negligence. We move for a directed verdict and renew that motion at this time for Dr. Trant and MPA II on the basis of lack of proximate cause. We renew our motion at this time that there was only one occurrence as a matter of law, and the Court should so rule and find and not give the jury an opportunity to find multiple occurrences. We -- we are not to the punitive damages stage yet, so we'll discuss that at a later time if appropriate.

So, those are the grounds upon which we would renew our directed verdict motions.

THE COURT: Okay. Thank you, sir.

And I think there is sufficient evidence in this record to go to the jury, and I will deny your directed verdict motions on Dr. Trant. It's the existence of evidence, and the jury will have to determine what the weight is. But there is evidence in this record, and the opinion of an expert that his evaluation was grossly -- he didn't use the word negligence, but not sufficient. So, I am going to deny your motion on that.

As far as the occurrence is concerned, my understanding of the law is it is a judicial decision, as long as there is no other reasonable act that can be determined from the facts in this case. Basically, what has been argued throughout this case and the plaintiff is argued that there is possibly two occurrences. One was the visit that he made with the client, Taylor, and the fact that he did not order sufficient testing is one potential occurrence. The next potential occurrence is the fact that he signed the form saying she could return to athletics. Now, I understand there's a dispute in the facts as to what he meant that form to be, but there is at least facts -- if that was not in, then I think it this clearly would be only one occurrence. She only visited him one time, and that there would be one occurrence, and I would not let the jury consider that. But I think there are facts in this record that it's turning into a factual question for the jury based on the *Chastain* case, as well as the others that it now becomes a jury question as to whether there was more than one occurrence. So, I am going to respectfully deny your motion.

MR. MCLEAN: Yes, sir.

THE COURT: All right. Anything else before I bring out the jury?

MR. POWELL: None from the plaintiff, Your Honor.

MR. AIKEN: No, sir.

(REPORTER'S NOTE: Jury enters courtroom @ 1:36 p.m.)

THE COURT: Okay, ladies and gentlemen. I think we're ready for closing arguments.

CLOSING BY RICHARDSON:

MR. RICHARDSON: Folks, the defendants chose to take Taylor Price in as a patient in January of 2019. They chose to take her in as a patient. And they simply did not do the job for which they were hired. Not because of some slight error, some small mistake, but because they abdicated that responsibility, they made a conscious decision to not do their job. Metri Utley, she was scared for her daughter. She wanted answers, answers for what was causing Taylor to collapse, have all these episodes. And without the slightest of care, without the slightest of care, they took an unnecessary risk with the life of Taylor Price. They cut corners, they skipped safety steps, with too little care, no real effort, and certainly too little time. They had a 13-year-old little girl, 13-year-old little girl, with her mother in there telling them about all of those symptoms, the syncope, near syncope during basketball, and only during basketball, the chest pains, the shortness of breath. And despite what Ms. Utley told them, they chose to minimize it, ignore it, didn't look at the medical records. Their own experts told you the importance of medical records. How it's good to look at those. And certainly, you can request them. We know you can request them because that EKG came through.

Why not request all the records? You need to look at those.

If the defendants would've just looked at those medical records, if they would've looked even at the referral form, it would've called out there needs to be more done. And yet, they chose to ignore them. They chose not to do their job, no testing whatsoever, jump to some haphazard diagnosis without testing. Told Metri Utley, your daughter doesn't have no problem with her heart. But we all know different, because that's what killed her. But they said no problem, and they sent her away with a false sense of security, false sense of hope that everything was gonna be okay, and it wasn't. And yet here in this courtroom, they still want to deny any wrongdoing.

Growing up here in Marion, I was fortunate, I had a lot good role models, learned a lot of valuable life lessons. One of the ones that stuck with me, even today, is one, if you're gonna take on a job, if you're gonna do a job, you got to do it right. You got to do it right each and every time, you got to work until the job is done, because that's your job. And these defendants, they simply just didn't do their job. They ignored Metri Utley. Did they think she was some hysterical helicopter mom being overprotective? Don't worry, your daughter is gonna be okay, you know, just breath into a paper bag. And certainly, that's okay, because their expert said it. Taylor Price deserved nothing more than a paper bag.

We all like to think of medical professionals as people doing good. But we must remember that doctors or medical professionals, it's a profession, it's a job; they're not doing it out of sense of charity. They're not some volunteer down at the hospital handing out name badges. Dr. Trant wasn't some good Samaritan running across the road after an accident to lend a helping hand. He was a very highly medically educated board certified specialist in pediatric cardiology. Metri Utley was scared. She needed answers with Taylor. And as they said, she got to where she needed to be, but he doesn't want to listen and sent them out with too little time, at best 13 minutes. No testing.

Folks, Dr. Trant chose a profession where he could earn a pretty good living. That is a serious job, serious job. And that's why doctors make the big bucks. But he wasn't just any doctor; he was a specialist. People have to get referred to him. And when parents brought their children to him, it wasn't from some minor boo-boo. It wasn't because they got a cold and the sniffles, it wasn't for a well check. These parents were scared. It was something significant. Lives could be at stake. Those patients, those kids needed to be treated with dignity and respect. Proper care is owed to each and every one of them, each and every time, no matter who they are or where they're from. Doctors must listen carefully, take their time, and act appropriately. And when a doctor,

when a doctor fails to use the proper care, or even the slightest care in this case, and that failure, that negligence results in death, only a jury such as yourselves can hold them accountable. The standards of care we've talked about, they're there to protect all patients, rich or poor, black or white, it doesn't matter who you are; they're there to protect each of the patients.

They failed her time and again. Without the slightest of care, they failed Taylor. And that failure, their gross negligence that resulted in a preventable death, from a disease that's both diagnosable and treatable. She could've lived a long normal life. And that's gross negligence, folks. And these defendants must answer for their gross negligence. They need to answer for it, because that gross negligence has ripped this family's life apart. You saw the home. Even in the beginning of this case, you saw the home, you heard it described, a home full of love, and hope, where dreams were shared. That was the home that Metri Utley shared with her daughters. That was the home where Serenity Hunt would gladly return at Christmas break from Converse, and one that Taylor Price should've returned to after her freshman semester at college just this past December, but that didn't happen. All of that was taken away, all of that was lost back on December 17th, 2021. All of that was taken because of the defendants' failure, their gross negligence, failure to use the slightest

care. They failed Taylor Price. Failed Taylor Price, when despite all of these medical events, collapsing, gasping; despite all of that, they chose to run no tests. Dr. Chang told you that was their first failure, the first time they violated the standard of care. But then they decided to double down, because Dr. Trant didn't tell her to quit exercising, you know, slow down, we need to stop till we figure out what's going on, what's making you collapse. We need to rule out a potential fatal disease. And then without that testing to rule out the fatal disease -- and I said potentially, but it was an eventually fatal disease. He signed off on a form, carelessly, sending her back out to participate in sports. And that was the second failure, the second time they violated that standard of care.

That's two occurrences, folks. The evidence shows a complete absence of care when Taylor was seen, ignoring the symptoms that were presented. Absence of care that was necessary given the circumstances. And by definition, that is gross negligence. And now every day since December 17th, 2021, Metri Utley, and this family had to live with their gross negligence. As she was in Florence and got that phone call, the horrible news that her baby was being rushed to the hospital, as she struggled to even find the hazards so she could rush home. Then she got to the hospital and was overcome, they had to put her in a wheelchair, and they took

her to daughter's room, a room where her baby lay still. When the medical professionals there told her, we have tried everything, there's nothing else we can do, there's no hope. As she cried out to God, take my life instead, one life for one life, take it, please. But that couldn't be. She had no choice but to live with their negligence. When she told Serenity, I can't be the momma you need, half of my heart is gone, I am broken; go live your dreams. You want to join the Air Force, go, because I can't be there for you. Leaving her alone at that house, she had no choice but to live with their negligence. When she couldn't open the door to Taylor's room, a room that had borne witness to so much love, so much hope, so much joy, where dreams had been shared. She couldn't open that door because the emotions would flood out over her and drop her to the ground. She had no choice but to live with their negligence. She tried to escape that pain, she tried to escape that despair, but there was no running from that grief. And as the days became weeks, and weeks months, as time passed, almost two years later, she could open that door and sit down on Taylor's bed, and she prayed and talked to Taylor. And although she knew Taylor was looking down smiling, keeping a watchful eye over the family, inside she was being ripped apart because she knew what had been taken from her.

And when Mullins High School, when they celebrated Taylor at that homecoming football game, when they honored her at

graduation, it brought a smile to her. But that pain was still there, that grief was still there, because she knew -- she knew it should've been her baby being crowned homecoming queen, it should've been her child walking across that stage, taking her diploma and going off to college, becoming a registered nurse, living those dreams she had shared with her mother. And that grief, that pain, that anguish is still there. It does not take a single day off, no vacation. It's with her every waking moment. It's with her in her dreams. And it's there today, and it will be there the rest of her life.

And despite all of that, we're not here looking for sympathy. Sympathy, that time has long since passed. What we're today for is we are seeking justice, full justice, full justice for Taylor Price; full justice for Metri Utley; full justice for what was taken, for what was lost; full justice for the gross negligence of the defendants.

This case has been ours; we've shared it with the family for the past almost three years. But shortly, we're gonna turn it over to you. You'll get this case to render a just verdict. But before that happens, the Judge is gonna talk to you. He's gonna remind you from the time you swore your oath, you and only you are the sole judges of the facts and the evidence in this case. You'll weigh it out. Each of you has stepped away from your normal lives to take on this awesome

task. And we thank you.

The Judge will talk to you about the law to apply to the facts and the evidence. The law that will govern this case. And that'll help you render a just verdict. He'll talk to you about the burden of proof needed to prove our claims against these defendants, MPA II and Dr. Trant. The Judge will tell you that we need to prove our case by a preponderance of the evidence. Nice little lingual term, but it basically means that there are claims against the defendants must -- we must prove that they are more likely true than not. Mr. Powell said just a slight tipping of the scale, that's all that's needed, folks. But with the evidence that's been produced here today, it's not a slight tipping of the scale; we've loaded it down. What's more likely right than wrong? What makes sense? Y'all know the answer. You know what makes more sense. Because of that, because of the evidence, because of the law, you're free to do the right thing, the just thing, and find full justice for Taylor and for Metri.

We've talked a lot about standard of care in this case. It is an important issue. The defense over there would have you believe that there might be a minimum standard of care. Common sense dictates -- certainly, it's a little bit higher, right? Not insurmountable, but it needs to be higher. When we're talking about a little girl that has collapsed, had chest pains, we're talking about lives being at stake,

children, it needs to be at least a little bit higher, right? And although there are experts wanting to hem and haw about standard of care, calling it, I think what was it, best practices. Dr. Shuler acted like he hadn't ever heard of standard of care. They acknowledged that book was standard of care. Dr. Chang told you what standard of care was. And just a few hours ago, when Mr. Powell questioned Dr. Trant and asked him, is there anything you disagree with Dr. Trant -- I mean, Dr. Chang, he had a couple of minor discrepancies, and Mr. Powell asked him, anything else? And he said, no. Don't disagree with any of the rest of his testimony. So, he acknowledged the proper standard of care. But ultimately, you determine the standard of care. You use your common sense. You determine what is right, what makes sense, what is common sense.

With regard to the witnesses, is somebody here to educate us, or somebody here to try and help out a fellow South Carolina doctor, one they've known, one that they would feel uncomfortable going against. On one hand, you have Dr. Anthony Chang. A man who's been a pediatric cardiologist since 1991, and you heard his resume, we don't need to go back through all of that. He's actually been the primary person who has diagnosed adolescent ARVD multiple times. I think two dozen, he said. And then you've got three doctors from South Carolina that wanted to hem and haw again. But none of them

have ever, ever in their long careers diagnosed a case of juvenile or adolescent ARVD. They want to talk about the rarity of the disease. But we've heard testimony that effects one in 2500 up to one in 5,000. Folks, I think Dr. Reimer said it was more common than Lou Gehrig's disease, ALS, and many of us have heard about that. And these are specialists.

Remember the physical participation evaluation book, they call it the PPE. This is a book that was endorsed, published by the American Academy of Family Medicine, American Academy of Pediatrics, endorsed by the American Heart Association. Talking about what you need to do for student athletes. And it says that someone with all those symptoms that Taylor had, even one event, it demands a thorough and complete cardiac workup. You got to use testing, folks, not a conversation.

When Dr. Trant was testifying, they got to the question about chest pain. He said, well, sometimes that's confusing. I had it, you know, it -- if you're playing basketball and they punch you in the chest, you're gonna have chest pain. That's not what Taylor Price was experiencing. She was dropping to the ground because of ARVD. Again, their experts say Taylor Price deserved nothing more than a paper bag. They would have you believe that under their standard of care, it's okay for a little girl to collapse to the floor all these times, gasp for her breath, to have chest pains and do nothing, do no testing. When a doctor fails to do their job,

when they're negligent, when they refuse to use the slightest care demanded given the symptoms and the evidence, when that failure, that negligence results in catastrophic harm or in this case death, again, only a jury such as yourself can make them answer for that wrongdoing. An ounce of prevention is worth a pound of cure. We've all heard that. But Mr. Powell said it a little bit better in this case. You've got to test, don't guess. That baby needed testing. Metri Utley was scared. She had witnessed these things, had exhausted herself going to the hospital, going to Dr. Bahan, she needed answers. She couldn't run down to CVS and get a stress test, couldn't go to Walgreens or Walmart or even Dr. Bahan and get an echocardiogram or a cardiac MRI. She needed to know what was wrong with her child. And so, she got that referral, she got to the defendants. They were hired to do a specific job. And yet, they didn't want to hear from her, did not want to hear from them. They told her everything was gonna be okay. There's no heart problems, just, you know, drink some water and breath into a paper bag. Even the hospital, the ER ran some tests. Doctors in the ER ran some tests, x-rays, EKG. They weren't the right ones that she needed, but they tried. Dr. Trant simply just did not do his job. If this was a job performance and you were the boss, you'd sit them down in the chair, shake your head, and say, whew, man, bad job, bad job. You need to go back and do that thing again. Do it over. But

there's no do overs, no second chances, because Taylor died due to that negligence.

Dr. Chang told us that everything that Taylor was experiencing, the chest pains during exercise, the syncope or near syncope during exercise, the fact she was an adolescent female. He told us that any one -- any one of these chest pains one time during exercise, syncope or near syncope one time during exercise, you had to have a cardiac workup, a thorough cardiac workup. And we're not talking about one time. You've got four red flags, four red flags crying out Taylor Price needs a thorough cardiac workup, not some conversation with a specialist. You can't talk somebody out of a heart attack or heart disease. He told us about ARVD, Dr. Chang did, this is a man who knows it. He told you certainly, it's diagnoseable, it's detectable. A thorough cardiac workup could have detected it, could've detected it when she was 13 years of age. She could've received the proper treatment, even if it was an implantable defibrillator. But with the proper treatment, she could've lived a normal life. She'd be with us today, and you wouldn't need to be here. Her symptoms demanded a more thorough cardiac workup. As Dr. Chang said, you've got to rule out a potentially or eventually fatal disease in this case. And it didn't matter whether it was ARVD or anything of these other heart structural issues that can cause sudden death. You've got to

rule it out. It's not normal for a child to collapse while playing basketball four times, to have chest pains and shortness of breath. That thorough cardiac workup should've included a echocardiogram. Even Dr. Shuler, he said he would've done an echo. You've got to do a stress test because you got to figure out what's going on when the heart is under exertion, just like it is when she plays basketball. And if that echocardiogram can't rule it out, because they talked about, oh, you can't always see it on there, well, you need to look for a potential fatal disease. So, if the echo doesn't work, you need to do a cardiac MRI because you have to rule out a fatal disease. You can't guess; you've got to test.

And finally, he said, you know, above all, he should've just said don't go back to exercising. We need to take our time. We need to figure this out. Don't return to athletic activity. He certainly shouldn't have signed off on the sports clearance letter. That's a minimum of what he should've done, a minimum. And so, Dr. Chang told us that he failed, these defendants failed Taylor Price when they did no testing. All of that equipment available at McLeod, cardiac MRI at McLeod or refer her on down in Charleston. Metri Utley said she'd travel anywhere for her baby girl.

Failed them again when they didn't say stop exercising until we can take some time to figure this out. And yet again, without that testing, without knowing what was actually

going on, signed off on the sports clearance letter. And again, that was Dr. Chang's opinion, and Dr. Trant has no disagreement with anything else Dr. Chang said on the stand.

Those standards of care, folks, there a hundred percent equal opportunity, a hundred percent colorblind, because they have to be. It doesn't matter if you're black or you're white, if you live in a mansion or a three-bedroom house or an apartment. It doesn't matter if you're a millionaire or on Medicaid. Those standards of care, they're in effect for each and every patient.

Like Dr. Chang said, the care that Taylor Price received from these defendants was well below the standard of care. That it was grossly inadequate.

The defendants spent a lot of time talking about this thorough examination of Taylor Price by Dr. Trant. That he wrote a thorough detailed progress note with all this information. It'll be back in there in the jury room. Y'all can look at it.

Folks, as he testified and has been brought out, he wrote that progress note almost three -- or actually three hours and one minute after he released Taylor Price from his office, after that 13-minute visit. He says he wrote it down from his notes, but he refers to Taylor as a he, and talks about Taylor playing baseball. Through the testimony, you know that he didn't do the thorough examination; it was a nurse. Metri

told you, he didn't take a chart or anything into the room, didn't have that EKG in his room. So, what did he leave out? How many patients did he see in between the time he saw Taylor, the first patient of the morning, before he's writing that note?

Dr. Reimer told you she was a board-certified forensic pathologist, highly trained, highly educated lady who spent a year at Johns Hopkins where they actually treat ARVD. You know, patients that have been diagnosed and they're getting the proper treatment. But she spent a year there in fellowship in forensic -- I'm sorry -- cardiac and pulmonary pathology. She was an expert hired by the state to figure out what killed Taylor Price. What killed her? And she took you through her examination, that Taylor was well-nourished and hydrated. She took you through her examination, what she had to do to Taylor's body, what that young body was forced to suffer so they could figure out what killed her. She told you she held Taylor's heart in her hand, and she examined it, and she saw the fatty tissue, the fibrin, examined it under a microscope, and she knew it was ARVD. But she didn't give her answer right away that that was the cause of death because she wanted to make sure. And so, she waited on the lab results. She examined all the other organs. It wasn't drugs that killed her; there were no illicit drugs in Taylor. It wasn't anything else that killed her; it was ARVD. ARVD that had

progressed so far that when she played three-on-three basketball, she went into a cardiac event. It was ARVD that they failed to look for, failed to use their tools that took Taylor Price. And so, we know it was ARVD that killed her. But the defense wants to argue on, maybe she didn't have it when Dr. Trant saw her. Folks, Dr. Chang, and your own common sense tells you a different story on that.

Dr. Chang told you that ARVD is a progressive disease; it grows over time. He said it was his opinion that Taylor had had it for at least five years prior. Told you that he could tell by all of these events that Taylor suffered before she saw Dr. Trant. When she was playing basketball that she collapsed, she had that syncope or near syncope, the chest pains, the struggled breathing. All of these within one year and only while playing basketball. It was ARVD that was causing those symptoms. She had it when she saw Dr. Trant. Your common sense tells you that. Your common sense tells you that because when did she have these symptoms? Only while playing basketball, only while playing basketball. Here, symptoms playing basketball; here, symptoms playing basketball; here, playing basketball; here, playing basketball. And they're getting worse to the point where Mr. Hunt has to carry her out of the gym. And yet, he did no testing. Here, she's playing basketball. The ARVD has progressed to the point that it kills her. So, it's the most

miraculous coincidence I've seen in a long time or it's just common sense, and that's what she had and that's what killed her, because they wouldn't do their job. They tried to argue about how Dr. Trant only say Taylor that one time back in 2019. That he never released her and told them to call back if you got any problems. Met with her 13 minutes and cut her loose and said call back if you have any problems. I can't even believe the audacity of that. Metri Utley was scared, so scared she had to seek out a specialist. She had been to everybody else and kept getting the same answers, same answers, and so she sought out, and she asked for that referral, and she got it. And she took her baby girl over to Dr. Trant's office. And when you go to the doctor, we don't like to go, we don't want bad news, especially when it's your child, you're scared, you want good news. And so, when she made the effort to get to the specialist and that specialist looked at her, looked at Taylor. And even though he ignored what she had to say, he gave her false hope. He said don't worry, nothing's wrong with your child's heart. Don't worry; there's not a problem. Don't worry; you can fix it all by breathing into a paper bag. It sounded a little bit weird, but Metri Utley, she trusted him. Now, he wants to tell you that he sent her away with comfort because he was gonna count on Metri Utley to diagnose ARVD later, if these things popped up. But, folks, she trusted him; he's the specialist. And

so, she is overjoyed. She is happy. She is thrilled because the specialist said your baby has got no problems. It doesn't matter if we didn't do a test, don't need them. She was thrilled because she did what she needed to do, got to where she needed to be. She did not take that unnecessary risk with her child's life. She saw the specialist, and he said it was gonna be okay. And now, they want to lay blame on Demetrice Utley's feet, at Taylor's feet. It takes a lot of nerve the victim blame and victim shame, folks.

Taylor was the one who made the decision to quit playing basketball. She had collapsed in front of her friends and her teammates, and the crowd, and she was embarrassed. So, she quit playing basketball, team basketball, one of the most rigorous sports there is. She focused on cheerleading. So, of course, there were no more events, no more events, no more chest pains, no more syncope or near syncope, no more shortness of breath, because she wasn't do anything as rigorous as team basketball. She would run, but she could rest afterwards. She could cheer but she got to rest. ROTC drills, but got to rest. It was not anything as vigorous as pounding up and down the court for four quarters. And then when she did play basketball, that's when the issue popped up, and it was too late to call them back, because their error, their failure to do the job, their unwillingness to do the work that was required by the PPE, that was required by the

symptoms, it had killed her.

The defense wants to talk about the length of time that it took between Dr. Trant saw her, failed to do his job, failed to do the job he was hired to do, didn't use even one of the tools at his disposal, one of the tools that was demanded by Taylor's symptoms. And the defendants want to use that as a defense? They want to escape the responsibility by blaming Metri.

I ask you to be more careful than they were. We've given you all the tools you need, so I'm gonna ask that you do your job. You hold these defendants accountable. We're suing these defendants because they were hired to do a specific job, and they failed in that job. They failed to do it even in the slightest. Again, not because of some small error; because they chose not to do the job, chose not to use the tools at their disposal. They chose to take Taylor Price in as a patient, and they failed her utterly and miserably. When a doctor fails to use the necessary care that is warranted by the symptoms, by the actual facts, by what is demanded, the doctor must answer for that negligence, that gross negligence. And so, the question is, did they fail in that job? Did they breach the standard of care? And the clear answer is yes. Again, at least the ER tried. They sat with the family a couple of hours, they checked her out, they ran some tests, but they're not specialists. Dr. Bahan tried. He met with

Taylor a while, but again, he's not the cardiologist. Dr. Bahan saw the need, and he referred Taylor and Metri to Dr. Trant. He's the specialist. He's the one who concentrates on children's hearts. So, he is the one that they need to go see. Metri and Taylor got exactly where they needed to be. Exactly to where they needed to be. Dr. Trant held her life in his hands, but he chose to do so for only 13 minutes and rushed them out the door. And because of that, because of the complete absence of care that was warranted, folks, that is gross negligence. He failed to exercise even the slightest of care that was required for the treatment of Taylor. Slight care, slight care would've been run a couple of tests. You've got the equipment. Do an echo, maybe a stress test. Send her off for a cardiac MRI if you need to; you can do that. Slight care would've been telling her to stop exercising. We don't know what's making you collapse to the ground, but we've got to rule out potentially fatal disease. Slight care would've been refusing to sign off on that sports participation letter until you could figure out what was going on. What was making her collapse? Do we have a fatal disease? And they did none of that.

There's no doubt the defendants were negligent, but it's more than that. They were grossly negligent. They were so indifferent to the consequences of their conduct, the failure to listen carefully, the failure to take these symptoms

seriously, the failure to perform a complete thorough cardiac workup. They were so indifferent that this could result in Taylor's death, that they didn't give the slightest care to what they were doing. When he signed off on that sports clearance, folks, that is gross negligence.

We've been together for five days now. You've heard our case. And y'all have been attentive; I thank you. This case is about civil justice. Civil justice, folks. We need to hold these defendants accountable; accountable for their actions and their inactions; for their failure to do what was right and proper and necessary given the symptoms Taylor had, the symptoms they were told about.

You agreed to participate in something so monumentally profound. You have our gratitude. In America, we don't believe in half justice. We believe in full justice. In America, we must place a value on what was lost and what was taken. When you get back there, trust the process. We've shown that these defendants failed to use even the slightest of care. The slightest of care that was warranted by these symptoms. They skipped steps, they cut corners, they took an unnecessary risk with Taylor Price's life, and she died because of it.

Dr. Trant made a decision to not do his job properly, to exercise even the slightest of care, and that's gross negligence. And Taylor Price died. And your job, your job is

to do full justice. So, I want you to trust the process, because you've got to set the full and complete amount of the remedy, the full and complete amount of the remedy, so much pain, so much hurt. And this is how much. And it was so preventable if they would've just done their job.

Unfortunately, I can't bring Taylor Price back. Wish I could, but I can't waive my hand and bring her back. Her life was taken. Metri Utley lost her baby girl. What's the value of that? What's the value of that? And I ask you that question because it's all about the remedy. We can't bring her back, and so it's all about the remedy, placing a value on what was lost and what was taken, on what their gross negligence took. And the only remedy available is money. The defendants, they didn't do their job. They ignored the safety rules. They took shortcuts and skipped steps, and you see what happened. Taylor Price died. And we don't do eye-for-an-eye justice in this country. We don't do a life for a life, but we certainly don't turn a blind eye to justice. We don't say tough luck, sorry. If we did that, we'd no longer be a society of law and order. This is all about the civil justice, all about the remedies. So, once you check the box on your verdict form telling everybody that these defendants -- that Dr. Charles Trant was grossly negligent, the only question remains is how much.

We've heard about Taylor Price all week long. In her

short life, you can tell she was beautiful. She had a bright future ahead of her. We've heard about how much she loved and how much she was loved by the whole family, by her school, and most certainly by her mother.

What's the value of what was taken from Metri? Metri Utley has lost her mini-me, her baby girl, the one she sat on that bed with and shared dreams and laughs and love. What is that value? The value of the fact that the last time she heard I love you from Taylor was as she rushed out that door that day, and the last time she saw her she was silent.

Y'all saw -- we all saw that beautiful sweet-16 picture. Taylor Price was 16 years of age on December 17th, 2021. She was 16 when her life was taken, when Metri lost her little girl. And our laws tell us, she's 16, she would've had another 65 years of life. Dr. Chang said she could've lived a normal life with the proper treatment. Sixty-five years of life taken from her. Metri Utley was 46 years of age when she lost her baby. The same tables tell us that she's gonna experience the next 36 years with that loss, with that grief. What's the fair value of all of those years, both the 65 of Taylor, the 36 of Metri not being able to see baby girl walk the graduation, graduate college, walk down the aisle and get married, have children, her grandchildren, live a happy life, live out those dreams that she shared with her mother. What's the value? Looking at that, looking at all that was taken,

all that's lost. It's gonna be your solemn duty to set that value.

This whole family, they'd much rather be anywhere than here today; anywhere but here today. To go home and find out it was a dream. They would give everything they have or would have to see Taylor Price walk through that door. But again, I don't have that power. You don't have that power. We know the value she placed on her daughter. She was willing to trade her life if God would just grant that prayer.

Sixty-five years taken from Taylor. Thirty-six years lost to Metri, stolen because of the defendants' failure to do their job, failure to use the proper care. Their gross negligence, what's the value of that grief, that pain, that anguish every day, every hour, every waking moment, in her dreams for the rest of her life. Is it a million a year? Is that fair? More? Less? A million a year for every year lost, every year stolen?

You all need to discuss that back in your jury room. If you believe it's more or less, you need to discuss it back in there, because it's gonna be your responsibility, your awesome duty to set that value for what was lost and what was taken. But whatever you do, whatever you do, it's got to be loud. It's got to be loud enough to be heard in Charleston, South Carolina, so that Dr. Cain can hear it. It needs to be loud enough in Columbia, South Carolina, so Dr. Shuler can hear it.

And it certainly needs to be loud enough to be heard over in Florence at McLeod. Across the Pee Dee, they need to hear it and take notice so that when a doctor is making a decision on whether or not a patient can receive the testing that they remember this, that those patients can get the proper care. You can be the conscience of the community. They need to hear that message.

Nothing will ever make this momma whole again. But you have to set the value for the pain, for what was lost and what was taken. And all I ask is that you get it right, get it right. I told you, we've been in this case for almost three years. We gladly took it on. But we're gonna give it to you, and once you return your verdict, when we're done here, I'm tired, but we're gonna load up those boxes, and we're gonna take them over to my office, drop them off. And I'm not gonna look at those things tonight. I'm gonna drive home. I'm gonna take this jacket off, and I'm gonna sit down. My dog is missing me, so I'm gonna spend some time with her, with the family. Mr. Lesemann, Mr. Powell, I assume they're gonna do about the same thing. Come Monday, we'll be back at our desks, helping clients. But for Metri Utley, for Metri Utley, this is her one shot at full justice for Taylor Price, one shot at full justice, justice for what was lost and what was taken. Their rights were tossed aside by the defendants. Tossed aside because they ignored those safety rules, when

they skipped steps and cut safety corners, and chose not to do their job. That failure, that negligence, that gross negligence, it cost Taylor her life. And so, make sure that a message is sent with these damages. Again, you get to be the conscience of the community. Let it speak loud. Do your job. Do it right each and every time. It doesn't matter who that patient is, or where they're from, what their status in life is, do your job.

I know you're tired, folks; me, too. In just a minute I'm gonna go over there and I'm gonna sit down. And the defense will get up, and I'm gonna listen. I'm gonna listen because I want to hear what they have to say. I want to hear how they explain that the defendant over there, that he did a good job, that it was okay to ignore these red flags. It was okay not to request those records and review them, to take his time, to make a good decision, to give her the proper care. I want to hear how they explain away that he failed to use the slightest of care that was warranted, the slightest of care that was needed. I want to hear it. They messed up. They chose to take her in as a patient; rushed her in and out the door; ignored Metri Utley and what she had to say; ignored these red flags. They chose not to do their job, the job that they needed to do. Chose to not to use one tool at their disposal, the tool that was demanded and required even by the PPE. They chose not to do their job, and it cost Taylor Price

her life. They utterly failed to do their job, failed to use their tools.

All I ask is that you do yours.

THE COURT: Ladies and gentlemen, we're gonna take a short break. I'll send you to the jury room. Don't discuss the case.

RECESS - 2:30 P.M.

*******OFF THE RECORD*******

ON THE RECORD - 2:41 P.M.

THE COURT: If they're ready, we're ready.

(REPORTER'S NOTE: Jury enters courtroom @ 2:41 p.m.)

THE COURT: Okay, Mr. Aiken.

MR. AIKEN: Thank you, Your Honor.

CLOSING BY MR. AIKEN:

MR. AIKEN: These are fine lawyers helping Ms. Utley, but I have to say this now. Mr. Richardson, I could not disagree more, we have never said not once or even hinted that we have blamed Ms. Utley for this death. We have never done that. Taylor never had any further problems after Dr. Trant saw her on January 24th of 2019, so there was no reason for Ms. Utley to take her daughter back to Dr. Trant. We are not blaming her; we never have. We are not blaming Mr. Hunt; we never have. So, that's completely false. I don't know where that even came from.

Mr. Richardson also said that Dr. Trant's nurse did the

PE, the physical exam; completely false. Dr. Trant's nurse probably took the vitals and put those in the chart, but Dr. Trant did the physical examination.

Now, in this case, you've got to either consider whether the witness is telling the truth or not.

Let me start off with a little bit of history on this case. A medical malpractice case, before it can even be filed, before, has to be supported by expert testimony. The expert testimony will agree or disagree, generally agree, with the allegations with the complaint's specifications. This case was filed July of 2022. Now, the expert that was initially hired was Dr. Michael Cuoco. He is an adult pediatrician [sic] in Charleston. Dr. Cuoco agreed in one of his statements in his affidavit was that ---

MR. POWELL: Your Honor, at this point, I just gonna have to say there's been nothing about or from Dr. Cuoco. He's getting matters outside of the evidence.

MR. AIKEN: Well, I can explain why I need that as well, if you would allow me ---

MR. POWELL: It's not in evidence.

MR. AIKEN: Glad to do it outside the presence of the jury.

MR. POWELL: You can explain and argue about what's in evidence, but there's been nothing about Dr. Cuoco in evidence.

MR. AIKEN: Well, Dr. Chang's testimony is in evidence.

THE COURT: Yeah, you can talk about what Dr. Chang said.

MR. AIKEN: Well, there was a change in the strategy on this case ---

MR. POWELL: Your Honor, what our strategy is, what we've done is not evidence.

THE COURT: I understand. But you've got to keep to whatever is in evidence in this record. You've got to argue about what's in evidence in this record, not what's not in evidence.

MR. AIKEN: His affidavit supported the complaint, the only complaint that we've got.

MR. POWELL: And there was no publication of ---

THE COURT: I know, but his affidavit is not in the record.

MR. AIKEN: I'm sorry?

THE COURT: The affidavit is not in this record, is it?

MR. POWELL: No, Your Honor. The evidence is closed.

MR. AIKEN: It should be on file -- it is on file with the complaint.

MR. POWELL: The evidence is closed.

THE COURT: I understand it's on file, but it's not in evidence, and this jury can't consider it.

MR. AIKEN: Okay. Well, the point is Dr. Chang testified five occasions that there were inverted T waves in V1, in V2,

and V3 for Taylor Price. He said they were abnormal. Then, we did not know until we started this trial Monday that Dr. Chang was going to get on that witness stand and change his opinion and say, oh, it's completely normal. Maybe after he read the depositions of my experts, Dr. Cain and Dr. Shuler, two South Carolina experts. But Dr. Chang should've let me know that he was gonna change his opinion. I specifically asked Dr. Chang, Doctor, if you change your testimony, if you develop any new opinion, if you change your opinion, will you let me know, so I can ask you -- or actually, will you let Mr. Powell know, so that I will have an opportunity to ask you questions about these new opinions. It's totally improper for him to get on this witness stand for us not to even know what he was gonna say. That's why lawyers take depositions, to find out what the witness is gonna say. We don't like surprises. The Court doesn't like surprises. Nobody likes to be ambushed. So, that's why we do it. So, he failed.

Speaking of Dr. Chang, too, he's admitted that he sees patients half his time, 50 percent. He's too busy traveling around the country testifying as an expert and making 5,000 bucks a day. He travels the world giving lectures. That takes time. He's the CEO of two corporations. So, he's a half expert, because that's the about the amount of time he spends seeing children in clinic.

Dr. Trant, Dr. Cain, Dr. Shuler spend all of their time

seeing children, except on the days they have administrative duties. Dr. Cain, this is the first time she's ever testified. Dr. Shuler has only been an expert witness one time, as he remembers. He doesn't travel around the country making money as an expert witness.

We'll talk about some of the facts of the case. ARVD is a rare and aggressive condition. Dr. Shuler or either Dr. Cain said it rarely strikes children; it strikes adults. It's a silent killer. Dr. Cain said it is an elusive and -- it is elusive and confusing for the medical community. We have also heard that they believe that if Taylor Price had been tested on January 24th, she would be alive. There's zero proof of that. The pathologist, Dr. Riemer, said she can't say whether or not Taylor Price had ARVD when Dr. Trant saw her. She can't say when Taylor developed ARVD. But just consider this and remember this, there was three years, almost, 34 months from the time Dr. Trant saw Taylor until she died with a progressive condition. It gets worse; it doesn't get better.

I think these lawyers would want physicians to order every test available for any condition. Dr. Trant -- you can't do that. You've got to have a clinical reason to do that. Dr. Trant is an honest, ethical doctor. Now, guaranteed today, now that he knows the outcome, he'd give anything to have avoided her death, but he didn't know it at the time. And unlike Dr. Chang, he can't -- he doesn't have

the benefit of hindsight. Dr. Chang had the autopsy. He knew what happened. Dr. Trant used his best judgment in his treatment of Taylor Price.

You know, Dr. Trant is not perfect; no doctor is perfect. But the law does not require perfect care. Dr. Trant's treatment and evaluation of Taylor, it might not've been perfect, but it was appropriate under the circumstances.

Ms. Utley did confirm that once Taylor -- after Taylor saw Dr. Trant, there were no other issues whatsoever. She testified at her deposition that she felt comfortable with Dr. Trant. He's a nice guy. He knows how to explain things to all of us. She confirmed that Dr. Trant invited them to come back anytime they needed to see him, but as I have said, she had no other reason to go back to see Dr. Trant, no issues.

And she testified that she Googled ARVD. I'll admit, I'd never heard of it until we had this case. I looked it up, too. She confirmed that it is a rare condition where your heart turns from muscle to fatty tissue. And so, the heart can't adequately pump blood throughout your body. It is a silent killer. She also confirmed that she read where patients are often diagnosed, most tragically, at autopsy. And that's when Taylor was diagnosed.

Dr. Riemer described Taylor several times looking like a healthy young lady. She determined Taylor's cause of death only through autopsy.

Christina Stewart, the young lady from McLeod, she was the HIPAA privacy administrator, confirmed that Dr. Trant's office, in addition to having a ERI access -- MRI -- correction -- EMR access, Dr. Trant's office received records by text, by fax. And Dr. Trant often looked -- well, he often looked at everything that was available -- he always looked at everything that was available to him.

Going back to Dr. Chang. I mean to tell you, he was smooth. I liked him. I didn't like his testimony, because I didn't believe him, but I liked him. And we greatly respect the work Dr. Chang does for children in California. But in reality, for this case, he's just a hired gun, making 600 bucks an hour, 2500 bucks an hour -- or 2500 bucks for a three-hour deposition, and 750 beyond that. And then he mentioned a couple of other things. I lot of Dr. Chang's testimony was based on this summary of Taylor Price's medical appointment complaints. They've got a few bullet points in here with no context. For instance, blurred vision; there's no context to it. Quote, passing out, no context to it. Quote, symptoms of syncope times two after basketball practice, but no context to it. And what we have -- and you have, too, is an exhibit that is much more thorough, and I -- and it's -- this is an exhibit, and I don't remember which number is, but it has -- there are things in quotes, just like it does with a lot more context.

Speaking of context, we used Dr. Bahan's name I don't how many times during this trial. My question is, why isn't he here for you to hear his testimony live, under oath, in person? Now, I don't know whether he is still in Marion or Mullins or not. But if he's moved, then we can go to wherever it is, take his deposition, take it by video, and you could be shown the video. So, he was accessible no matter where he is. So, at a minimum, since they are relying so heavily on Dr. Bahan, he should've been here to tell you his remembrance and explain his records.

Now I'm going to just -- a couple more things. I'm gonna remind you of the complaint. It's not in evidence. A pleading is not admissible. But again, they put in this complaint ---

MR. POWELL: Your Honor, at this point, unless it was published during the case in chief, as specifically discussed we would object. The evidence is closed.

MR. AIKEN: Well, Dr. Trant testified.

There was a deviation in failing to recognize abnormalities and Taylor Price's December 18, 2018 electrocardiogram that would have required further testing.

Dr. Trant's evaluation was thorough and complete. And Dr. Trant is the only one who met with Taylor and her mom. Taylor would have told Dr. Trant why is she seeing him, what were her complaints, what were her symptoms? The note of Dr.

Trant says near syncopal episodes (EKG), reason for appointment. He goes to the history of present illness. That's not the owners; that's Dr. Trant. The nurse then records the vitals, takes the vitals. And then Dr. Trant does his examination, cardiology examination, and you can read it and you can decide, and you'll have to decide if you think this is thorough and complete. He asked about medications, past medical history, surgical history, family history, social history, hospitalizations. And then he reviewed all Taylor's symptoms. If this is not thorough, I don't know what is. But he did not -- he had the EKG, and to honor his oath only order tests that are clinically indicated, he ordered no tests. And that was completely appropriate. Dr. Shuler and Dr. Cain, two South Carolina experts confirmed. Dr. Shuler, as you remember, is a pediatric cardiologist, just like Dr. Trant. His practice is very similar to Dr. Trant's. He sees patients every day that has symptoms like Taylor had on January 24th.

Dr. Cain is one of two experts or pediatric electrophysiologists in the entire state. Only one of 200 in the United States. So, that's a rare profession. And again, remember, Dr. Cain doesn't do this, she's never done this, but she testified because she believed in Dr. Trant's case. She believed he did everything appropriate when he saw Taylor Price. She and Dr. Shuler believed that Dr. Trant did not depart, did not deviate from accepted standards of medical

care.

And I want to close -- I'm sorry -- one other thing I want to -- to recover damages, a person making a claim for money, they have to prove something was done wrong, negligence. They're saying this is gross negligence, and I couldn't disagree more. They're saying Dr. Trant didn't even exercise slight care. They're saying that he -- his acts were intentional. Dr. Trant has treated children for 25 years. He would never do anything consciously to harm a child. He's helped these children. But they've got to make a link to recover anything from Dr. Trant's office to Taylor's death. They've got to establish proximate cause. That's a direct cause, a direct cause.

Now, when they talk about gross negligence, that -- as I have said, that's an intentional doing something or not doing something that should've been done, failure to exercise slight care. Dr. Trant did his best for Taylor. He did not deviate from standard of care.

Your duty, your obligation, under your oath you took before God, is to render a verdict based on the evidence in this case. It would be a violation of your oath if you award any money, unless you are convinced that they have established their case. But what you can't do is render a verdict based on your sorrow and sympathy for this family and Ms. Utley. That would be a violation of your oath.