

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM LANCASTER COUNTY
Court of Common Pleas

Daniel D. Hall., Circuit Court Judge

Appellate Case No. 2015-002653

Johnnie Mae Reed, as the Personal Representative of
The Estate of Sandra Gilbert,

Appellant,

vs.

CareNet, Inc. of Lancaster and Nimal A. Perera. M.D.

Respondents.

RECORD ON APPEAL

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Attorney for the Appellant

June 17, 2016
Columbia, South Carolina

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SC Court of Appeals

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Attorney for the Appellant

June 17, 2016
Columbia, South Carolina

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Jon Asbill

From: Hall, Daniel D. Law Clerk (Montrio Belton) <dhallc@sccourts.org>
Sent: Wednesday, August 19, 2015 10:22 AM
To: pboulrier@holcombebomar.com; Ravenel, Cravens; Jon Asbill;
gbighley@richardsonplowden.com; gbeighleyjr@richardsonplowden.com
Subject: Ruling on Defendants' Motion in Limine

All Counselors:

The Court will

1. Grant the defendants' Motion in Limine as it relates to numbers 1 and 2;
2. Deny the defendants' Motion in Limine as it relates to number 4;
3. Grant the defendants' Motion in Limine as it relates to number 5;
4. The Court will allow the plaintiff to cross examine Dr. Amato on standard of care of a similar situated physician and patient;
5. The Court will allow the plaintiff's video deposition of Dr. Amato regarding standard of care.

If you have any additional questions, please e-mail. I will be out of the office for the remainder of the week. However, I will be available via e-mail.

Sincerely,

Montrio M. Belton

Law Clerk to the Honorable Daniel D. Hall
Residing Judge for the 16th Judicial Circuit
Moss Justice Center
1675-1J York Highway
York, SC 29745
(o) 803-628-3048
(f) 803-628-3139

From: Hall, Daniel D. Law Clerk (Montrio Belton)
Sent: Tuesday, August 18, 2015 4:54 PM
To: 'pboulrier@holcombebomar.com'; 'cravenel@brblegal.com'; 'jasbill@brblegal.com';
'gbighley@richardsonplowden.com'; 'gbeighleyjr@richardsonplowden.com'
Subject: Plaintiff's Complaint and Amended Complaint; Defendant's Answer/Amended Complaint

All Counselors:

Judge Hall wants to be thoroughly up to speed on this case and understand its procedural history, causes of action, and answer/defenses.

Plaintiff Attorney: Please e-mail a copy of the original complaint and amended complaint.

Defense Attorneys: Please e-mail a copy of your original answer and amended answer.

Judge Hall will rule on the Defendants' Motion in Limine by 12 noon on 19 August 2015.

If you need any further assistance, please do not hesitate to e-mail and/or call me.

Sincerely,

Montrio M. Belton

Law Clerk to the Honorable Daniel D. Hall
Residing Judge for the 16th Judicial Circuit
Moss Justice Center
1675-1J York Highway
York, SC 29745
(o) 803-628-3048
(f) 803-628-3139

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STATE OF SOUTH CAROLINA  
COUNTY OF Lancaster  
IN THE COURT OF COMMON PLEAS

FORM 4

JUDGMENT IN A CIVIL CASE

CASE NO. 2013 CP-29-1339

Johnni Mae Reed, as Personal Representative of

CareNet, Inc. of Lancaster and Nimal A.

the Estate of Sandra Gilbert

Perora, M.D.

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: D. Cravens Ravenel

Attorney for : ☒ Plaintiff ☐ Defendant  
or  
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☐ Other
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRPC; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**  
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court: Court denies the Plaintiff's Motion for a New Trial

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.

Additional Information for the Clerk : \_\_\_\_\_

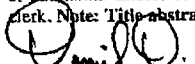
INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

| Judgment in Favor of<br>(List name(s) below) | Judgment Against<br>(List name(s) below) | Judgment Amount To be Enrolled<br>(List amount(s) below) |
|----------------------------------------------|------------------------------------------|----------------------------------------------------------|
|                                              |                                          | \$                                                       |
|                                              |                                          | \$                                                       |
|                                              |                                          | \$                                                       |

If applicable, describe the property, including tax map information and address, referenced in the order.

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

  
Circuit Court Judge

2753  
Judge Code

12-4-15  
Date

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF LANCASTER )  
 )  
Sandra Gilbert, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
CareNet, Inc. of Lancaster and )  
Nimal A. Perera, M.D., )  
 )  
Defendants. )

IN THE COURT OF COMMON PLEAS

CIVIL ACTION NO.: 2013-CP-29-1339

COMPLAINT  
(JURY TRIAL)

FILED  
OFFICE OF CLERK  
OF COURT  
2013 OCT 17 AM 11:47  
CLERK OF COURT  
LANCASTER, SC

Plaintiff complaining of the defendants, CareNet, Inc. of Lancaster and Nimal A. Perera, M.D., would show the Court:

1. Sandra Gilbert, the plaintiff herein, is a citizen and resident of the town of Lancaster, County of Lancaster, State of South Carolina.
2. Upon information and belief, that the defendant CareNet, Inc. of Lancaster (hereinafter "CareNet") is a South Carolina charitable corporation with its principal place of business located in the County of Lancaster, State of South Carolina.
3. Upon information and belief, that Nimal A. Perera is a physician who practices medicine in the County of Lancaster, State of South Carolina and is the family physician through CareNet for Sandra Gilbert, the plaintiff herein, and is held out by CareNet to those seeking medical care to be a competent physician.
4. Plaintiff paid valuable consideration to CareNet for medical care and CareNet provided plaintiff with medical care through the services of Nimal A. Perera, M.D., a physician licensed to practice in the State of South Carolina.

5. Plaintiff was referred by a Springs Memorial Hospital Emergency Room physician and admitted to the Springs Memorial Hospital on or about August 29, 2010 with complaints of extreme thirst, frequent urination, blurry vision, weakness and a twenty (20) pound weight loss and was examined, tested and dismissed on August 30, 2010.

6. The Springs Memorial Hospital laboratory tests during the August 29-30 admission revealed the presence of microcytosis and a copy of those test results were sent to defendant, Nimal Perera, M.D., the physician treating plaintiff through the offices of the defendant, CareNet.

7. The presence of microcytosis is a symptom of internal bleeding and internal bleeding is a symptom of colon cancer.

8. Despite the finding of microcytosis and despite the age and physical condition of the plaintiff and the absence of a prior colonoscopy, Dr. Perera, agent for CareNet, failed to order additional testing to determine the source of internal bleeding indicated by the finding of microcytosis.

9. Ms. Gilbert continued to see CareNet's agent, Nimal Perera, M.D., until May of 2011 when she developed a significant amount of painless rectal bleeding and went to the Springs Memorial Hospital Emergency Room physician where in response to questioning advised the staff that she had not had cancer screening previously. She was discharged with diagnosis of "1. . . gastrointestinal bleeding with gastritis; 2. Diabetes Mellitus Type 2 and 3. anemia with acute blood loss" and was advised to follow up with the defendant Perera in one week and defendant Perera was copied on records related to this admission.

10. Despite the finding of microcytosis and gastrointestinal bleeding, Perera did not refer Ms. Gilbert to a specialist and her condition continued to worsen until Ms. Gilbert sought

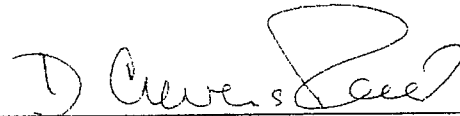
help at the William Jennings Bryan Dorn Veterans Hospital in Columbia, South Carolina (hereinafter "Dorn").

11. Ms. Gilbert was diagnosed by the Dorn hospital staff with bleeding colon cancer in October of 2012 and by December of 2012, her colorectal cancer had metastasized to her liver, spleen and lung.

12. The failure of Dr. Perera to diagnose the presence of cancer or a pre-cancerous condition after being given laboratory findings of microcytosis fell beneath the standard of care imposed on similar physicians under similar circumstances and constituted medical malpractice on the part of both defendants.

13. As the direct and proximate result of Nimal Perera, M.D.'s negligence, recklessness, willfulness as plaintiff's treating physician and as agent for CareNet in failing to: ask for additional tests or refer Ms. Gilbert to another physician following notification of the discovery by Lancaster Hospital (Springs Memorial Hospital) laboratory in August of 2010 of the presence of microcytosis and then by further delaying diagnosis and treatment of Ms. Gilbert from August of 2010 until October 2012, when plaintiff, as a result of her own efforts, was examined at the Dorn Veterans Administration Hospital at which time the presence of colorectal cancer was diagnosed but by which date the plaintiff's opportunity for timely treatment limiting the spread of this cancer had been lost and plaintiff was subjected to more extreme medical procedures than she would have needed had a correct diagnosis been made in August of 2010... and as a result of which she has been subjected to pain, suffering and the fear of the loss of her life, loss of the salary from her employment and other benefits related thereto and has incurred substantial medical expenses.

WHEREFORE, plaintiff demands judgment against Nimal A. Perera, M.D. and CareNet, Inc. for actual damages, including medical expenses, lost wages and benefits, pain, physical and mental suffering and for punitive damages and for such other and further relief as the Court deems just and proper.



D. Cravens Ravenel  
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Phone: 803.799.9091; Fax: 803.779.3423  
[cravenel@brblegal.com](mailto:cravenel@brblegal.com) 10758  
*Attorney for Plaintiff*

October 11, 2013  
Columbia, South Carolina

|                                         |   |                                   |
|-----------------------------------------|---|-----------------------------------|
| STATE OF SOUTH CAROLINA                 | ) | IN THE COURT OF COMMON PLEAS      |
|                                         | ) | SIXTH JUDICIAL CIRCUIT            |
| COUNTY OF LANCASTER                     | ) |                                   |
| Sandra Gilbert,                         | ) | Civil Action No.: 2013-CP-29-1339 |
|                                         | ) |                                   |
| Plaintiff,                              | ) |                                   |
|                                         | ) |                                   |
| v.                                      | ) | <b>ANSWER</b>                     |
|                                         | ) |                                   |
| CareNet, Inc. of Lancaster and Nimal A. | ) |                                   |
| Perera, MD,                             | ) |                                   |
|                                         | ) |                                   |
| Defendants.                             | ) |                                   |
| _____                                   | ) |                                   |

Defendants above named, by Answer to the Complaint herein, allege as follows:

**FOR A FIRST DEFENSE**

1. That each and every allegation of the Complaint which is not hereinafter specifically admitted is expressly denied.
2. That the allegations of Paragraph 1 and 2 are admitted.
3. That only so much of Paragraph 3 is admitted as alleges or may infer that Defendant Perera is a physician who practices medicine in Lancaster County, South Carolina and is an employee of CareNet, a charitable corporation. It is further admitted that in that capacity Dr. Perera rendered certain medical care at various times to the Plaintiff, and that he is and was held out by CareNet as a competent medical provider.
4. Only so much of Paragraph 4 is admitted as alleges that Defendants received some compensation for the medical care and treatment rendered. These Defendants crave reference to the billing records as to the actual terms and conditions of such payment, and its source.
5. That only so much of Paragraph 5 and 6 of the Complaint are admitted as may be consistent with Plaintiff's medical records, and these Defendants crave reference to the medical records as the best evidence of the Patient's condition at the time referenced therein.



6. That the allegations of Paragraph 7 are denied in their present form. By way of further answer thereto microcytosis can appear in a large variety of conditions, including internal bleeding and must be evaluated within the context of a Patient's overall medical presentation. By way of further answer to said Paragraph, internal bleeding can be a symptom of colon cancer, as well as numerous other medical conditions, and must be evaluated in the context of the patient's overall medical presentation.

7. That only so much of Paragraphs 8, 9, 10, and 11 are admitted as may be consistent with the Plaintiff's medical records and these Defendants crave reference to the Plaintiff's medical records as the best evidence of her medical condition on the dates referenced therein. By way of further answer to said Paragraphs, on information and belief, Plaintiff was treated by other physicians, as well as Defendant Perera, and was advised to follow up with her gastroenterology physician for such further evaluation, diagnosis, and treatment as he deemed appropriate.

8. The allegations of Paragraph 12 and 13 are denied.

#### **FOR A SECOND DEFENSE**

9. That any injuries or damages as alleged in the Complaint were due to and caused by the Plaintiff's underlying medical condition, and complications arising therefrom, and were not due to or caused by any departure from generally accepted standards of care on the part of these Defendants, and as a result thereof these Defendants are in no way liable to the Plaintiff for the matters set forth in the Complaint.

#### **FOR A THIRD DEFENSE**

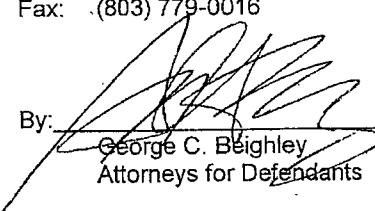
10. This action is governed by the terms and conditions of the South Carolina Solicitation of Charitable Funds Act, which provides the limit on the amount of actual damages that these Defendants may be liable for, and specifically exempts these Defendants from gross negligence and punitive damages, and these Defendants plead this limitation as a cap on any

actual damages recoverable by the Plaintiff and pleads this immunity from punitive damages, and in addition pleads any and all other immunities or defenses provided by the act.

**WHEREFORE**, having fully answered the Complaint herein, the Defendants CareNet, Inc. of Lancaster and Nimal A. Perera, MD demand that the Complaint be dismissed that the Plaintiff be taxed with the cost of this action, and for such other and further relief as the Court deems just and proper.

This the 20<sup>th</sup> day of November, 2013, in Columbia, South Carolina.

RICHARDSON PLOWDEN & ROBINSON, P.A.  
1900 Barnwell Street  
Post Office Drawer 7788  
Columbia, SC 29202  
Phone: (803) 771-4400  
Fax: (803) 779-0016

By: 

George C. Beighley  
Attorneys for Defendants

|                                 |   |                              |
|---------------------------------|---|------------------------------|
| STATE OF SOUTH CAROLINA         | ) | IN THE COURT OF COMMON PLEAS |
|                                 | ) |                              |
| COUNTY OF LANCASTER             | ) | Case No.: 2013-CP-29-1339    |
|                                 | ) |                              |
| Johnnie Mae Reed, as Personal   | ) |                              |
| Representative of the Estate of | ) |                              |
| Sandra Gilbert,                 | ) |                              |
|                                 | ) | <b>AMENDED COMPLAINT</b>     |
|                                 | ) | <b>WRONGFUL DEATH AND</b>    |
| Plaintiff,                      | ) | <b>SURVIVAL ACTIONS</b>      |
|                                 | ) | <b>(JURY TRIAL DEMANDED)</b> |
| vs.                             | ) |                              |
|                                 | ) |                              |
| CareNet, Inc. of Lancaster and  | ) |                              |
| Nimal A. Perera, M.D.,          | ) |                              |
|                                 | ) |                              |
| Defendants.                     | ) |                              |

FILED  
CLERK OF COURT  
2014 JUN 11 AM 11:58  
LANCASTER, SC

Plaintiff complaining of the defendants, CareNet, Inc. of Lancaster and Nimal A. Perera, M.D., would show the Court:

1. Sandra Gilbert, deceased, the plaintiff herein, was a citizen and resident of the town of Lancaster, County of Lancaster, State of South Carolina.
2. Upon information and belief, that the defendant CareNet, Inc. of Lancaster (hereinafter "CareNet") is a South Carolina charitable corporation with its principal place of business located in the County of Lancaster, State of South Carolina.
3. Upon information and belief, that Nimal A. Perera is a physician who practices medicine in the County of Lancaster, State of South Carolina and is the family physician through CareNet for Sandra Gilbert, the plaintiff herein, and is held out by CareNet to those seeking medical care to be a competent physician.
4. Plaintiff paid valuable consideration to CareNet for medical care and CareNet provided plaintiff with medical care through the services of Nimal A. Perera, M.D., a physician licensed to practice in the State of South Carolina.

5. Plaintiff was referred by a Springs Memorial Hospital Emergency Room physician and admitted to the Springs Memorial Hospital on or about August 29, 2010 with complaints of extreme thirst, frequent urination, blurry vision, weakness and a twenty (20) pound weight loss and was examined, tested and dismissed on August 30, 2010.

6. The Springs Memorial Hospital laboratory tests during the August 29-30, 2010 admission revealed the presence of microcytosis and a copy of those test results were sent to defendant, Nimal Perera, M.D., the physician treating plaintiff through the offices of the defendant, CareNet.

7. The presence of microcytosis is a symptom of internal bleeding and internal bleeding is a symptom of colon cancer.

8. Despite the finding of microcytosis and despite the age and physical condition of the plaintiff and the absence of a prior colonoscopy, Dr. Perera, agent for CareNet, failed to order additional testing to determine the source of internal bleeding indicated by the finding of microcytosis.

9. Ms. Gilbert continued to see CareNet's agent, Nimal Perera, M.D., until May of 2011 when she developed a significant amount of painless rectal bleeding and went to the Springs Memorial Hospital Emergency Room physician where in response to questioning advised the staff that she had not had cancer screening previously. She was discharged with diagnosis of "1. . . gastrointestinal bleeding with gastritis; 2. Diabetes Mellitus Type 2 and 3. anemia with acute blood loss" and was advised to follow up with the defendant Perera in one week and defendant Perera was copied on records related to this admission.

10. Despite the finding of microcytosis and gastrointestinal bleeding, Perera did not refer Ms. Gilbert to a specialist and her condition continued to worsen until Ms. Gilbert sought

help at the William Jennings Bryan Dorn Veterans Hospital in Columbia, South Carolina (hereinafter "Dorn").

11. Ms. Gilbert was diagnosed by the Dorn hospital staff with colon cancer in October of 2011 and by December of 2011, her colorectal cancer had metastasized to her liver, spleen and lung.

12. The failure of Dr. Perera to diagnose the presence of cancer or a pre-cancerous condition after being given laboratory findings of microcytosis fell beneath the standard of care imposed on similar physicians under similar circumstances and constituted medical malpractice on the part of both defendants.

13. As the direct and proximate result of Nimal Perera, M.D.'s above-described negligence, gross negligence, recklessness, willfulness and wantonness as plaintiff's treating physician and as agent for CareNet in failing to ask for additional tests or refer Ms. Gilbert to another physician following notification of the discovery by Lancaster Hospital (Springs Memorial Hospital) laboratory in August of 2010 of the presence of microcytosis and then by further delaying diagnosis and treatment of Ms. Gilbert from August of 2010 until October 2011, when plaintiff, as a result of her own efforts, was examined at the Dorn Veterans Administration Hospital at which time the presence of colorectal cancer was diagnosed but by which date the plaintiff's opportunity for timely treatment limiting the spread of this cancer had been lost and plaintiff was subjected to more extreme medical procedures than she would have needed had a correct diagnosis been made in August of 2010 and as a result of which she has been subjected to pain, suffering and the fear of the loss of her life, loss of the salary from her employment and other benefits related thereto and has incurred substantial medical expenses and ultimately the loss of her life.

### WRONGFUL DEATH

14. Plaintiff realleges and incorporates by reference paragraphs one (1) through thirteen (13) above and asserts a claim under S.C. Code Ann. § 15-51-10, the wrongful death statute for the benefit of her surviving children for their:

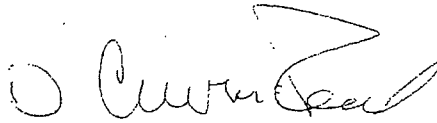
- (a) pecuniary loss;
- (b) mental shock and suffering;
- (c) wounded feelings;
- (d) grief and sorrow;
- (e) loss of companionship; and
- (f) deprivations of the use and comfort of decedent's society, including the loss of her experience, knowledge, and judgment in managing her affairs and the affairs of her beneficiaries.

### SURVIVAL ACTION

15. Plaintiff realleges and incorporates by reference thereto paragraphs one (1) through thirteen (13) supra and asserts herein a claim under S.C. Code Ann. § 15-5-90 for her lost wages, medical expenses, funeral expenses and her conscious pain and suffering.

WHEREFORE, plaintiff, as personal representative of the Estate of Sandra Gilbert, demands judgment against Nimal A. Perera, M.D. and CareNet, Inc. for actual damages, as described above in the wrongful death and survival actions and for punitive damages and for such other and further relief as the Court deems just and proper.

*(Signature on following page)*



D. Cravens Ravenel  
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3710 Landmark Drive, Suite 400  
Post Office Box 8057  
Columbia, South Carolina 29202  
Phone: 803.799.9091; Fax: 803.779.3423  
[cravenel@brblegal.com](mailto:cravenel@brblegal.com) 10758  
*Attorney for Plaintiff*

May 19 2014  
Columbia, South Carolina

|                                         |   |                                       |
|-----------------------------------------|---|---------------------------------------|
| STATE OF SOUTH CAROLINA                 | ) | IN THE COURT OF COMMON PLEAS          |
|                                         | ) | SIXTH JUDICIAL CIRCUIT                |
| COUNTY OF LANCASTER                     | ) |                                       |
| Johnnie Mae Reed, as Personal           | ) | Civil Action No.: 2013-CP-29-1339     |
| Representative of the Estate of Sandra  | ) |                                       |
| Gilbert,                                | ) |                                       |
|                                         | ) |                                       |
| Plaintiff,                              | ) |                                       |
|                                         | ) | <b>ANSWER TO THE</b>                  |
| v.                                      | ) | <b>AMENDED COMPLAINT ON BEHALF OF</b> |
|                                         | ) | <b>DEFENDANT NIMAL A. PERERA, MD</b>  |
| CareNet, Inc. of Lancaster and Nimal A. | ) |                                       |
| Perera, MD,                             | ) |                                       |
|                                         | ) |                                       |
| Defendants.                             | ) |                                       |

---

The Defendant, Nimal A. Perera, MD, by way of Answer to the Amended Complaint herein, alleges as follows:

**FOR A FIRST DEFENSE**

1. That each and every allegation of the Amended Complaint which is not hereinafter specifically admitted is expressly denied.
2. That the allegations of Paragraph 1 and 2 are admitted upon information and belief.
3. The allegations of Paragraph 3 are admitted only as to the time period referenced in the Amended Complaint, when this Defendant rendered medical care to Plaintiff's deceased.
4. This Defendant lacks information upon which to form a belief concerning the method of payment made to CareNet by Plaintiff's deceased.
5. That only so much of Paragraphs 5 and 6 are admitted as may be consistent with Plaintiff's medical records, and this Defendant craves reference to the deceased's medical records as the best evidence of her medical condition at the time set forth therein. Any allegations inconsistent therewith are denied.
6. That the allegations of Paragraph 7 are denied in their present form. By way of further answer thereto microcytosis can appear in a large variety of conditions, including internal



bleeding and must be evaluated within the context of a Patient's overall medical presentation. By way of further answer to said Paragraph, internal bleeding can be a symptom of colon cancer, as well as numerous other medical conditions, and must be evaluated in the context of the patient's overall medical presentation.

7. That only so much of Paragraphs 8, 9, 10, and 11 are admitted as may be consistent with the Plaintiff's medical records and these Defendants crave reference to the Plaintiff's medical records as the best evidence of her medical condition on the dates referenced therein. ~~By way of further answer to said Paragraphs, on information and belief, Plaintiff was treated by other physicians, as well as Defendant Perera, and was advised to follow up with her gastroenterology physician for such further evaluation, diagnosis, and treatment as he deemed appropriate.~~

8. The allegations of Paragraphs 12, 13, 14, and 15 are denied.

#### FOR A SECOND DEFENSE

9. That any injuries or damages as alleged in the Amended Complaint were due to and caused by the Plaintiff's underlying medical condition, and complications arising therefrom, and were not due to or caused by any departure from generally accepted standards of care on the part of these Defendants, and as a result thereof these Defendants are in no way liable to the Plaintiff for the matters set forth in the Complaint.

#### FOR A THIRD DEFENSE

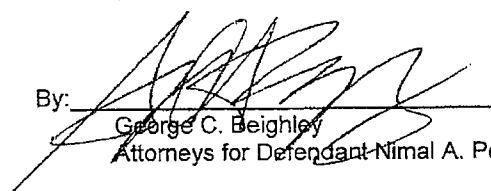
10. This action is governed by the terms and conditions of the South Carolina Solicitation of Charitable Funds Act, which provides the limit on the amount of actual damages that these Defendants may be liable for, and specifically exempts these Defendants from gross negligence and punitive damages, and these Defendants plead this limitation as a cap on any actual damages recoverable by the Plaintiff and pleads this immunity from punitive damages, and in addition pleads any and all other immunities or defenses provided by the act.

**WHEREFORE**, having fully answered the Amended Complaint herein, the Defendant Nimal A. Perera, MD demand that the Amended Complaint be dismissed that the Plaintiff be taxed with the cost of this action, and for such other and further relief as the Court deems just and proper.

This the 15<sup>th</sup> day of July, 2014, in Columbia, South Carolina.

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By: \_\_\_\_\_

  
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STATE OF SOUTH CAROLINA  
COUNTY OF LANCASTER

IN THE COURT OF COMMON PLEAS

Johnnie Mae Reed, as Personal  
Representative of the Estate of  
Sandra Gilbert,

Plaintiff,

vs.

CareNet, Inc. of Lancaster and Nimal  
A. Perera, M.D.,

Defendants.

DEFENDANT CARENET, INC. OF  
LANCASTER'S ANSWER TO  
AMENDED COMPLAINT

C.A. Number: 2013-CP-29-1339

(JURY TRIAL DEMANDED)

Defendant CareNet, Inc. of Lancaster ("CareNet"), answering Plaintiff's Amended Complaint, states as follows:

1. All allegations contained in Plaintiff's Amended Complaint that are not hereinafter admitted, qualified, or otherwise explained are denied.

**FOR A FIRST DEFENSE**

2. CareNet is without sufficient information upon which to form a belief as to the allegations contained in Paragraph 1 of the Amended Complaint and the same are, therefore, denied.

3. In response to the allegations contained in Paragraph 2 of the Amended Complaint, CareNet admits that it is a non-profit organization, organized under the laws of the State of South Carolina, which is duly-qualified as a charitable organization under Rule 501(c)(3) of the United States Internal Revenue Code and that CareNet's principle place of business is located in Lancaster County, South Carolina.

4. In response to the allegations contained in Paragraph 3 of the Amended

Complaint, CareNet admits that Nimal A. Perera, M.D. ("Dr. Perera") is a physician who formerly practiced medicine at CareNet in Lancaster County, South Carolina and who provided medical care to Sandra Gilbert, prior to her death, while acting within the scope of his employment. CareNet further admits that while Dr. Perera was employed by CareNet, CareNet held out Dr. Perera as a medical provider who provided medical care consistent with the applicable standard of care while acting within the scope of his employment. All remaining allegations contained in Paragraph 3 of the Amended Complaint are denied.

5. In response to the allegations contained in Paragraph 4 of the Amended Complaint, CareNet admits that it received some compensation for the medical care which it provided to Ms. Gilbert. CareNet further admits that Dr. Perera is a South Carolina licensed physician who provided care to Ms. Gilbert while he was employed by CareNet and acting within the scope of his employment. Any remaining allegations contained in Paragraph 4 of the Amended Complaint are denied.

6. In response to the allegations contained in Paragraphs 5 and 6 of the Amended Complaint, CareNet admits that Dr. Perera provided care to Ms. Gilbert while he was employed by CareNet and acting within the scope of his employment. CareNet further craves reference to the medical records referenced in said Paragraphs and pertaining to the care and treatment at issue in this case and denies any allegations contained in Paragraph 5 and 6 which are inconsistent with the information set forth in said medical records.

7. CareNet is without sufficient information upon which to form a belief as to the allegations contained in Paragraph 7 of the Amended Complaint and the same are, therefore, denied.

8. In response to the allegations contained in Paragraphs 8 through 11 of the



Amended Complaint, CareNet admits that Dr. Perera provided care to Ms. Gilbert while he was employed by CareNet and acting within the scope of his employment. CareNet further craves reference to the medical records referenced in said Paragraphs and pertaining to the care and treatment at issue in this case and denies any allegations contained in Paragraph 8 through 11 which are inconsistent with the information set forth in said medical records. Any remaining allegations contained in Paragraphs 8 through 11 of the Amended Complaint are denied.

9. Paragraph 12 of the Amended Complaint is denied.

10. In response to the allegations contained in Paragraph 13 of the Amended Complaint, CareNet admits that Dr. Perera provided care to Ms. Gilbert while he was employed by CareNet and acting within the scope of his employment. All remaining allegations contained in Paragraph 13 of the Amended Complaint are denied.

11. Paragraphs 14 and 15 of the Amended Complaint are denied.

**FOR A SECOND DEFENSE**

12. CareNet hereby realleges and incorporates the allegations set forth above to the extent they are consistent with this defense.

13. CareNet is a non-profit organization, organized under the laws of the State of South Carolina, which is duly-qualified as a charitable organization under Rule 501(c)(3) of the United States Internal Revenue Code. As such, Plaintiff's action against CareNet is governed by and subject to the provisions of the South Carolina Solicitation of Charitable Funds Act as codified at Section 33-56-10, et seq. of the South Carolina Code of Laws.

14. Plaintiff's recovery against CareNet in this matter, if any, is limited by the provisions of Section 33-56-180 of the South Carolina Code of Laws.

**FOR A THIRD DEFENSE**

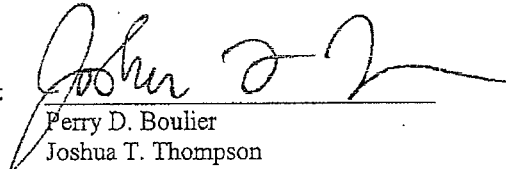
15. CareNet hereby realleges and incorporates the allegations set forth above to the extent they are consistent with this defense.

16. Plaintiff's claim for punitive damages in this action is barred by Section 33-56-180 of the South Carolina Code of Laws.

WHEREFORE, having fully answered Plaintiff's Complaint, CareNet prays that the same be dismissed, that CareNet be granted its costs and disbursements of this action, and for such other and further relief as this Court deems just and proper.

HOLCOMBE BOMAR, P.A.

By:

  
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Attorneys for Defendant CareNet, Inc.  
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July <sup>22<sup>nd</sup></sup>, 2014

Spartanburg, South Carolina

DEFENDANT CARENET, INC. OF LANCASTER DEMANDS A JURY TRIAL.

1 STATE OF SOUTH CAROLINA  
2 COURT OF COMMON PLEAS  
3 COUNTY OF LANCASTER  
4 2013-CP-29-01339  
5 Johnnie Mae Reed, as Personal Rep. of the Estate of Sandra  
6 Gilbert  
7 vs.  
8 Nimal A. Perera, M.D. and CareNet, Inc.

9  
10 Lancaster, South Carolina  
11 August 24-27, 2015  
12 Before the Honorable Dan Hall

13  
14 APPEARANCES  
15 For the Plaintiff: Ravenel, Asbill  
16 For the Defendants: Beighley, Boulrier  
17  
18 Reported by: Michael C. Watkins  
19 Official Court Reporter

20  
21  
22  
23  
24  
25

1 instructions, just be back just shortly before 2:00. Thank  
2 you.

3 (The jury left the courtroom.)

4 THE COURT: Anything further need to be put on the  
5 record at this time from the plaintiff?

6 MR. RAVENEL: Nothing from the plaintiff, Your Honor.

7 THE COURT: From the defense?

8 MR. BEIGHLEY: Nothing from the defense.

9 MR. BOULIER: No, sir.

10 (A lunch break was taken.)

11 THE COURT: Plaintiff ready to proceed?

12 MR. RAVENEL: Yes, Your Honor.

13 THE COURT: Defense ready?

14 MR. BOULIER: We have one point of law, Your Honor,  
15 before we -- if you could hear us briefly.

16 THE COURT: I will be glad to hear that.

17 MR. BOULIER: Your Honor, as I briefly mentioned this  
18 morning before we went on the record, we certainly  
19 appreciate the Court getting back with the parties so  
20 promptly last week on the motions in limine which I'm sure  
21 assisted all of us in our preparation. One thing we did  
22 want to clarify, Your Honor, this will certainly help as we  
23 go into opening statements and again taking testimony, but  
24 in terms of the motion in limine, we understand the Court's  
25 ruling that you granted our motion concerning any evidence



1 or testimony about reference to prior cases involving Dr.  
2 Perera or CareNet, that you likewise have granted the  
3 motion in limine with regard to changes made to a medical  
4 record in a prior unrelated case. As I understand it the  
5 plaintiff's counsel didn't agree to -- that there would be  
6 any reference to a prior reprimand. And then you also  
7 granted the motion in limine, Your Honor, with regard to an  
8 alleged attempt to have a nurse fill a prescription for Dr.  
9 Perera's son. One thing we needed to get clarification on  
10 was the third ground in the motion in limine -- or excuse  
11 me, the fourth, any reference to the circumstances  
12 surrounding Dr. Perera's resignation from CareNet. And we  
13 assume, Your Honor, that any questioning and testimony  
14 related to that would be consistent with your rulings about  
15 no evidence about the prior case about the issue with the  
16 records and so forth.

17 THE COURT: I think what was presented to me when we  
18 had our pretrial conference was that the plaintiff intended  
19 to either call Dr. Amato -- no -- who was the administrator  
20 for --

21 MR. ASBILL: Dr. Barre, Stewart Barre.

22 THE COURT: Then would either -- I'm not sure what  
23 they did on the deposition, but they -- I think that  
24 question was asked during deposition; is that correct?

25 MR. ASBILL: Yes, Your Honor. And the answer included

1 a couple of factors which included one of the prior cases  
2 as well as the present case. So I understand opposing  
3 counsel's concerns because the answer of the deposition  
4 involved both cases.

5 THE COURT: And obviously I stand by my ruling as far  
6 as those prior motions on those issues. Are you going to  
7 be able to keep that clean when you --

8 MR. RAVENEL: I think we'll be able to, Your Honor; we  
9 will.

10 THE COURT: Addressing it that way right now, is that  
11 sufficient enough in essence to put that on notice that  
12 they're not to go into the issues that I have ruled  
13 inadmissible but they -- what plaintiff's attorney is  
14 telling me is that he believes he has cleaned that up and  
15 he will not touch on those; is that correct?

16 MR. ASBILL: The way it was answered in the deposition  
17 it said multiple factors, this is obviously one of the  
18 factors, so I can certainly couch the questioning in a way  
19 where we don't touch on the prior cases. But to the extent  
20 what were the circumstances surrounding resignation if it  
21 comes up about the prior case on a broad open-ended  
22 question, I'm not sure that we would be able to prevent  
23 that. But to the extent that the question draws to the  
24 prior case that will not be happening.

25 MR. BOULIER: That's the concern I have, Your Honor.

1 Dr. Barre was deposed in this case, he was asked about all  
2 the factors, and frankly -- and this is in his deposition  
3 so it's in the record in his deposition, he testified that  
4 one of the factors that led to the resignation was in the  
5 prior lawsuit where the allegations of alteration of  
6 records, CareNet got a reservation of rights letter from  
7 his carrier, clearly we don't want that coming into play  
8 here. And so there are a lot of factors in --

9 THE COURT: Well, let me ask you this, when do we  
10 anticipate hearing Dr. Barre's testimony?

11 MR. RAVENEL: Your Honor, it depends on how fast we  
12 go. I think later this afternoon if it would be possible  
13 but I fear that that may not be possible.

14 THE COURT: Well, let's do this, when we get to --  
15 when we get to when Dr. Barre is called we'll take a break,  
16 if we need to put some more on the record then we'll deal  
17 with it then. Let's hear some testimony first, get the  
18 trial going and then when you call -- if or when we get to  
19 Dr. Barre today we'll deal with it outside the presence of  
20 the jury, if not we'll deal with it tomorrow.

21 MR. ASBILL: Okay. Fair enough, Your Honor.

22 THE COURT: Okay. Anything else from the defense?

23 MR. BOULIER: No, sir.

24 MR. BEIGHLEY: No, Your Honor.

25 THE COURT: Anything else from the plaintiff?

1 MR. RAVENEL: Nothing, Your Honor.

2 THE COURT: Let's bring the jury in.

3 (The jury returned to the courtroom.)

4 THE COURT: Thank you, ladies and gentlemen of the  
5 jury, for your promptness in being back on time. Just  
6 trying to figure -- sometimes when you go to different  
7 counties you're not sure of how long a time we need for  
8 lunch, I think probably an hour or an hour and 15 minutes  
9 will probably be long enough. Would that work for  
10 everybody on the jury if we -- so we'll probably -- going  
11 forward we'll probably take an hour or hour and 15 minutes  
12 instead of an hour and half for lunch. One other issue  
13 before we swear you in -- well, let's go ahead and swear  
14 the jury in now, Madam Clerk.

15 (The jury was sworn.)

16 THE COURT: Ladies and gentlemen, we are about to try  
17 the case of Johnnie Mae Reed, as Personal Representative of  
18 the Estate of Sandra Gilbert, versus CareNet, Inc. of  
19 Lancaster and Nimal Perera, M.D. In just a few moments the  
20 plaintiff and the defense will have an opportunity to  
21 address you and give their opening statements, that's sort  
22 of a road map of what they anticipate the evidence to be in  
23 the case, and they're going to talk a little bit about --  
24 probably talk a little bit about evidence and testimony.  
25 The plaintiff has the -- will go first in the trial today

## OPENING STATEMENTS

1 be under the care of a physician whose testimony you will  
2 hear by deposition, and it was a very serious problem. You  
3 will hear physicians tell you that if it's not been managed  
4 properly, diabetes can kill you, it can be fatal. She  
5 comes back to Dr. Perera right after this diagnosis, and  
6 job one for him is to get this diabetes under control.  
7 It's not a simple thing, you don't just take a pill, there  
8 was a plan in place for how that was to happen. She was  
9 referred to what they call diabetic educator, and the  
10 diabetic education program is multistep, tries to educate a  
11 patient about changes that they can make to help  
12 accommodate this very serious disease. He also referred  
13 her to an ophthalmologist, because when you have diabetes  
14 it can seriously and quickly damage your eyesight. As far  
15 as the ophthalmology was concerned, that appointment was  
16 not kept. As far as the diabetic education, the patient  
17 went to a few but not all of those components. Now, you've  
18 heard the term microcytosis. What that means is when the  
19 lab runs red blood cells through a machine, if they are  
20 smaller in size then the lab designs a normal range, if  
21 they're smaller they note that. She had a mild case of  
22 microcytosis, that is extremely unlikely to be caused by  
23 bleeding from undiagnosed bowel cancer. And at the time,  
24 in August of 2010, we don't have any symptoms of bowel  
25 cancer. We don't have any digestive problems, we don't

## OPENING STATEMENTS

1 have any rectal bleeding, we don't have any stomach pain,  
2 we have a patient with new onset of diabetes. This  
3 incidental finding -- that's a medical term, incidental  
4 means that it showed up, you weren't looking for it but  
5 it's there so you report it. Well, while she was in  
6 Springs Hospital the doctors who were treating her did not  
7 find it necessary to do any tests about microcytosis, did  
8 not order any consultation about microcytosis. She came  
9 back to Dr. Perera, he's confronted with a very serious  
10 diabetic problem. His plan is this is mild microcytosis,  
11 I've got a serious diabetes issue here, let's get this  
12 diabetes situation on track and then bring her back, we'll  
13 check and see if she's still got a mild case of  
14 microcytosis, then we'll know it has been around for awhile  
15 and we'll go down that track and try to trace that. And he  
16 says, "Come back to the office on March 1st." Ms. Gilbert  
17 elects not to come back to the office on March 1st. In May  
18 of 2011 she has a serious episode of rectal bleeding. She  
19 goes back to Springs Hospital, she's treated there by a Dr.  
20 Amato whose deposition you will see, you heard his name  
21 today, he's the gastroenterologist in town. Dr. Amato  
22 while in the hospital put a tube down her stomach to see if  
23 they could find the source of the bleeding, he could not.  
24 He told her, "We've got to determine the source of this  
25 bleeding, you're going to have to come to the office for a

## OPENING STATEMENTS

1 colonoscopy, that's the only way I can figure out what's  
2 causing this bleeding. It's very serious, you need to come  
3 do it." So when Ms. Gilbert left Springs Hospital they  
4 gave her an appointment for the first week in June, they  
5 said, "You don't have to call, just show up, here is your  
6 appointment." They also said, "Call Dr. Perera's office  
7 and make an appointment with him." Ms. Gilbert called Dr.  
8 Amato and continued that appointment, did not go, she did  
9 not keep the continued appointment. So even with knowledge  
10 that she was having rectal bleeding she did not go to the  
11 referral for the colonoscopy. She finally came back to Dr.  
12 Perera in July after she'd already been referred out and  
13 was under the tutelage of Dr. Amato for that particular  
14 problem, and she actually never went back until October.  
15 And finally her sister, who you will hear testify, but she  
16 says that Sandra just didn't like to go to the doctor, just  
17 didn't like it. As I said, some people don't, some people  
18 are not crazy about going to the doctor and Sandra did not  
19 want to go. So her sister finally said, "You're going."  
20 She put her in the car, took her down to Columbia after  
21 another episode of bleeding, took her to the VA, because  
22 Sandra was a veteran, served her country in the army in her  
23 younger years for several years. And when she went to the  
24 VA they did a colonoscopy and they found colon cancer,  
25 which as I said, was removed and she was cancer free for a

## OPENING STATEMENTS

1 short period, unfortunately the metastatic disease got her  
2 in the end. So at the end of the day it's our position,  
3 number one, that Dr. Perera did, in fact, meet the standard  
4 of care, that he tried to do the right things, but Ms.  
5 Gilbert elected not to come back March 1st for follow-up.  
6 And even when experiencing bleeding and told, "You've got  
7 to have a colonoscopy" she didn't do it, not until October  
8 was the condition discovered. But that's our side of the  
9 case, you've heard Mr. Ravenel's side of the case. I get a  
10 chance to come back up here at the end of the case after  
11 you've heard all of the evidence, I'll talk to you again.  
12 I would urge you to try to pay as close attention as you  
13 can, I know it's big words, I know that it's hard to hear  
14 up here. We're going to ask Dr. Perera to keep that  
15 microphone up, I would urge anybody that's having trouble  
16 hearing him, he is a soft-spoken man, if you're having  
17 trouble hearing him, raise your hand so we can get the  
18 microphone turned up. And I would submit to you that after  
19 you've had the benefit of the evidence and testimony, after  
20 Judge Hall has given you the law, you will agree with me  
21 that the true and just verdict in this case would be in  
22 favor of the defendants. Thank you.

23 THE COURT: Thank you. Mr. Boulier?

24 MR. BOULIER: May it please the Court? Counsel?

25 Ladies and gentlemen of the jury, we were introduced this



## OPENING STATEMENTS

1 office visit after she came out of the hospital, and you  
2 will have this record that you can't see, Dr. Perera noted  
3 he attempted to discuss preventative healthcare with Ms.  
4 Gilbert, she didn't have time for the discussion so he  
5 deferred that to the next office visit. So that was the  
6 second time that Dr. Perera had talked to her about this  
7 issue. He asked her to follow-up within six months so they  
8 could see where she stood at that point in time, that would  
9 have been March of 2011, unfortunately she didn't come back  
10 in March of 2011. The evidence will show she called in for  
11 refills, I think if memory serves me, on April 5th, 2011.  
12 Dr. Perera in the chart okayed the refills but says, "Needs  
13 to be seen ASAP," and you'll have those records in front of  
14 you. She didn't schedule an appointment at that point,  
15 called back in May and asked for refills again. Dr. Perera  
16 again I think the testimony will be he reluctantly agreed  
17 to refill the prescription again, and again says she needed  
18 to come back in and be seen. Before she could come back to  
19 Dr. Perera she was admitted to Springs Memorial Hospital on  
20 May 16th of 2011 with rectal bleeding, and I think  
21 everybody, every expert you hear from in this case will  
22 agree on a couple of things. Number one, when she was seen  
23 by Dr. Perera on September 1st of 2010, she had no symptoms  
24 consistent with colon cancer, and then when she went into  
25 Springs Memorial on May 16th of 2011 with complaints of

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1 here in about ten minute. Dr. Perera, we're going to take  
2 a break, you can step down, you're not allowed to discuss  
3 your testimony with anyone. And so you really -- you can't  
4 talk to your lawyer on either side about your -- what you  
5 have testified to so far, or any potential testimony, you  
6 can't discuss the case with them, do you understand that?  
7 All right. Thank you.

8 (A recess was taken.)

9 THE COURT: Mr. Ravenel, let's do this, why don't you  
10 proffer what it is you're going to do. Let's lay a  
11 foundation for this treatise and then let's proffer some  
12 testimony and then I'll rule on it.

13 MR. RAVENEL: Should we mark it for identification?

14 THE COURT: Yes, let's do that. What I would like to  
15 do for the purpose of the record is lay a foundation for  
16 and let's see where you're going to go with it.

17 MR. BOULIER: Could we perhaps get a copy of it as  
18 well? Because I don't have it.

19 MR. RAVENEL: He can ask Dr. Badalamenti for it, he  
20 can get a copy.

21 THE COURT: I'm sorry, what was the response? He  
22 wants a copy, and what did you say?

23 MR. RAVENEL: I was kidding, I said he could ask Dr.  
24 Badalamenti for it.

25 THE COURT: I'm not trying to be -- I just wanted --

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1 if you have a copy, if not we'll make some copies. Go  
2 ahead, Mr. Ravenel.

3 MR. RAVENEL: Yes, sir, Your Honor. In examination of  
4 Dr. Perera I inquired as to his mental state regarding iron  
5 deficiency anemia and the implications that it had. And  
6 then I asked him, "Do you subscribe to magazines,  
7 professional magazines?" And he told me that one of the  
8 ones he subscribed to was American Family Physician. And I  
9 then asked him at that point in time, you know, have you  
10 seen this particular article, and this particular article  
11 says, among other things, that the presence of iron  
12 deficiency anemia, which comes from microcytosis, is two  
13 percent in adult men -- it goes on and on and on -- and  
14 nine percent of the patients older than 65 with iron  
15 deficiency anemia have gastrointestinal cancer when  
16 evaluated. And it goes on and that's when -- in other  
17 words, it is an outlier, a finding that would caution a  
18 treating physician to have an examination done to determine  
19 there wasn't colorectal cancer. That's what the thrust of  
20 this article is. He would have received this article.

21 THE COURT: I'm sorry, he --

22 MR. RAVENEL: He would have received this article  
23 according to this testimony.

24 THE COURT: It said 65 or older, right?

25 MR. RAVENEL: Right.

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1 THE COURT: Our plaintiff is -- I mean, the decedent  
2 was 52 or three, wasn't she?

3 MR. BEIGHLEY: Yes, sir.

4 MR. RAVENEL: She was. She was. But it goes on, Your  
5 Honor, to say that that was a percentage of people in that  
6 age that had it. It doesn't say that you don't -- well,  
7 let me read the conclusion, iron deficiency anemia is the  
8 most nutritional deficiency in the world. There is  
9 evidence that iron deficiency anemia affects cognition --  
10 and it goes on and it talks about various and sundry  
11 things. But then it goes on, it says risk factors, table  
12 28 through 13 lists risk factors associated IDA. And it  
13 says risk factors and iron deficiency anemia in the United  
14 States. If you are black that the prevalence in -- IDA is  
15 classically described as microcytic anemia. The  
16 differential diagnosis for microcytic anemia includes iron  
17 deficiency, thalassemia, cytoplasmic anemias, some types of  
18 anemia or chronic disease and lead poisoning. Patients  
19 with cytoplasmic anemia, and it's talking about adults with  
20 anemia. And it says that -- that it gives crepuscular  
21 volume, one of the things that you find in her testing. A  
22 laboratory change that results in patients with IDA is an  
23 increase in iron carrying protein transferring the amount  
24 of the iron available to the iron molecule is reduced  
25 causing an increase in the transferring saturation. The

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1 serum transferring receptor assay is a new approach to  
2 measuring iron status. The recommended diagnostic show a  
3 suggested -- well, I can't -- let me get to the conclusion.  
4 Treatment. Transfusion should be considered for patients  
5 in any age with IDA complaining of symptoms such as  
6 fatigue, which she complained of, dyspnea, I can't  
7 pronounce that. It should also be considered for  
8 asymptomatic cardiac patients, and increase in the  
9 hemoglobin level should occur every two weeks, it talks  
10 about generally. Gastrointestinal absorption of elemental  
11 iron is enhanced by the presence of acidic gastric and  
12 thyroid. It goes on, "Indications for the use of  
13 intravenous iron, poor intolerance to iron, non-adherence,  
14 hemoglobin level of less than six percent, signs of poor  
15 profusion in patients who would otherwise receive  
16 transfusions who have religious objections. Until recently  
17 iron dextrine has been the only parental iron perforation  
18 available in the United States." So they're talking just  
19 generally about the concept of iron being not available,  
20 and it's a sign that it is -- and this is the initial --  
21 heavy type hemoglobin should be checked once a month if  
22 there is not a one to two G per DL increase in the  
23 hemoglobin level at that time. Possibilities include  
24 malabsorption of iron, continued bleeding or unknown  
25 lesion. For other patients endoscopic evaluation is

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1 recommended beginning with a colonoscopy if the patient is  
2 older than 50. It's exactly on this lady and it is telling  
3 people like this gentleman, Dr. Perera, that that's what  
4 they ought to do if they see this. This is published for  
5 family practice physicians to guide them in their --

6 THE COURT: I assume that there will be an expert that  
7 say people over 50 should have colonoscopies; is that  
8 right?

9 MR. RAVENEL: I think that's -- I don't believe  
10 anybody questions that.

11 THE COURT: You'll have testimony to that.

12 MR. RAVENEL: Yes, sir. I'll have testimony to that,  
13 yes, sir.

14 THE COURT: Well, let me hear from --

15 MR. BOULIER: First I suppose for the record I need to  
16 join in Mr. Beighley's objection to this line of  
17 questioning on behalf of CareNet. And the fundamental  
18 problem here right out of the gate is, as Mr. Beighley  
19 said, we sent discovery requests in this case and it  
20 covered cross examinations. And we are in a situation here  
21 where we are listening to counsel attempt to lay a  
22 foundation -- and I don't believe he has laid it -- but  
23 he's attempting to lay a foundation on an article that I  
24 don't even have a copy of. It hasn't been provided to us  
25 in discovery, and it is fundamentally unfair when we asked

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1 for this information and we weren't provided it. And then  
2 asking him if he subscribes to that magazine is like asking  
3 one of us if we subscribe to the ADA Journal and then  
4 putting an article in front of me from ten years ago, God  
5 forbid that happens. And we're entitled to notice if he's  
6 going to rely on an article so that we can evaluate it so  
7 that we can be properly prepared and we can respond and  
8 represent our clients and we just didn't have that  
9 opportunity here. I still don't have a copy of it, Mr.  
10 Beighley and I are not in a position where we can't say if  
11 it applies here or not.

12 THE COURT: All right. I'm going to sustain the  
13 objection, I'm not going to allow you to put it in. It  
14 appears that the article that was presented to the Court  
15 discusses in great detail about transfusions, which from  
16 this point does not have to have any relevance in this  
17 particular case. The issue about relying on that article  
18 to indicate primarily that people over 50 ought to be  
19 colonoscopies, something that I anticipate other experts  
20 will testify to. Hold on a second.

21 MR. RAVENEL: Your Honor, I have another family  
22 practice -- American Family Practice article called  
23 American Family Physician, November 2010. And in it it  
24 says gastrointestinal sources of blood loss should be  
25 considered in menstruating women and non-menstruating

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1 THE COURT: We'll start back at 9:30 in the morning.  
2 Well, let's discuss this, the reasoning for Dr. Barre  
3 discussing the reason for Dr. Perera's dismissal. What I  
4 have read and what has been provided to the Court on the  
5 deposition, it appears that all of that would be admissible  
6 except when he answers the question, "What was the reason  
7 for the concern that CareNet had? What -- I mean, what  
8 specifically factual basis?" The answer was, "Specifically  
9 the current lawsuit and other lawsuit we've discussed," and  
10 then it goes on what the board felt. It seems to me like  
11 if -- I don't know how you're going to use the deposition,  
12 but in his testimony that he not refer to the other lawsuit  
13 that we've ever discussed, I think that cleans that up.  
14 Would y'all agree? I'll let you be heard if you want to be  
15 heard on that today or tomorrow, but my intent at this  
16 point is to let them cross him on those -- or ask him on  
17 that question. The only thing that I see objectionable is  
18 that the Court would not allow in just that part of the  
19 statement that says "and the other lawsuit we have already  
20 discussed."

21 MR. BOULIER: So you would allow them to question him  
22 only on the part of the deposition where he said "this  
23 lawsuit?"

24 THE COURT: Well, everything that is in the -- the  
25 rest of the stuff that he answered appears to be



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1 admissible.

2 MR. BOULIER: And I guess this is the problem, and I  
3 may just need to be heard on this in more force, I think  
4 you've got to consider all of the deposition testimony,  
5 which I can provide you. But at the end of the deposition  
6 to clarify this I went on the record and asked Dr. Barre a  
7 number of questions about what he meant by putting the  
8 organization at risk. At the end of the deposition, Your  
9 Honor, I went on the record and clarified that point with  
10 Dr. Barre and this is what was alluded to earlier when he  
11 was talking about putting the organization at risk, that  
12 involved the fact that the organization got a reservation  
13 of rights letter related to the other lawsuit, and that  
14 that put their coverage in jeopardy, and this lawsuit was  
15 still pending at the time, and so you've got to consider  
16 all of those facts as a whole. And I think to allow Dr.  
17 Barre to be questioned only on the fact this lawsuit -- it  
18 suggests that this lawsuit taken in isolation was the  
19 reason why Dr. Perera was asked to resign. And, of course,  
20 he also testified that part of it was due to the fact that  
21 Dr. Perera was 65, he wanted to work part-time and they  
22 needed a full-time physician and they had had discussions  
23 with Dr. Perera about that. So I think to limit it just  
24 that way would place undue emphasis on --

25 THE COURT: Maybe you misunderstood me. Because the

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1 way I understood it is that the only thing that would not  
2 be allowed would be just that wording "the other lawsuit,"  
3 and then I haven't seen the deposition reference to the  
4 other issue. But when I read the deposition this lawsuit  
5 today is one of a multitude of other issues is how he  
6 responded to that question; is that right?

7 MR. ASBILL: That's correct, Your Honor.

8 MR. BOULIER: And I agree with that. The problem that  
9 creates for me, Your Honor, is there's really no way to  
10 respond to that. It's going to create the perception, if  
11 they're allowed to ask that question, that Dr. Perera was  
12 asked to resign because of this lawsuit and there were a  
13 multitude of other reasons why that occurred, most of which  
14 Your Honor has ruled shouldn't come into evidence. So it  
15 basically forces us to open a door that you've said that we  
16 shouldn't have to open and that's the problem I have with  
17 this. If we just take out this one clause "and the other  
18 lawsuit we've already discussed" then that suggests he was  
19 asked to resign because of that lawsuit, which in reality  
20 was probably --

21 THE COURT: Well, obviously that may be something that  
22 the jury has to decide, but when I read the deposition it's  
23 not limited to -- I will be glad to hear from you.

24 MR. ASBILL: Your Honor, the way I interpret Dr.  
25 Barre's answer, there's three factors given, there's the

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1 prior lawsuit, the present lawsuit and the fact that Dr.  
2 Perera was approaching his anticipated retirement age. Two  
3 of those factors are admissible, one is not. So to the  
4 extent we ask questions about whether the present lawsuit  
5 was a factors in Dr. Perera's forced resignation and to the  
6 extent we asked about his age being a factor, I think those  
7 are admissible questions.

8 THE COURT: And that's where I intended to -- that's  
9 what I intended to allow.

10 MR. BOULIER: But I guess the problem is, Your Honor,  
11 it's allowing them -- it puts an undue emphasis -- it  
12 suggests that this lawsuit in and of itself was the reason  
13 he was asked to resign and that's not accurate.

14 THE COURT: Well, that's a question for a jury to  
15 decide whether --

16 MR. BOULIER: Well, the other reasons, the Court has  
17 ruled they're inadmissible.

18 THE COURT: I get lost there.

19 MR. BOULIER: Because, Your Honor, there was a  
20 whole -- there was a list of reasons. I think Mr. Asbill  
21 is right, there are at least three other reasons, and the  
22 only one you say is admissible is this comment in here  
23 about this lawsuit.

24 THE COURT: Right.

25 MR. BOULIER: And that would suggest to the jury

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1 unfairly that this lawsuit -- because they won't hear any  
2 of the other reasons and they shouldn't hear any of those  
3 other reasons.

4 THE COURT: Well, I don't what other reasons that they  
5 intend to illicit or what you may ask him on cross, I don't  
6 know what they'll say, and I have already ruled on his --  
7 what were the other issues?

8 MR. BOULIER: Changing the records in the other  
9 lawsuit.

10 THE COURT: Yeah, the prior lawsuit and changing of  
11 the record. But that's where I say I get lost when you're  
12 arguing is that I don't see how if they're allowed to go  
13 with what there is in the deposition and why that opens the  
14 door to the prior lawsuit, the changing -- I mean, the  
15 changing of the record and that stuff.

16 MR. BEIGHLEY: Judge, I don't want to interrupt, but  
17 just at some point will you reserve me the right to make an  
18 argument for Dr. Perera?

19 THE COURT: I know you're probably wiser than me and I  
20 will give you plenty of time to argue.

21 MR. BEIGHLEY: I didn't want to cut in, but I just --

22 THE COURT: I will be glad to hear your argument.

23 MR. BEIGHLEY: Judge, I think the problem is that on  
24 behalf of Dr. Perera we would object to testimony that this  
25 lawsuit played any part in his termination from CareNet,

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1 because what we're dealing with here is the facts only in  
2 this case, the expert testimony of the in-court declarants,  
3 the people who come in here and meet the burden of the  
4 standard of care. But if we interject here the fact that  
5 he was -- that in some degree he was terminated by his  
6 employer as a result of being named in a lawsuit, that  
7 would be highly prejudicial and would give the jury  
8 information that they could go on outside of the standard  
9 of care testimony which they have to rely on to decide if  
10 this care was appropriate. The fact that his employer  
11 terminated him in some degree and based on the facts that  
12 the jury is now being charged with deciding, it creates a  
13 bias and prejudice that's impossible to overcome because  
14 you can't un-peel the situation to get back to how -- Mr.  
15 Boulrier's mentioned the coverage question, the second  
16 lawsuit and all of that. And I think the reason we're  
17 having this difficulty -- and I share with you the  
18 difficulty in getting my hands around this, but the reason  
19 is that the basis for his termination is not -- or the fact  
20 that he was terminated and had something, whatever amount,  
21 of influence on that decision is improper testimony because  
22 it's allowing the jury to look at some actions, part of  
23 some action taken outside the courtroom, not in evidence in  
24 the case and using that to conclude that, "Hey, somebody  
25 else looked at this and they said "Go, so gee, he must have

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1 done something wrong, so why are we here?" I think it  
2 invades the province of the jury to have that testimony.

3 THE COURT: So Mr. Asbill, I understand Mr. Beighley's  
4 argument is that this goes beyond the standard of care,  
5 that the issue is standard of care and all of this is  
6 collateral and has no -- and is not relevant to whether he  
7 breached the standard of care. Would that be a way for me  
8 to understand it?

9 MR. BEIGHLEY: Yes, sir.

10 THE COURT: All right. And what is your response, Mr.  
11 Asbill?

12 MR. ASBILL: Your Honor, I would respond to that by  
13 stating I believe it's for the jury to decide whether this  
14 forced resignation was caused in part by a breach of the  
15 standard of care. I suppose the only interpretation of  
16 that argument that would make sense to exclude this  
17 testimony based on this standard of care would be that  
18 CareNet interpreted this to be a frivolous lawsuit and  
19 terminated him regardless -- or, I'm sorry, forced the  
20 resignation regardless. I think a jury has the right to  
21 decide. They're certainly free to come up with him after  
22 we're done discussing it with him and if he wants to  
23 clarify it was not a standard of care issue then he can  
24 certainly state that. But I believe in this case --

25 THE COURT: Well, he said in his deposition -- or Dr.

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1 Barre said it was not a standard of care.

2 MR. BOULIER: That's correct.

3 THE COURT: That was the next about three or four  
4 lines down.

5 MR. BOULIER: That's correct.

6 MR. ASBILL: But to consider this lawsuit as a factor  
7 as forcing someone's resignation if you don't consider it a  
8 standard of care issue, I just feel like it's almost an  
9 untenable argument to say "We fired somebody and a  
10 frivolous lawsuit was instituted." I just feel like the  
11 jury has a right to hear and determine whether they  
12 believe --

13 THE COURT: I won't rule today, I'll think about it  
14 overnight. Anything else you want to say, Mr. Boulrier?

15 MR. BOULIER: I think Your Honor touched on this. If  
16 you look further down -- and this goes to Mr. Beighley's  
17 argument, Mr. Ravenel asked Dr. Barre a few lines down, "So  
18 when you say his actions have put CareNet at risk, are you  
19 suggesting that his actions did not meet the standard of  
20 care?" And his answer was, "I'm not suggesting that." And  
21 that's what gets into what obviously was an in-artfully  
22 stated argument that I was trying to make earlier --

23 THE COURT: Your argument is probably very artful, I  
24 have a very unartful mind, it's sort of thick.

25 MR. BOULIER: He testified under oath it didn't have

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1 to do with concerns about standard of care. He's  
2 subsequently given a deposition as an individual witness in  
3 this case where he again testified he does not believe Dr.  
4 Perera breached the standard of care in this case, so  
5 that's his testimony under oath. We have to ask what was  
6 the totality of the circumstances that led to the decision  
7 to ask Dr. Perera to resign, and the only way we get into  
8 that is all of these other issues that -- the reservation  
9 of rights letter, allegation of alteration of records and  
10 things of that nature.

11 THE COURT: I think I understand the issue and the  
12 question and I will let you know tomorrow. Anything else?  
13 Thank y'all.

14 (Court recessed for the evening and resumed at 9:30  
15 A.m. on August 25, 2015.)

16 THE COURT: Good morning. We're back on the record in  
17 the case of Johnnie Mae Reed as Personal Representative of  
18 the Estate of Sandra Gilbert, versus CareNet, Inc. of  
19 Lancaster, and Dr. Nimal A. Perera, M.D. case number  
20 2013-CP-29-1339. It's about a quarter after 9:00. We  
21 asked the jury to come in at 9:30, asked the attorneys to  
22 be present a little bit earlier to determine if there are  
23 any issues they had to put on the record. We ended  
24 yesterday, I believe, just dealing with the defense motion  
25 in limine on questions that they anticipate the plaintiff



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1 may ask of Dr. Barre; is that correct, Mr. Boulier?

2 MR. BOULIER: Yes, sir.

3 THE COURT: And the questions particularly about  
4 surrounding reasons or basis for Dr. Perera's resignation  
5 from CareNet; is that right --

6 MR. BOULIER: Yes, sir.

7 THE COURT: -- Mr. Boulier. Is that your  
8 understanding of where we are, Mr. Ravenel?

9 MR. RAVENEL: I believe that is true, Your Honor.

10 THE COURT: And after careful consideration of that  
11 issue overnight the Court is going to rule that I will not  
12 allow the plaintiff to go into the basis for Dr. Perera's  
13 resignation or whether it was a forced resignation or  
14 voluntary resignation or any of those circumstances. I had  
15 initially analyzed it and thought that we would allow the  
16 plaintiff to question on the circumstances surrounding his  
17 resignation with the exception of the prior lawsuit being  
18 introduced, and after careful consideration of that  
19 overnight then it is the Court's ruling that you will not  
20 be allowed to go into any of that. It appears that that  
21 would be an issue that would be more prejudicial than  
22 probative. It would create a situation where there would  
23 very likely be a mini-trial within the trial that goes  
24 beyond the issue of standard of care in Dr. Perera's care  
25 of this particular patient. So that's the ruling of the

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1 Court on that issue.

2 MR. BOULIER: Thank you, Your Honor.

3 THE COURT: Mr. Ravenel?

4 MR. RAVENEL: I would just comment for the record that  
5 I want to preserve that, and I think it is preserved but I  
6 just want to say -- I just want for the record to say that  
7 we take the position that we should be entitled to make  
8 those -- to inquire into that area.

9 THE COURT: Okay. And I note your objection. It  
10 might be proper, too, that whenever -- or whoever calls Dr.  
11 Barre that you might want to make that -- make your  
12 objection known when he takes the stand, or at least put  
13 something on the record then, you don't need me to tell you  
14 how to preserve the record. But at this point it is a  
15 motion in limine, in the Court's opinion to preserve it  
16 further you might want to do that when he takes the stand.

17 MR. RAVENEL: Thank you.

18 THE COURT: Anything else? How about the -- and the  
19 other issue was just documents that need to be -- are y'all  
20 in agreement where we are with any documents that you  
21 intend to introduce?

22 MR. RAVENEL: I think we are, Your Honor. We are.

23 MR. BOULIER: Yes, Your Honor.

24 THE COURT: Mr. Beighley?

25 MR. BEIGHLEY: Yes, sir.

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1 Q And tell us what you said.

2 A I told her that this is the time you need to go for  
3 your colonoscope to rule out colon cancers, mammogram to  
4 rule out breast cancers, and the pap smear to rule out  
5 cervical cancer. This talk was initiated in 2008, the  
6 first visit was in 2008 February. I gave the talk to her,  
7 I gave this patient the recommendation, all I do is  
8 recommend and then let the patient decide. I did not get  
9 any feedback from the patient on that visit. So that was  
10 first visit the patient came to me at the facility to get  
11 a doctor. Then subsequently in 2009 patient came with  
12 microcytosis, I did offer to talk, she didn't want to  
13 listen.

14 Q In 2009?

15 A 2010, I'm sorry, 2010. So I did offer another  
16 preventative healthcare talk, she didn't want to listen to  
17 me. If she did listen this would have been diagnosed in  
18 2010.

19 Q What permission did you need to tell her that you  
20 know, "This is a little different, you're older, you  
21 haven't had a colonoscopy and you've got microcytosis and  
22 that's some evidence of bleeding." Did you tell her that?

23 A No, sir. My job is to recommend and they have to do  
24 the --

25 Q It's her responsibility?

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1 question was patient was in hospital for diabetes. So  
2 having done all that stuff, usually just when the patient  
3 is discharged whoever the doctor is who took care of the  
4 patient find things that need to be discussed with me, so  
5 that's what made my incidental finding.

6 Q Not important.

7 THE COURT: Would the lawyers approach?

8 (A bench conference was held.)

9 Q I'm showing you Exhibit 11, Springs Memorial Hospital  
10 records discharge summary, and ask if you have seen that  
11 before.

12 A Yeah, I have seen this.

13 Q All right. And if you would hand it back to me,  
14 please, and let me publish part of it. "Reason for  
15 hospitalization and hospital course" -- this is dated May  
16 16th of 2011. "Reason for hospitalization and hospital  
17 course, please refer to detailed history and physical done  
18 on May 16, 2011. In short, this is a 52 year old female  
19 with diabetes mellitus, came in complaining of worsening  
20 weakness. Further evaluation in the ER was suggestive of  
21 significant anemia. She was also noted to have a  
22 significant blood loss. She was admitted to service and  
23 transfused with two units pack red blood cells. She had a  
24 hemoglobin of 5.5. GI was consulted. She had an upper GI  
25 endoscopy because of consistent gastritis. She had been

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1 are the two locums I do at the moment and I work about 24  
2 to 30 hours a week.

3 Q Now, in February of 2008 you had your first contact  
4 with Sandra Gilbert.

5 A Yes.

6 Q And I want you to tell me, sir -- if you have the  
7 CareNet chart in hand it will be easier, I will find that  
8 exhibit. So that you have -- this is the chart that you  
9 work with and would be used to looking in; is that right?

10 THE COURT: Just for the record, let's put in the  
11 record what exhibit that is.

12 MR. BEIGHLEY: Yes, sir, Your Honor. That has been  
13 marked previously as Defendant's 2.

14 THE COURT: Thank you.

15 Q Now, if you can please find the February encounter  
16 there, your first encounter there with Sandra Gilbert.

17 A There.

18 Q Have you got it there?

19 A Yeah.

20 Q All right. Now, on February of 2008 your first  
21 encounter with Sandra Gilbert, what was her age at  
22 about that time? Does it have a date of birth on there?  
23 Do you remember how old she was going to be in --

24 A Date of birth is October 20th of 1958.

25 Q So she would have been turning 50 when you saw her; is

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1 sir. Now, let's look in the CareNet records here from the  
2 next time that she came back -- I think you saw her in the  
3 spring and you talked about that, and then she came back,  
4 the next visit was in September, September 1st; is that  
5 correct?

6 A In 2008 or 2010?

7 Q We're now -- we've jumped ahead, I apologize for doing  
8 that. I have jumped ahead. You saw her in the spring of  
9 '10 and now we're going forward into the visit of September  
10 of 2010.

11 A Yeah. I do have that report of September '10.

12 Q What was she hospitalized for?

13 A The report is -- the report I generated for this  
14 file, "Recently discharged from the hospital. Patient has  
15 a new diagnosis of diabetes in addition to the  
16 hypertension and cholesterol issues." My examination with  
17 the vitals, blood pressure 129 by 96, that's a good  
18 number. And, of course, the examination; cholesterol  
19 examination, respiratory examination, extremities  
20 examination, so on and so forth. Looked at the eyes.  
21 Final assessment; diabetes and hypertension and lipidemia,  
22 she had three diagnoses. Fairly stable at the moment.  
23 Refill all medicines and return for examination on the  
24 diabetes now. Get patient diabetes educational consult  
25 again. Number two, preventative healthcare discussed.

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1 Patient seeing specialist, not the plan. Since patient is  
2 not in any mood to listen to brief talks we will postpone  
3 the preventative healthcare discussions until the next  
4 appointment, that's in six months time.

5 Q Now, was the diabetic condition, the new onset  
6 diabetes that put her in the hospital, was that a serious  
7 medical problem?

8 A Yes.

9 Q Did you take it seriously?

10 A Yes.

11 Q Did you have a plan to try to manage that problem?

12 A That's correct.

13 Q And have you just read us all of the various things  
14 that you directed happen?

15 A Yes.

16 Q Was one of those referrals to ophthalmology?

17 A That's correct.

18 Q Did she go to that referral?

19 A I don't know.

20 Q Well, we have a letter here in the file, Doctor, I  
21 will try to find it for you and see if that will answer the  
22 question for us. We'll come back to that in a minute, I  
23 wanted to go back. We had talked about referrals, and you  
24 told me that in November of 2008 you referred her to a  
25 diabetic education clinic; is that right?

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1 A Yes.

2 Q And you thought that she had gone?

3 A Yes, she did go. I did have feedback from them.

4 Q Let me show you this letter from the CareNet records,  
5 CareNet 64, December 9th, 2008. This is from Timbee  
6 (phonetically) Franklin, RN, BSN, patient educator. And it  
7 refers to your referral of November 7th, 2008. What does  
8 that tell us?

9 A On November 7th of 2008, diabetes education clinic.  
10 "Received a referral from your" -- my office -- "for Mrs.  
11 Gilbert. She was contacted by phone and an appointment  
12 was made for December 3rd, 2008. She did not keep the  
13 appointment as scheduled. We have attempted to contact  
14 her several times by telephone without success. A letter  
15 has been mailed today with details about our program. The  
16 diabetes educational clinic appreciated your support and  
17 wants to keep you informed of your patient's progress. We  
18 look forward to meeting Mrs. Gilbert and educating her  
19 about taking an active role in the nutritional management.  
20 Please do not hesitate to call or contact us if you have  
21 any questions at this point."

22 Q So does that refresh your recollection about that?

23 A Yes.

24 Q Now, let's go back to the referral that you made to  
25 ophthalmology. First of all, tell us why if somebody has



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1 serious diabetic conditions that you would want to refer  
2 them to an ophthalmologist?

3 A The answer lies with the statistics. The number one  
4 cause of blindness in this country is diabetes, therefore  
5 eyes need to be checked every year, every two years at  
6 least.

7 Q We got the letter back and for some reason I'm unable  
8 to put my hand on it, I will get it. I will keep looking  
9 for that letter and we will come back to it. Let me ask  
10 you this, you've referred her to ophthalmology, you've  
11 referred her to diabetic education. Did she complete the  
12 diabetic education referral that you sent her to this time?

13 A I did, it's documented.

14 Q I'm sorry?

15 A I did.

16 Q Yes, you did refer her.

17 A I did refer her to diabetic clinic.

18 Q Yes. But did she complete the course of instruction  
19 at diabetic education?

20 A My recollection is no because of non-compliance.

21 Q Now, looking at your file, Doctor, in the medical  
22 records that you got from Springs Hospital there was also a  
23 finding noted of microcytosis; is that right? That was on  
24 the admission for where diabetes was diagnosed and treated.

25 A Yeah. I know the page but I'm trying to find it

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1 here.

2 Q Right. And that was a finding that was made.

3 A That was 2011 in July.

4 Q 2010 when she had the diabetes one of the findings was  
5 microcytosis, we've talked about that at length, I have a  
6 good memory.

7 MR. RAVENEL: Leading the witness, I object to this.

8 THE COURT: One, the court reporter can't hear both of  
9 you at the same time so let's just have one person talking  
10 at a time.

11 Q Let me repeat the question, Doctor. Did you have --  
12 when Ms. Gilbert came back after her August hospitalization  
13 when you saw her September 1st, was one of the pieces of  
14 information that you had a finding of microcytosis along  
15 with the diabetes?

16 A That's correct.

17 Q All right. Now, would you describe this as a mild,  
18 moderate or severe microcytosis?

19 A Based on finding that I have at bedside, that's  
20 referring to hemoglobin MCHC and MCH, I have to  
21 characterize this microcytosis as mild, on my examination  
22 she did not show evidence of brisk or slow bleeding.

23 Q Did you at any time overlook or ignore this incidental  
24 finding of microcytosis?

25 A I did not.

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1 Q And what was your plan for the incidental finding of  
2 microcytosis?

3 A The plan was to observe the patient for six months  
4 and to bring her back in six months time.

5 Q When you saw her on September 1st of 2010, what was  
6 the most immediate life threatening problem facing Ms.  
7 Gilbert?

8 A The condition the hospital has treated, that is  
9 diabetes and DKA, diabetic ketoacidosis.

10 Q Now, as her family physician, did you set about a plan  
11 to help her follow-up and manage that serious diabetic  
12 condition?

13 A Yes, I did.

14 Q On September 1st of 2010, did Ms. Gilbert have any  
15 signs or symptoms that indicated to you she might be  
16 suffering from colon cancer?

17 A I had no evidence to suspect colon cancer on that  
18 particular day.

19 Q Did she have any history or complaint of bowel  
20 problems?

21 A No.

22 Q Did she have any history or complaints of bleeding  
23 from the rectum?

24 A No.

25 Q She had lost some weight. Tell us whether or not

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1 been with me in March, we would check her diabetes status  
2 and microcytosis status, March of 2011.

3 Q Did she come back to see you in March?

4 A I don't see any reports of patient coming in and  
5 seeing me in March of 2011.

6 Q From looking at your record -- and again I believe  
7 it's right there in front of you, can you tell me the next  
8 time that a phone call was documented from Ms. Gilbert to  
9 CareNet?

10 A Yeah. Between September '10 and her assumed date of  
11 next appointment, March of 2011, she did call twice.

12 Phone calls -- usually nurses take the call and hand it  
13 over to me, she wanted medicines, medicine refills. So  
14 asked for courtesy prescription when she called me on --

15 Q It looks like April 5th or 6th of 2011.

16 A It says April 5th. So then I noted that she was  
17 supposed to come and see me in March, she's one month  
18 late. I still gave her a courtesy prescription. So even  
19 after one month later she skipped the appointment and she  
20 called me in April of 2011, that's my care.

21 Q That is your writing there.

22 A I did.

23 Q And what do you have written there?

24 A I did refill the medicine for 30 days. Usually when  
25 patient comes and sees me physically face to face I give

## NIMAL PERERA, M.D. - CROSS

1 A Yes.

2 Q Now, according to the records from Springs Hospital  
3 Ms. Gilbert was admitted on May 16th for serious rectal  
4 bleeding, is that your understanding?

5 A Yes.

6 Q Did you know about the hospitalization at that time?

7 A I came to know when Dr. Badalamenti generated first  
8 impression report and send it to me.

9 Q After you got the report.

10 A Yeah.

11 Q But you did not see her or treat her in the hospital.

12 A No.

13 Q Now, according to the Springs records Ms. Gilbert was  
14 supposed to call and follow-up with you within two weeks  
15 after being discharged on May 18th.

16 A That's correct.

17 Q And did she do that? Did she come back in two weeks?

18 A She came two months later.

19 Q She came two months later. And we have that June 22nd  
20 phone call about medication.

21 A Yes.

22 Q Again, "see me as soon as possible."

23 A She gave that call from home after she was discharged  
24 from the hospital with the diagnosis of massive GI bleed.

25 Q And then the next and last time you saw Ms. Gilbert

## MARK A. YOFFEE, M.D. - DIRECT

1 MR. RAVENEL: Mark Yoffee, Y-o-f-f-e-e.

2 The witness, MARK YOFFEE, M.D. was first duly sworn

3 And testified as follows:

4 THE COURT: You can have seat and just be sure when  
5 you speak the microphone picks you up. Thank you.

6 DIRECT EXAMINATION

7 BY MR. RAVENEL:

8 Q State your name please?

9 A Mark Yoffee.

10 Q Dr. Yoffee, where do you reside?

11 A Raleigh, North Carolina.

12 Q And what is your educational background?

13 A I went to undergraduate at University of Florida,  
14 Medical School University of Florida. Did an internship  
15 and residency University of Utah in internal medicine,  
16 board certified in internal medicine. Then I did a  
17 hematology, oncology, medical oncology fellowship at the  
18 University of Colorado. Board certified in medical  
19 oncology.

20 Q Are you a member of any organizations that relate to  
21 your --

22 A I'm a member of the American Society of Clinical  
23 Oncology.

24 Q How long have you practiced as an oncologist?

25 A Since 1982.

MARK A. YOFFEE, M.D. - DIRECT

1 Q Have you had occasion to review the records -- medical  
2 records and deposition testimony in this case?

3 A Yes, sir.

4 Q And have you formed an opinion about the care provided  
5 to the deceased, Ms. Gilbert?

6 A Yes, sir.

7 Q What information did you receive that you considered  
8 important in your analysis?

9 A A lot of the records that have been discussed  
10 throughout the morning. Basically some of the data from  
11 2008, the hospital admission, some of the notes and  
12 discharge summaries from 2010, subsequent admission in  
13 2011, and then some of the subsequent data when she was  
14 ultimately diagnosed, operated on and treated at the VA  
15 Hospital.

16 Q Have you testified as an expert witness before?

17 A Yes, sir.

18 Q On how many occasions would you estimate?

19 A In court or --

20 Q In court.

21 A Probably five to ten over the last 30 years, not a  
22 lot.

23 Q And is there -- have you testified for the defendants  
24 or for the plaintiffs, or what is the mix?

25 A It's probably about 50/50. I don't "choose" sides, I

MARK A. YOFFEE, M.D. - DIRECT

1 just review cases and if I have an opinion on them I am  
2 going to testify.

3 Q And I think you said you practiced in Raleigh, North  
4 Carolina?

5 A Yes, sir.

6 Q What is the -- do you practice with an organization of  
7 any kind?

8 A From 1982 until September 30th of 2014 it was in a  
9 private practice. It was initially called Raleigh  
10 Hematology Oncology Clinic, then it was Cancer Centers of  
11 North Carolina, not Cancers Centers of America but Cancer  
12 Centers of North Carolina. Then that practice was  
13 ultimately dissolved or disbanded in the last year, and I  
14 now I work for REX, which is part of the UNC Hospital Care  
15 System.

16 Q Is that University of North Carolina?

17 A Yes, sir.

18 Q And after reviewing the records that were made  
19 available to you in this case, did you reach a conclusion  
20 regarding the care provided?

21 A Yes.

22 Q What was that conclusion?

23 A Well, my opinion when she was admitted in 2010, a  
24 pretty astute, I thought, acknowledgment by the admitting  
25 physician that she had microcytosis, was subsequently not



MARK A. YOFFEE, M.D. - DIRECT

1 further evaluated in the proper fashion.

2 Q What is it about a finding of microcytosis that would  
3 require further examination?

4 A Well, having sat here this morning, microcytosis is  
5 really a descriptive term, it's usually associated with  
6 microcytosis or microcytic anemia, which means just small  
7 red cells. You can have microcytosis without anemia.  
8 There wasn't a lot of discussion in what I was listening  
9 to today that this lady, this microcytic anemia because  
10 her hemoglobin was slightly low, it was mild. But  
11 microcytic anemia warrants further investigation because  
12 it can be one of many things, some of what was discussed  
13 earlier as well, but it shouldn't be ignored whether it's  
14 mild, severe or moderate. It's like if you're pregnant,  
15 if you're a little bit pregnant you're still pregnant. If  
16 you have microcytic anemia you have microcytic anemia,  
17 figure out what caused it.

18 Q What is it about microcytic anemia would cause you  
19 some concern in your area of expertise?

20 A Well, the most common cause is iron deficiency  
21 anemia. So microcytic anemia is not really a disease,  
22 it's a symptom and you have to figure out what is the  
23 cause of microcytic anemia. And iron deficiency usually  
24 is the manifestation of the blood loss, certainly other  
25 things can cause microcytic anemia that was discussed in

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1 African-Americans thalassemia can be the other big  
2 differential diagnosis, which is congenital problem with  
3 your hemoglobin which could cause small red cells.

4 Q What would be the appropriate action for a physician  
5 that was charged with the care of Ms. Gilbert to do when  
6 they were faced with a diagnosis among other things of  
7 microcytosis?

8 A Well, the first test would be to check iron-studies  
9 to see if they're iron deficient. I never really saw any  
10 iron studies in the records that I saw. And then they  
11 would have a low serum iron, have a high iron capacity,  
12 and then a ferritin, that's a measure of your total body  
13 scores, a simple blood test, then if you're iron deficient  
14 you are obligated to figure out why.

15 Q Was that done in this case?

16 A Not that I could see, no, sir.

17 Q No records of that?

18 A No.

19 Q Does the failure to conduct that discovery fall  
20 beneath the standard of care imposed upon doctors, general  
21 practitioners who was faced with such a condition?

22 A I think so. I think it's a very common finding.  
23 They see iron deficiency all of the time, and depending on  
24 the circumstances if they're not comfortable in evaluating  
25 it then they would send them to a hematologist or

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1 oncologist to figure that out. We see patients like that  
2 all of the time.

3 Q Was there anything about her, Mrs. Gilbert's, labs  
4 that would point toward further inquiry?

5 A The fact that she was mildly anemic and mildly  
6 microcytic I would have pursued further inquiry.  
7 Somebody, as I mentioned, was astute enough to mention it  
8 so it's probably not something you would ignore whether it  
9 was an incidental finding or not.

10 Q What is an RDW?

11 A It's just the size of the red cell distribution with  
12 whether cells are different shapes and sizes. You would  
13 commonly -- some people utilized that to help pin down a  
14 diagnosis, it's not real specific. People with iron  
15 deficiency can have a large RDW because their cells can be  
16 a little bit difference in the distribution and size.

17 Q In this particular case I believe the record shows  
18 that she had a RDW of 16.8, and that the normal would be  
19 10.2 to 14.5. Is having a RDW of 16.8, is that something  
20 that would prevent you from looking further on the question  
21 of the microcytosis?

22 A No. That wouldn't influence me one way or the,  
23 other. The key was microcytosis and the low hemoglobin.

24 Q And I believe it was one of four findings made by Dr.  
25 Badalamenti; is that correct?

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1 A I think there were four in the discharge summary  
2 you're alluding.

3 Q Yes. And is the fact that it was the fourth one  
4 listed, does that have any impact on whether or not the  
5 physician receiving that information should act on it?

6 A I don't believe so.

7 Q It has been described as being an incidental finding.  
8 Is that a term that you would believe would be a correct  
9 term to apply to a finding of microcytosis?

10 A Well, I think incidental meant that they weren't  
11 necessarily looking for that, but then when people get  
12 admitted to the hospital you get a lot of laboratory tests  
13 performed and sometimes you "incidentally" find something.  
14 It doesn't mean it's an ignored finding, it's just sort of  
15 found when you call an accidental or incidental finding.

16 Q If it's incidental in that you weren't looking for it,  
17 could it be important?

18 A Yes.

19 Q Was it important in this case?

20 A I believe so.

21 Q So what action would you have recommend for the  
22 physician, Dr. Perera, to take when faced with that finding  
23 in a lady who is 50 or 51 years old, 52 years old,  
24 African-American, post menopausal?

25 A So if somebody has an iron or a microcytic anemia

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1 what I would have recommend, I would have checked iron  
2 studies. So I would have done an iron TIBC and a ferratin  
3 to confirm they were iron deficient, if they were iron  
4 deficient these tests likely would have confirmed it. And  
5 then you would do stool labs to sometimes look for any  
6 cult blood in the stools. And if they're positive it's  
7 going to push even more to pursue endoscopic evaluations  
8 or colonoscopy, but even if they're negative in a  
9 post-menopausal woman, which she was, some would say don't  
10 even do the labs, just do the scope because they are going  
11 to need it regardless to make sure. One thing you don't  
12 want to miss is a malignancy, be it stomach cancer or  
13 colon cancer or small bile cancer that's slowly bleeding  
14 with iron deficiency over time.

15 Q Would prescribing iron pills be appropriate for that  
16 following the diagnosis that we just talked about?

17 A It would be appropriate along with the work-up. You  
18 can start to treat the disease, it's not going to  
19 influence -- if you're committed to pursuing the  
20 colonoscopy. If you're going to check stool lab,  
21 sometimes iron pills will give you a false positive test  
22 when you are checking your stool studies. But it would be  
23 okay to start the treatment but not ignore the work-up.  
24 If you're just treating symptoms by giving the iron you  
25 are not treating the cause.

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1 Q Would it be appropriate to prescribe iron pills and  
2 wait six months to see whether or not the iron pills  
3 eliminated the problem?

4 A No, that's not appropriate.

5 Q Would it actually tend to mask the underlying problem?

6 A It could, it certainly could correct your iron  
7 deficiency. If the intermittent bleeding is not brisk  
8 enough to cause enough and you were on top of the -- if  
9 you had enough iron intake to prevent the iron loss it  
10 could mask the cause, yes, sir.

11 Q And that would delay treatment of the condition which  
12 later turned out to be colon cancer, is that not right?

13 A That's correct.

14 Q Would it fall beneath the standard of care for a  
15 physician when faced with the findings of Dr. Badalamenti  
16 that were provided to Dr. Perera to give prescribed iron  
17 and not set up the examination of the colon through a  
18 gastro colonoscopy?

19 A Yes. I think you would not treat it without some  
20 plan to evaluate it. You likewise should not really treat  
21 it unless you have confirmed the diagnosis, so that would  
22 require doing some blood work to note. You don't want to  
23 give people iron if they don't need it because you can  
24 take too much iron.

25 Q And what test would you subject the patient to to

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1 determine whether iron pills were appropriate?

2 A You would do the blood work to confirm that they were  
3 iron deficient.

4 Q Is there any evidence that that blood work was done by  
5 Dr. Perera?

6 A I didn't see any evidence that it was done in the  
7 hospital or in the follow-up visit.

8 Q Had the appropriate -- what you consider appropriate  
9 follow-up to the Dr. Badalamenti's report where he found  
10 that among other things, that iron deficiency was there,  
11 that the microcytosis was there, would you say that the  
12 follow-up by Dr. Perera failed to meet the standard of care  
13 imposed on practitioners faced with the evidence that was  
14 in the file for Dr. Perera to examine?

15 A Yes. I think there should have been follow-up on the  
16 findings that were mentioned in terms of the microcytosis.

17 Q And had such a follow-up been conducted, is it your  
18 opinion that more likely than not the cancer would have  
19 been discovered?

20 A Yes.

21 Q And if the follow-up had been made and the cancer  
22 discovered, do you feel that more likely than not Mrs.  
23 Gilbert would have been successfully treated?

24 A Yes.

25 Q So the failure to conduct the follow-up resulted in

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1 the death of -- more likely than not resulted in the death  
2 of Mrs. Gilbert?

3 MR. BEIGHLEY: I object to the form, Your Honor, calls  
4 for speculation.

5 THE COURT: Sustained. Rephrase your question.

6 Q Do you have an opinion as to whether more likely than  
7 not the failure to conduct the tests we talked about, which  
8 according to you I understand would have resulted in  
9 disclosing the presence of cancer, had that not -- had that  
10 been done, can you say more likely than not that Mrs.  
11 Gilbert would not have died from the cancer?

12 MR. BEIGHLEY: Same objection, Your Honor, calls for  
13 speculation.

14 THE COURT: Overruled. He can give his opinion.

15 A So my opinion, if the work-up had taken place in  
16 August of 2010 with the appropriate studies confirming  
17 iron deficiency, and then homiculture stool blacks looking  
18 for blood, and the colonoscopy, you would have found the  
19 cancer in an earlier stage than it was subsequently  
20 diagnosed over a year later, that her chance for a cure  
21 would more likely than not have been much better. That's  
22 my opinion.

23 Q And can you say more likely than not whether she would  
24 have survived more than five years following the discovery  
25 of the cancer?



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1 A Yes.

2 Q So you do believe that to be true?

3 A I believe that to be true, yes, sir.

4 Q And that's based upon your medical experience and  
5 experience specifically with cancers including colon  
6 cancer.

7 A It's based on her stage at diagnosis and the  
8 diagnosis, had it been made over a year earlier, what her  
9 stage likely would have been at that time, and her chances  
10 at that point would have been much better for survival.

11 Q What was the finding when the cancer was disclosed?  
12 What stage was the cancer?

13 A She was stage 3-B at that time.

14 Q And could you explain to the jury what a 3-B finding  
15 is?

16 A So we stage cancers -- it's a long discussion --  
17 basically on what is called a T and M classification. T  
18 is how big the tumor is, how deep it goes into the wall of  
19 the colon. And she had a T4-A tumor meaning it invaded  
20 through the wall into the visceral peritoneum or the  
21 lining of the colon. If she were -- and then shows us how  
22 many nodes are involved, and she had one sort of extra  
23 node metastases out of 13, so that's called stage 3-B.  
24 It's just a classification system. For point of  
25 reference, if the tumor had been smaller and not gone

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1 through into what's called the visceral peritoneum but had  
2 gone through the wall of the colon and just into the  
3 little bit of surrounding fats, we would call it a T3. If  
4 you are a T3N1 versus a T4AN1 you're a stage three 3-A  
5 versus 3-B. If you look at survival rates from the  
6 American Cancer Society and staging systems, five year  
7 predicted survivals for 3-A cancer is about 7, if you were  
8 a 3-B your five year predicted survival is about 45  
9 percent. So a year later, was that tumor a T-3? Was it a  
10 T-2? A T-2 tumor goes into the wall and not all of the  
11 way through it, that makes you a less stage, T-1 is just a  
12 superficial invasion. So it's an anatomic description of  
13 the extent of the cancer at the time of the surgery.

14 Q And in your opinion she would have been a T-2 more  
15 likely than not in the year previous when it was the  
16 microcytosis analysis?

17 A I don't know that I could say she was a T-2. She had  
18 a T-4A. My opinion is that a year earlier it has time to  
19 grow, it wasn't a real fast growing tumor, so I think it  
20 would have more likely been a T-3, still a stage 3-A  
21 rather than 3-B with a better than five year survival.  
22 She would have been operated on, she would have had the  
23 same treatment, which would have been added to the  
24 chemotherapy that she had undergone. But that would have  
25 been more effective in an earlier stage of the diagnosis

## MARK A. YOFFEE, M.D. - CROSS

1 in my opinion.

2 MR. RAVENEL: Thank you, Doctor.

3 THE COURT: Thank you. Mr. Beighley?

4 MR. BEIGHLEY: May it please the Court?

5 CROSS EXAMINATION

6 BY MR. BEIGHLEY:

7 Q I was going to say good morning but it is almost good  
8 afternoon.

9 A Still good morning. Good morning.

10 Q Dr. Yoffee, you don't practice family medicine, right?

11 A No, sir.

12 Q You're oncology.

13 A Board certified internal medicine and oncology.

14 Mostly I do oncology. I have a few patients that I become  
15 their internist.

16 Q But you see them because of cancer.

17 A Yes.

18 Q Is it fair to say that you're a cancer specialist?

19 A Yes, sir.

20 Q And not a family medicine specialist?

21 A Yes, sir.

22 Q Now, you talk about microcytosis. Microcytosis can  
23 appear or occur in varying degrees of severity.

24 A Correct.

25 Q And it could be mild, moderate or severe.

## MARK A. YOFFEE, M.D. - CROSS

1 A Yes.

2 Q And in Ms. Gilbert's case she had a mild microcytosis  
3 in August of 2010.

4 A Yes.

5 Q Microcytosis basically indicates that the size of the  
6 red blood cells are smaller than normal.

7 A Yes.

8 Q A patient with microcytosis should also demonstrate an  
9 abnormal red blood cell morphology, shouldn't they?

10 A They can, yes.

11 Q That's what you would expect?

12 A Yeah. Descriptively they should be smaller looking  
13 red cells.

14 Q And what is morphology?

15 A Just shape of cells.

16 Q Are you aware that in August of 2011 Sandra Gilbert's  
17 red blood cell morphology was -- 2010, I'm sorry, August of  
18 2010, her red blood cells morphology was normal?

19 A I don't remember seeing the description if the  
20 pathology had reviewed the smear or not.

21 Q Well, did you know it was recorded on -- I'm not  
22 trying to trick you, I can show you the page. And this --  
23 what I'm going to show you is Springs, the records,  
24 Defendant's 1. And if you would, just try to hold on there  
25 and look on 201.

## MARK A. YOFFEE, M.D. - CROSS

1 A Is that it?

2 Q I think that's 201. And would you agree with me that  
3 that lab report shows that the red blood cells morphology  
4 in August of 2010 was normal?

5 A That's what it says, yes, sir.

6 Q All right, sir. Now, when she was hospitalized --

7 A I'm just looking to see what her NCB was on that  
8 date.

9 Q I was going to move to another but I don't want to  
10 interrupt you if you need to look further.

11 A No, that's okay.

12 Q When she was in the hospital at that time her  
13 physician -- attending physician was Dr. Badalamenti; is  
14 that right? Are you aware of who that was?

15 A Yes, sir.

16 Q And are you aware that Dr. Badalamenti did not do any  
17 workup for microcytosis when she was in the hospital?

18 A Correct.

19 Q And Dr. Badalamenti didn't even list microcytosis in  
20 his discharge summary.

21 A I believe that's correct, yes.

22 Q While she was in the hospital his focus was  
23 exclusively on getting her severe diabetic condition under  
24 control?

25 A Yes.

MARK A. YOFFEE, M.D. - CROSS

1 Q What are the symptoms of colon cancer, Doctor?

2 A They are very variable. Typically they are  
3 asymptomatic, it's a silent disease. Their symptoms would  
4 be abdominal pain, cramping, nausea, bleeding, rectal  
5 bleeding, bowel obstruction symptoms if the tumor is real  
6 large, weight loss. That's probably the majority of them.

7 Q And other than weight loss, Ms. Gilbert did not have  
8 any of those specific colon cancer symptoms in August of  
9 2010, did she?

10 A No, sir.

11 Q And certainly weight loss can be associated with the  
12 new onset diabetes.

13 A It can be.

14 Q And we know she didn't have any bleeding problem in  
15 August of 2010, there was none visible anyway.

16 A Well, I don't know that, because one, we talked about  
17 the symptoms, the signs of colon cancer. Certainly one of  
18 the signs is microcytic anemia, that wouldn't be a  
19 symptom, that would be a sign, so she had possible  
20 evidence of that given the microcytic anemia. She had no  
21 visible bleeding that she acknowledged, correct.

22 Q There was no evidence of a visible bleeding.

23 A Right. I do not see anybody did a rectal exam and  
24 look for any, which would be another sign of possible  
25 colon cancer.

MARK A. YOFFEE, M.D. - CROSS

1 Q In fact, a majority of colon cancer cases do not  
2 present with gross bleeding, do they?

3 A Correct.

4 Q Can we agree, Doctor, that this would, in fact, be a  
5 very small percent of microcytosis that is caused from  
6 occult bleeding due to colon cancer in a patient with no  
7 other symptoms of colon cancer?

8 A It would definitely be a small percentage, yes.

9 Q In order for a physician to inform a patient about  
10 preventative health measures, the patient must be willing  
11 to listen, would you agree?

12 A Yes.

13 Q Communication between doctor and patient is a two way  
14 street.

15 A Yes.

16 Q You as a physician cannot force a patient to follow  
17 your recommendation.

18 A No.

19 Q Even if a colonoscopy had been specifically suggested,  
20 recommended or encouraged in September following this  
21 August of 2010 admission, it's still up to the patient  
22 whether they wish to proceed with that.

23 A Yes.

24 Q As you know, Ms. Gilbert was hospitalized in May of  
25 2011, this time with actual rectal bleeding and serious

MARK A. YOFFEE, M.D. - CROSS

1 anemia secondary blood loss.

2 A Well, a combination of blood loss and severe iron  
3 deficiency at that time, because as I recall her MCD was  
4 now 59. But she had been bleeding for a long time but  
5 superimposed on the acute rectal bleeding probably  
6 exacerbated it, yes.

7 Q During that time she was under the care of a  
8 gastroenterologist, Dr. Amato, were you aware of his  
9 involvement in that?

10 A Well, I think she was under the care of the hospital  
11 so then he was consulted in the hospital.

12 Q That's exactly right.

13 A Yes.

14 Q Again, it was Dr. Amato this time, he consulted -- Dr.  
15 Badalamenti was the hospitalist, he consulted Dr. Amato,  
16 the GI man.

17 A Correct.

18 Q Have you read Dr. Amato's deposition?

19 A Yes, sir.

20 Q And having done that, you know that in May of 2011 in  
21 order to find a cause of the rectal bleeding he told her  
22 she needed to have a colonoscopy.

23 A He scoped her above but also definitely said she  
24 needed a colonoscopy, yes.

25 Q And are you aware that she was actually scheduled for



## MARK A. YOFFEE, M.D. - CROSS

1 an appointment with Dr. Amato at the time she was  
2 discharged from the hospital in May of 2011?

3 A I think I -- I don't remember the exact -- other than  
4 I think in the discharge summary they mentioned, yes, to  
5 followup with Dr. Amato in a week. I don't know if I saw  
6 the formal appointment schedule, but I saw the  
7 recommendation.

8 Q Let me show you -- back to Exhibit 1 again, this time  
9 asking you to go to 285. And without trying to invade your  
10 space, I will tell you these are patient discharge  
11 instruction sheets. And do you see there the appointment  
12 that it was set up for or scheduled for Dr. Amato's office?

13 A Oh, okay.

14 Q Do you see where that's done?

15 A Yes.

16 Q And, in fact, it says on June 2, 2011 she is supposed  
17 to go to Dr. Amato.

18 A Yes, sir.

19 Q And do you see then on the next page that -- 286, that  
20 Ms. Gilbert signed on the bottom acknowledging that the  
21 plan had been explained to her and accepted?

22 A Yes.

23 Q All right, sir. So we know that not only was she told  
24 that she had a bleeding problem and hadn't been resolved  
25 yet but that she needed a colonoscopy with Dr. Amato to get

MARK A. YOFFEE, M.D. - CROSS

1 that question answered.

2 A Yes.

3 Q And I believe you would agree with me, Doctor, that it  
4 is not reasonable for a patient who was in the hospital for  
5 rectal bleeding and significant blood loss not to show up  
6 for a scheduled colonoscopy.

7 A Yes.

8 Q And I believe that you have had a chance to review the  
9 cancer treatment records from the VA hospital; is that  
10 right?

11 A Yes, sir.

12 Q And according to those records the surgeons at the VA  
13 were successfully able to remove the tumor from her colon.

14 A Yes.

15 Q And at that time they did a body scan to check her  
16 whole body for evidence of metastatic disease and she  
17 didn't have any metastatic disease in October of 2011.

18 A On her CT Scans I recall they mentioned one to a one  
19 and a half centimeters retroperitoneal lymph node was sort  
20 of borderline enlarged but there wasn't any evidence that  
21 it had spread anywhere per se on the CAT scans, correct.

22 Q So the conclusion of her surgeons at that time was  
23 that her cancer had not metastasized.

24 A Correct.

25 Q And I think you told me in your deposition that it's

MARK A. YOFFEE, M.D. - CROSS

1 your opinion that at that point her five year survival rate  
2 was about 50 percent.

3 A Correct.

4 Q The colon cancer that she had did not have a definite  
5 growth rate.

6 A Descriptive term, right, was mucinous low grade and  
7 then they called it moderately differentiated, but that  
8 doesn't give you a specific growth rate, correct.

9 Q Some can be very slow growing?

10 A Yes, sir.

11 Q Some can grow fairly quickly.

12 A Yes, sir.

13 Q And you would agree that the growth rate is a variable  
14 concept.

15 A Yes.

16 Q Would you agree, Doctor, that the type of malignancy  
17 that Ms. Gilbert suffered from can metastasize at virtually  
18 anytime during the period of the initial formation up until  
19 the time of removal?

20 A Yes, it can sometimes do that.

21 Q And it's, in fact, possible that the cancer could have  
22 metastasized more than a year before it was discovered.

23 A It is possible.

24 Q You cannot give a specific time or a specific date  
25 when this cancer metastasized.

MARK A. YOFFEE, M.D. - CROSS

1 A No, sir.

2 Q And it's your opinion had a colonoscopy been done a  
3 year earlier in October of '10 Ms. Gilbert still would have  
4 had the colon cancer.

5 A Yes.

6 Q And you suspect it would be smaller but you can't  
7 define how much or a quantity of the difference.

8 A Not exactly, no, sir.

9 Q Again, if Ms. Gilbert had had a colonoscopy in March  
10 of 2011 it would have shown the cancer certainly.

11 A Yes, sir.

12 Q And would you agree that it would have a little  
13 smaller but you can't say how much.

14 A Yes.

15 Q But more likely than not it would have been less  
16 advanced in March of '11 than it was in October of '11.

17 A Yes.

18 Q And had it been diagnosed in March of '11 you think  
19 she would have had a little better five year survival rate  
20 than she did in October of '11?

21 A Yes.

22 Q And whether that improvement would have been one  
23 percent, five percent or 10 percent, you can't say, it  
24 would be a gray area.

25 A I can't say what?

## MARK A. YOFFEE, M.D. - CROSS

1 Q You can't say whether it's one percent, five percent,  
2 10 percent better in March than it is in October, it's a  
3 gray area.

4 A Yes.

5 Q If it had been discovered in June of 2011, would it  
6 have been smaller than it was in October of '11?

7 A Again, it's a gray area, hard to say, maybe just a  
8 tad smaller, three or four months. It's hard to say.

9 Q Can you give us a five year survival rate if the  
10 cancer was discovered in June of '11?

11 A Probably pretty similar to the subsequent time frame,  
12 the three or four months later again maybe you're talking  
13 single digit percentage differences.

14 MR. BEIGHLEY: Your Honor, if I might be indulged one  
15 moment?

16 THE COURT: Yes.

17 (Break in proceedings.)

18 MR. BEIGHLEY: Your Honor, at this point I will defer  
19 to co-counsel.

20 THE COURT: Thank you. Mr. Boulrier?

21 CROSS EXAMINATION

22 BY MR. BOULIER:

23 Q Dr. Yoffee, I have just a handful of questions for  
24 you. I want to go back to your qualifications a little  
25 bit. And certainly I don't think anybody in this courtroom

MARK A. YOFFEE, M.D. - CROSS

1 questions your qualifications in your field of hematology  
2 and oncology and your experience in that field. You've  
3 been practicing as a hematologist/oncologist, if my memory  
4 serves me correctly, since 1982?

5 A Yes, sir.

6 Q And that has all been in North Carolina, correct?

7 A Correct.

8 Q And in that you are specializing in disorders of the  
9 blood and disorders of cancer, and I think you've testified  
10 that you have a general oncology and hematology practice,  
11 correct?

12 A Correct.

13 Q But since -- and prior to that you did a two year  
14 fellowship in hematology and oncology?

15 A Yes.

16 Q And before that you did internal medicine.

17 A Three year internal medicine residency.

18 Q Finished that in 1980.

19 A Yes.

20 Q And since 1980, Dr. Yoffee, if my math is correct, for  
21 the last 35 years you have never practiced primary care  
22 medicine like Dr. Perera, have you?

23 A No.

24 Q You've never treated or managed on a routine basis  
25 diabetes, have you?

## MARK A. YOFFEE, M.D. - CROSS

1 A No.

2 Q You don't treat or manage on a routine basis high  
3 blood pressure, do you?

4 A Well, I have to manage a lot of high blood pressure,  
5 because a lot of the chemotherapy we give gives blood  
6 pressure problems, so I would not agree with that  
7 statement.

8 Q I think my question was on a primary basis you're not  
9 the doctor taking care of people's high blood pressure as a  
10 general rule, is that fair?

11 A That's fair.

12 Q And as a primary care physician you're not involved in  
13 managing high cholesterol for patients, are you?

14 A No.

15 Q And so when they get referred to you -- you talked  
16 about you get referrals, but they get referred to you by  
17 primary care physicians like Dr. Perera, right?

18 A Right.

19 Q But you haven't done what he has done since you were  
20 in an internal residency medicine in the early 1980's, is  
21 that fair?

22 A That's fair.

23 Q Now, you talked about what he should have done in this  
24 case and you talked about the follow-up tests he should  
25 have performed, and I think you talked about the iron test

## MARK A. YOFFEE, M.D. - CROSS

1 that Mr. Ravenel questioned you about several times, and  
2 then you talked about once you got those results back you  
3 could do a hemoccult, that would be a test of her stool,  
4 correct?

5 A Correct.

6 Q And you said if anything you would probably skip that  
7 and you would do the scope, right?

8 A Right.

9 Q And so you would agree with me, Dr. Yoffee, to make  
10 the diagnosis in this case, a colonoscopy was going to have  
11 to be performed, wasn't it?

12 A Yes.

13 Q And you would agree with me, Dr. Yoffee, that if a  
14 physician -- and you testified in response to Mr.  
15 Beighley's question that you've read Dr. Amato's  
16 deposition, correct?

17 A Correct.

18 Q Have you seen his video deposition in this case?

19 A I don't believe I've seen his video deposition.

20 Q Are you aware of Dr. Amato's testimony in this case  
21 that when he met with Ms. Gilbert in the hospital in May of  
22 2011 and discussed with her the fact that the upper GI was  
23 negative -- and you understand the upper GI was negative,  
24 correct?

25 A I think he showed some gastritis, a little bit of



## MARK A. YOFFEE, M.D. - CROSS

1 inflammation so I wouldn't call it negative but he didn't  
2 find any cancer or anything.

3 Q That's correct. He didn't find anything to explain  
4 the huge bleed she had had, correct?

5 A Correct.

6 Q And so his plan was to do an outpatient colonoscopy.

7 A Correct.

8 Q And are you aware of his testimony that when he met  
9 with Ms. Gilbert to go over those test results he would  
10 have explained the need for the colonoscopy. And that one  
11 of the things he would have discussed is you might have  
12 cancer and we need to rule that out as well as any other  
13 potential causes.

14 A Yes.

15 Q And you would agree that if in light of that advice  
16 from Dr. Amato she didn't follow-up and get the  
17 colonoscopy, that was unreasonable on her part, correct?

18 A Correct.

19 MR. BOULIER: Thank you, Dr. Yoffee.

20 THE WITNESS: Thank you.

21 THE COURT: Mr. Ravenel?

22 MR. RAVENEL: Yes, sir.

23 REDIRECT EXAMINATION

24 BY MR. RAVENEL:

25 Q Doctor, are you aware -- have you read Dr. Amato's

## MARK A. YOFFEE, M.D. - REDIRECT

1 most recent deposition in which he says that if a patient  
2 has microcytosis they should be referred for a colonoscopy.  
3 Would you agree with that?

4 MR. BOULIER: Your Honor, I object to that question,  
5 that's not an accurate recitation of Dr. Amato's testimony.

6 MR. RAVENEL: I believe it is, Your Honor. I will  
7 stand on it.

8 Q If it said that --

9 THE COURT: Overruled.

10 Q If it says that he should have referred him (sic) for  
11 an examination on the microcytosis, would that -- would you  
12 agree with that? Would that be an appropriate thing to do?

13 A Yes, I would agree with that.

14 Q I know you're not the primary doctor and you're not  
15 testifying as the primary doctor; is that right?

16 A Correct.

17 Q You're just testifying as the expert explaining what  
18 could happen if cancer is involved with this case.

19 A Correct.

20 Q And do you believe more likely than not that had the  
21 microcytosis been acted on in 2010 when it was discovered  
22 that Mrs. Gilbert would have been able -- could have been  
23 treated in a way that she would survive?

24 A Yes.

25 Q More likely than not?

## MARK A. YOFFEE, M.D. - REDIRECT

1 A Yes.

2 Q And you can't guarantee anything, but more likely than  
3 not.

4 A Yes. As previously stated, I think she would have  
5 been in an earlier stage of disease, had a similar  
6 treatment but had a better prognosis and a better outcome  
7 more likely than not.

8 Q And more likely than not she would have lived at five  
9 years or more after that procedure was done and the cancer  
10 identified.

11 A Right. The earlier you find the cancer your better  
12 chance for cure, and that generally in colon cancer means  
13 a five year survival rate. If after five years it  
14 hasn't recurred you are more than likely -- very likely --  
15 it is extremely rare to come back.

16 Q And again, I may be repeating myself, but had a  
17 colonoscopy been conducted in August of 2010, the presence  
18 of colon cancer would more likely than not have been  
19 disclosed, is that your belief?

20 A No. They would have found it for sure.

21 Q Had the colon cancer been discovered in August of 2010  
22 Sandra Gilbert would have a better than 50 percent chance  
23 of surviving more than five years?

24 A Yes, that's my opinion.

25 Q Based upon a reasonable degree of medical certainty

## MARK A. YOFFEE, M.D. - REDIRECT

1 more likely than not as a direct and proximate result of  
2 the acts of Nimal Perera, M.D. of CareNet, she sustained  
3 the following injuries: Sandra Gilbert's colon cancer  
4 spread unchecked by medical intervention --

5 MR. BEIGHLEY: Your Honor, I object to the leading  
6 question like this. This is redirect, it's his witness.

7 THE COURT: Would the lawyers approach?

8 (Bench conference held.)

9 Q You were asked about preventative healthcare and the  
10 responsibility of the primary doctor when faced with a  
11 situation like the presence of microcytosis in a lady that  
12 fits the description of this lady to take action in  
13 response on that --

14 A Would you repeat that?

15 Q Yes, I'm sorry. If as in this case the preventative  
16 care person, the family physician, is faced with findings  
17 of microcytosis, is it incumbent upon them to seek  
18 additional medical intervention concerning the case of the  
19 microcytosis?

20 A Yes, I would. I'm not sure I would put that in the  
21 preventative care. Now, you're dealing with something,  
22 it's not initially a preventative or screening type  
23 situation, you're working up a symptom and diagnosis.

24 Q So we're out of the preventative care area, we are  
25 into -- there's something here that needs to be dealt with.

## MARK A. YOFFEE, M.D. - REDIRECT

1 A Correct.

2 Q When you communicate that to the patient, do you  
3 communicate this is a choice or is this something that you  
4 have to recommend that they do?

5 A I would say with this patient then you're going on --  
6 you would have to explain it to them. I would agree you  
7 can be forceful in saying that you've got iron deficiency,  
8 you are bleeding somewhere, we have to figure out why and  
9 this is what it entails.

10 Q And would you explain to them by virtue of that  
11 bleeding?

12 A Yes.

13 Q And some people will make that decision, you have to  
14 give them all of the reasons why they shouldn't but  
15 ultimately it's their choice. They can't make an informed  
16 decision without the information.

17 A Correct, you have to inform them.

18 MR. RAVENEL: Thank you.

19 MR. BEIGHLEY: Nothing further.

20 THE COURT: Dr. Yoffee, you can step down. Thank you.

21 MR. RAVENEL: Your Honor, may we excuse him? He has  
22 some urgent business in Raleigh.

23 THE COURT: Any objection to Dr. Yoffee being excused?

24 MR. BEIGHLEY: No, Your Honor.

25 MR. BOULIER: Of course not.

## CAROL RUPPE, M.D. - DIRECT

1 MR. RAVENEL: I am, Your Honor.  
2 THE COURT: Is the defense ready?  
3 MR. BEIGHLEY: Yes, sir.  
4 MR. BOULIER: Yes, sir.  
5 THE COURT: Let's bring the jury in.  
6 (The jury returned to the courtroom.)  
7 THE COURT: Call your next witness.  
8 MR. RAVENEL: We call as our next witness Carol M.  
9 Ruppe, M.D.  
10 The witness, CAROL RUPPE, M.D., was first duly sworn  
11 And testified as follows:  
12 DIRECT EXAMINATION  
13 BY MR. RAVENEL:  
14 Q Doctor, would you pronounce your last name for me  
15 because I am always messing it up and I want to get it  
16 right.  
17 A Ruppe.  
18 Q I add an extra syllable or something, I apologize for  
19 that?  
20 A I get everything from Ruppe' to Ruppe.  
21 Q Where do you live currently?  
22 A In Charlotte, North Carolina.  
23 Q And how long have you lived there?  
24 A Since 1993.  
25 Q And what is your educational background?

## CAROL RUPPE, M.D. - DIRECT

1 A I did my undergraduate at the University of Notre  
2 Dame in South Bend, Indiana, and then attended medical  
3 school at Georgetown University in Washington D.C. and  
4 then my residency -- when you're six of seven kids you  
5 find a way to pay for your education, so I joined the Air  
6 Force and did my residency at Andrews Air Force Base  
7 Malcom Grow Medical Center, where then I went down the  
8 road a little way for a year and did family practice at  
9 Bowling Air Force Base, and then went back and taught in  
10 the residency for five years.

11 Q Did what?

12 A Taught in the residency program.

13 Q Taught in the residency program?

14 A Correct.

15 Q And what are you currently doing?

16 A Right now I'm seeking employment. I was in a major  
17 motor vehicle accident back in February timeframe, led to  
18 aspiration of dust that comes in from the air bags, and  
19 then a nose bleed down the road that led to me being in  
20 the intensive care unit and being in the hospital for  
21 approximately ten days. I thought I would get back to my  
22 practice in about six weeks as a solo practitioner and I  
23 just couldn't do it on my own. So I'm presently looking  
24 for employment, which I've got some interviews coming up  
25 and I have got some offers.

## CAROL RUPPE, M.D. - DIRECT

- 1 Q So how long have you practiced?
- 2 A Since 1987.
- 3 Q And what is the area of your practice?
- 4 A Family medicine.
- 5 Q And do you have any certification, specialty
- 6 certification?
- 7 A In-family medicine.
- 8 Q And what do you hold, what certification?
- 9 A It's with the --
- 10 Q Diplomate of American Board of Family Practice?
- 11 A Correct.
- 12 Q Am I to understand that you've been recertified as
- 13 recently as 2012?
- 14 A That's correct.
- 15 Q And you are licensed to practice in what state?
- 16 A North Carolina.
- 17 Q How long have you been licensed to practice there?
- 18 A Since 1993.
- 19 Q And what was the name of your practice when you were a
- 20 solo practitioner?
- 21 A It was Charlotte's Premier Healthcare. Also had
- 22 University Senior Healthcare, which I used for the billing
- 23 and taking care of patients who were in longterm care.
- 24 Q I understand that you also practiced back in 1998 with
- 25 the family physicians Boiling Clinic in Washington, D.C.?



## CAROL RUPPE, M.D. - DIRECT

- 1 A Correct. That's the year after residency that I went  
2 and spent a year there as a primary care doctor.
- 3 Q And also with the Malcom Grow Medical Center in  
4 Maryland?
- 5 A Correct, and that's Andrews Air Force Base.
- 6 Q And also as the family practice physician Nail (sic)  
7 Clinic?
- 8 A Nall. Nall is was a multi-specialty group of 123  
9 physicians in Charlotte, North Carolina that kind of  
10 imploded in 2000.
- 11 Q And you practiced there from 1993 until 2000?
- 12 A That's correct.
- 13 Q I also understand that you did a family practice  
14 physician for Medical Plaza FP in Charlotte; is that  
15 correct?
- 16 A That was after Nall Clinic imploded. For  
17 approximately two years I was affiliated with Presbyterian  
18 which is now Novant Healthcare in Charlotte as a primary  
19 care or family physician.
- 20 Q And you also practiced as I understand it from 2004 to  
21 2006 as the medical director of the Beverly Health Clinic  
22 in Charlotte; is that correct?
- 23 A Correct. That was one of the longterm care  
24 facilities.
- 25 Q And then I see you had experience from 2002 until 2007

## CAROL RUPPE, M.D. - DIRECT

1 as the medical director of Heritage in Harrisburg, North  
2 Carolina.

3 A Correct, another longterm care facility.

4 Q And as medical director Park Village in Charlotte,  
5 North Carolina.

6 A Correct. And that was a memory impaired assisted  
7 living.

8 Q That was 2005 to 2007?

9 A Correct.

10 Q And your patients were mentally impaired?

11 A Well, they had Alzheimer's or different types of  
12 dementia.

13 Q And then I see where you were the medical director for  
14 the Community Home Healthcare and Hospice from 2007 to  
15 2009, is that accurate?

16 A Correct.

17 Q And what practice was that? Who did you serve? What  
18 type of people did you serve?

19 A In that response or respect I was the medical  
20 director of a Hospice unit. We would meet every other  
21 week and discuss the patients that were being seen at home  
22 by the nurses, the social workers, chaplain and otherwise  
23 and determine if any other care needed to be rendered.

24 Q And I see where you were also medical director from  
25 July of 2008 to September of 2009 in the Preston House -- I

CAROL RUPPE, M.D. - DIRECT

1 guess it's Preston House Assisted Living; is that correct?

2 A That's correct, and that was another dementia unit.

3 Q All right. And then the medical director for Hunter  
4 Woods in Charlotte from '95 to 2010?

5 A Correct.

6 Q And was that something you did while you were doing  
7 other thing as well?

8 A Well, I was doing outpatient. I had my own clinic  
9 and also did longterm care on weekends and also early  
10 morning before I would go to clinic.

11 Q And I see from February of 2008 to July of 2010 you  
12 were the medical director of the Oaks at Town Center in  
13 Harrisburg, is that accurate?

14 A That's correct.

15 Q And then the medical director for the Court of  
16 Southpark, Charlotte, from March of '97 to June of 2011.  
17 Is that -- would that be on overlap with some of these  
18 others -- in other words, you were serving in more than one  
19 position?

20 A Yes. And it all depended on how many midlevels I had  
21 at the time.

22 Q And from 2007 to 2012, again, one of these that might  
23 overlap, the Golden Living of Dartmouth, Charlotte, North  
24 Carolina, did you serve there?

25 A Correct.

CAROL RUPPE, M.D. - DIRECT

1 Q As a physician.

2 A As a physician and medical director.

3 Q All right. And then medical director at Peak

4 Resources in Charlotte from 2009 to 2012.

5 A Correct.

6 Q All right. And you were the medical director. What  
7 would your duties be as medical director of Hunter Woods in  
8 Charlotte?

9 A Hunter Woods -- in any of the longterm care  
10 facilities I was responsible for the care of all of the  
11 patients. Pretty much in Charlotte once a patient is  
12 admitted to a longterm care facility their physician  
13 renders care over to whoever the medical director is. So  
14 you're responsible for their day to day care, but also  
15 administrative work that occurs in these longterm care  
16 facilities.

17 Q And then there's the medical director of Golden Living  
18 in Charlotte from 2008 to 2015, was that similar to what we  
19 just discussed?

20 A Yes.

21 Q So you were medical director for people who were  
22 older.

23 A Correct.

24 Q And then you were the owner of Charlotte Premier  
25 Healthcare from 2001 to 2015. Is that what we talked about

CAROL RUPPE, M.D. - DIRECT

1 that you had to close the doors down because of the  
2 physical injuries you received?

3 A Yes. Being a solo practitioner I just could not do  
4 it all anymore.

5 Q And then I see here from the 2008 to 2015 you were the  
6 owner of the University Senior Healthcare. What is that?

7 A That is -- we would do the billing for Medicare at  
8 the long term care facilities through that entity.

9 Q Let me hand you a copy of the your curriculum vitae  
10 and ask you to give me -- run through here. You have a  
11 complete list of presentations, media and seminars, would  
12 you go through here and pick out a few of them that relate  
13 to the issues in this case of anemia --

14 A Diabetes?

15 Q Yes.

16 A Well, in July of 1987 to '88 I was doing talks on  
17 diabetes while I was in the Air Force. Anemia was a talk  
18 I did back in August of 1990 and that was a conference  
19 where I was teaching in the residency training program.  
20 Treatment options for hypertension which I know Ms.  
21 Gilbert had.

22 Q Well, let me stop you there. How many times, if  
23 you've got the records, have you been retained by a lawyer  
24 to give expert testimony in your area of medicine?

25 A I have reviewed approximately 144 cases, 17 of those

CAROL RUPPE, M.D. - DIRECT

1 cases were for the defense, 15 of those cases I felt the  
2 standard of care was met, and two it was not met. Of the  
3 124 cases that I have reviewed for plaintiff I found no  
4 breach in the standard of care in 45 cases, and in one  
5 case a specialist was needed, not a primary care.

6 Q So when you say in the cases where the plaintiff hired  
7 you, 40 some odd cases, how many did you say?

8 A For the plaintiff?

9 Q Yeah.

10 A 124.

11 Q All right. And how many of those did you find that  
12 the standard of care had not been violated?

13 A No breach in standard of care in 45 cases.

14 Q So 45 out of 100 and whatever?

15 A 124.

16 Q So in those you were not able to appear and testify  
17 that the defendant had done something wrong.

18 A Correct.

19 Q And have you advertised yourself as an expert and  
20 qualified as an expert in cases in North Carolina?

21 A I have.

22 Q All right. And how many times have you actually had  
23 to testify in court?

24 A This would be the seventh case, or excuse me -- yes.

25 This would be the seventh case.

## CAROL RUPPE, M.D. - DIRECT

1 Q All right. Is it a major portion of your income?

2 A Right now it is just because of closing my clinic.

3 Prior to when I had the clinic and longterm care, it was  
4 about ten percent, 11 percent of my income.

5 Q Have you had occasion to review records in this case,  
6 in the Sandra Gilbert case?

7 A I have.

8 Q And as a result of that, what are your observations  
9 about Dr. Perera's performance of his duties?

10 A As a primary care doctor, especially if we're not  
11 following our own patients anymore in the hospital  
12 setting, you have to read the discharge summary that comes  
13 back with the patient which was part of the record that  
14 Dr. Perera did obtain. And in that case there was  
15 diabetes, which needed to be controlled, there was  
16 hypertension, which needed to be under control, there was  
17 high cholesterol, which needed to be controlled with  
18 medications and/or diet. And there was microcytosis that  
19 was recorded, which is small red blood cells, and that  
20 needed to be worked up. This was a woman who was over the  
21 age of 50 who was an African-American, so definitely was  
22 due for a colonoscopy, which had not been done. And there  
23 was no explanation seen or workup done to determine if  
24 there was a reason for the microcytosis.

25 Q And when you say -- you're now referring to this

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1 lawsuit and records that you reviewed in this lawsuit.

2 A Correct.

3 Q And so you reviewed the records of the plaintiff, now  
4 deceased Sandra Gilbert.

5 A I did.

6 Q Those records included records of Dr. Perera?

7 A That is correct.

8 Q And based upon your review of those records, what did  
9 you find as far as the quality of care given by Dr. Perera  
10 to Sandra Gilbert?

11 A I did not see in writing or in the notes anywhere  
12 where primary care prevention was mentioned; mammograms,  
13 that was later on, the colonoscopy after age 50 at least,  
14 regular blood work, teaching as far as diabetes training  
15 goes, monitoring her diabetes, her sugars. None of that  
16 really was mentioned in the records, and if it's not  
17 written it's not done.

18 Q Well, if in fact there is reference in the records  
19 from time to time, or several times, about the question of  
20 whether or not -- I'm not sure how the word or how the  
21 phrase, but it signifies that a discussion was held that  
22 dealt with healthcare, and it included things like  
23 diabetes, other things, colorectal cancer, that sort of  
24 thing. If those were in the records and you just didn't  
25 see them then what would your observation be?



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1 A If they were in the records that is something that we  
2 normally would do on a routine exam is talk to the  
3 patient, counsel a patient about how are their sugars  
4 doing, what they need to do to get their sugars down, make  
5 sure they are taking their medications, getting their  
6 colonoscopy done in a timely manner, getting their  
7 mammogram done in a timely manner.

8 Q All right. And in the records that you have for right  
9 now, did you bring them with you?

10 A They're in my car trunk, the ones I have.

11 Q Well, we made need to get those. But for right now  
12 can you recall generally what those records consisted of?

13 A They were Dr. Perera's records. They were the VA  
14 records. They were records from admission and discharges  
15 from the hospital.

16 Q Do you remember what timeframe?

17 A Of the hospital records from 2010. At the end of  
18 August she was seen for her new onset diabetes even though  
19 she had had hyperglycemia before, and that was in the  
20 records. And Dr. Perera's records were the ones that did  
21 occur in September after she got out of the hospital, and  
22 then ones that was -- the next records from his office  
23 were in 2011 that I saw.

24 Q Was there ever an indication that she was diagnosed  
25 with microcytosis?

CAROL RUPPE, M.D. - DIRECT

1 A There was in 2010.

2 Q What should have been the reaction for a family  
3 practice physician when meeting the standard of care for a  
4 family practice physician when given notice of the presence  
5 of microcytosis?

6 A One, to make sure that the patient has a reason for  
7 the microcytosis, whether it be diet induced, if they're  
8 not getting enough iron in their diet. If they are  
9 premenopausal, meaning they are still having their  
10 periods, postmenopausal you really shouldn't have an iron  
11 deficiency anemia. Checking a ferritin level, which is a  
12 measurement of iron in your blood stream. Checking of  
13 serum iron that also gives you some indication as to the  
14 iron in your bloodstream. Checking hemoccult, that's  
15 where -- usually what we like to do is give three cards  
16 that you put bowel movement samples on, tell them to  
17 follow a specific diet that doesn't get a false positive  
18 reading where they bring back the stools afterwards  
19 looking for blood in the bowel movement. And making sure  
20 the patient has had their colonoscopy in a timely manner.

21 Q In observing those records and understanding the  
22 medical condition Sandra Gilbert was demonstrating at that  
23 time, what if anything did Dr. Perera do or fail to do that  
24 would have exposed unnecessarily Sandra Gilbert to  
25 colorectal cancer?

CAROL RUPPE, M.D. - DIRECT

1 A I did not see where a colonoscopy back in 2010 had  
2 been ordered, which could have been a reason for her  
3 having this microcytosis, or small red blood cells. I did  
4 not see where serum ferritin had been done, a serum iron  
5 had been done, or any workup had been done determining why  
6 she had these small red blood cells instead of normal  
7 size.

8 Q And the serum ferritin, that could have been a reason  
9 for it that would not have been colon cancer?

10 A If it is low. But colon cancer can present itself  
11 with iron deficiency anemia.

12 Q I think you listed three or four categories in  
13 addition to iron deficiency anemia, could you go back over  
14 those for me?

15 A What can cause microcytosis?

16 Q Yes.

17 A Thalassemias, where you are an inherited change in  
18 your red blood cells, but that's usually caught when  
19 you're real young, that will do what we call a hemoglobin  
20 electrophoresis, and this kind of tells you why the cells  
21 are small and what the hemoglobin is like with the small  
22 cells. Sideroblastic anemia is another type of problem  
23 with your bone marrow in making of red blood cells that  
24 can lead to having what looks like an iron deficiency  
25 anemia. Diet. Many woman hate taking iron or don't take

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1 iron or don't eat red meat, they are vegetarians and so  
2 they don't get iron for their diet. Periods. Still  
3 having your periods, still bleeding, you lose blood every  
4 month and that can lead to an iron deficiency anemia.

5 Q What is the importance of eliminating each of those as  
6 possible reasons for the condition that we have talked  
7 about?

8 A Is the risk of some type of malignancy, some type of  
9 cancer causing it being low, and in this case it's colon  
10 cancer.

11 Q So you need to eliminate these other possibilities,  
12 and what would you do to eliminate cancer as being the  
13 cause? What would you require?

14 A The hemoccult, which we talked about where you sample  
15 stool to see if there's blood in it, and also a  
16 colonoscopy.

17 Q So you believe that a colonoscopy was required in  
18 order to meet the standard of care for the family practice  
19 physician who had the responsibility for Sandra Gilbert?

20 A Yes.

21 Q Have you had a chance to see the records of the Dorn  
22 VA Medical Center where she was admitted on 10/20 of 2011  
23 and a colonoscopy was, I believe, performed and this  
24 document was generated?

25 A Correct.

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1 Q What does that -- let me -- before I do that. I mark  
2 this as an exhibit, Plaintiff's 13. If you would take a  
3 look at Plaintiff's 13, and look at the report that  
4 accompanies it and give me your observation on what that  
5 reveals.

6 A A large mass at the colon.

7 Q Would that have been something that would have been  
8 discovered at that time in the hospital?

9 A When she did the scope, yes, when they did the  
10 colonoscopy.

11 Q What is the date on that?

12 A October 24th, 2011.

13 Q And so does that clearly demonstrate and support what  
14 you had said earlier, the need back in 2010 to have the  
15 colonoscopy done?

16 A Yes. As part of the work-up for why she had a  
17 microcytosis or a mild anemia.

18 Q All right. When you're confronted with the presence  
19 of microcytosis, what action do you take?

20 A Get a ferritin. Again, it's an easy blood test that  
21 can be done, doesn't have to be fasting or otherwise.  
22 Serum iron, another one that can be done right away, it  
23 does not have to be fasting that tells me about iron  
24 levels. Depending on the age of the person, the  
25 hemoglobin electrophoresis I talked about where it can

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1 tell me if there's something funny with the normal  
2 hemoglobin, the person has something inheritable, it  
3 depends on the person's age. Check a hemoccult to see if  
4 there's any blood in the bowel movement. And if they are  
5 the appropriate age or family history I would get a  
6 colonoscopy.

7 Q And was that done in the case of Mrs. Gilbert?

8 A No.

9 MR. RAVENEL: Thank you. If you would, answer any  
10 questions that the defense has.

11 THE COURT: Mr. Beighley?

12 MR. BEIGHLEY: May it please the Court?

13 CROSS EXAMINATION

14 BY MR. BEIGHLEY:

15 Q Dr. Ruppe, in your opinion any patient should be  
16 offered a colonoscopy at the age of 50.

17 A In general, yes.

18 Q And a physician who offers a patient a colonoscopy at  
19 the age of 50 has complied with the standard of care,  
20 haven't they?

21 A If they have offered the colonoscopy?

22 Q Yes.

23 A If they've given the pros and cons, which we had  
24 talked about before, of why you're having the study done  
25 and the patient understands the possible response if they

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1 do not get it done, yes.

2 Q Okay. If they offer it and say here is what it is and  
3 it's recommended you have it, that would meet the standard  
4 of care, they understand what they are being asked to do.

5 A Yes, and documented that this was done.

6 Q And after that discussion, after it's offered then it  
7 is up to the patient whether or not they want to follow  
8 through on that opportunity.

9 A But you keep nagging them until they get it done.

10 Q Is it -- whose choice is it, Doctor? Is it your  
11 choice or the patient's?

12 A To have the test done?

13 Q Yes, ma'am.

14 A It is the ultimate choice of the patient, but as  
15 their primary care doctor it is my job to explain to them  
16 why I want the test done.

17 Q Right. And if you discuss it and explain it you would  
18 be practicing good medicine, wouldn't you?

19 A If it's discussed and explained and the patient,  
20 again, understands why you want it done, yes.

21 Q All right. And at that point whether the patient  
22 elects to accept that advice or not is their choice.

23 A Yes. It can be, yes.

24 Q I believe you told me it was absolutely appropriate  
25 during Ms. Gilbert's hospitalization for rectal bleeding in

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1 May of 2011 for Dr. Amato, her GI, to advise her of the  
2 need to follow-up after discharge for a colonoscopy.

3 A Yes, we did the deposition.

4 Q And if an appointment is made for the patient at the  
5 time of discharge from the hospital for rectal bleeding,  
6 it's the patient's job to follow through and keep that  
7 appointment.

8 A That was when she was in 2011. Yes.

9 Q Well, in this case -- that's exactly right. But in  
10 any case you would agree if a patient is hospitalized for  
11 rectal bleeding, they're under the care of a  
12 gastroenterologist and the gastroenterologist says, "You  
13 need a colonoscopy, I'm making an appointment for you," it  
14 would be the patient's duty to keep that appointment.

15 A Either there or elsewhere. I think in her case it  
16 was the VA she finally went to.

17 Q It doesn't matter who the patient is, my question is  
18 more general. If you have a patient over 50 who is  
19 hospitalized for rectal bleeding, they're seen by a  
20 gastroenterologist. The gastroenterologist says, "We need  
21 to get a colonoscopy to find out why you're bleeding, we've  
22 got an appointment, here it is." The patient then has a  
23 duty to go get that done.

24 A Yes. In general, yes.

25 Q Gastroenterologists can't go out and coral a patient



## CAROL RUPPE, M.D. - CROSS

1 and make her come to his office, can they?

2 A No. But they can send reminder letters and  
3 otherwise.

4 Q But the ultimate decision as to whether to show up or  
5 not relies with who?

6 A Well, the patient.

7 Q Now, let me show you what has been marked here in the  
8 records Defendant's 1, page 285. And if you don't mind me  
9 standing here so I can hold this and turn it for you. I  
10 will represent to you that was the Springs Hospital  
11 discharge instructions for Ms. Gilbert from the May of '11  
12 admission for rectal bleeding. Okay?

13 A Correct.

14 Q And would you look here and tell me what it says as  
15 far as scheduled appointments for follow-up after  
16 discharge?

17 A It does say June 2, 2011 at 2:00 p.m. with Dr. Amato.

18 Q All right. And then over on page 286, which is the  
19 second page of those discharge instructions, do you see --  
20 can you read the signature there of the patient?

21 A I can.

22 Q And who is that?

23 A Sandra W. Gilbert.

24 Q And can you read what it says above her signature?

25 A "I have received with the nurse, understand and have

## CAROL RUPPE, M.D. - CROSS

1 received a copy of the above instructions."

2 Q So can we agree that when Sandra Gilbert left Springs  
3 Hospital in May of 2011 she did have an appointment to go  
4 and see Dr. Amato?

5 A Correct, in 2011.

6 Q Are you aware that Ms. Gilbert did not keep that  
7 appointment with Dr. Amato?

8 A Yes.

9 Q Doctor, you were asked some questions about  
10 microcytosis. Would you expect a patient with significant  
11 microcytosis to have a normal or an abnormal blood red cell  
12 morphology?

13 A We had talked about morphology during the deposition  
14 that I had. And morphology explains what the cell looks  
15 like, and normally it would be pale looking, small, small  
16 for microcytosis.

17 Q And so when the lab assessed the sample, the red blood  
18 cell sample, would you expect them to find normal or  
19 abnormal red blood cell morphology in a patient with  
20 microcytosis?

21 A It depends on if the smear was read by a lab tech. or  
22 if it was all done by computer.

23 Q And how would that make a difference?

24 A Usually if you're looking at the slide under a  
25 microscope, kind of like we did when we were in school,

## CAROL RUPPE, M.D. - CROSS

1 you would see the difference in the cell. If it is just  
2 pale and small the computer can pick that up, but I did  
3 not see where it said if it was read by a technologist or  
4 if it was done by a computer.

5 Q So you don't know which way that was?

6 A No, I do not.

7 Q But you do know it was normal in Springs Hospital in  
8 May of '11, the morphology?

9 A The morphology, but still, there was a microcytosis.

10 Q But I'm talking about the morphology, that was  
11 reported as normal?

12 A Correct.

13 Q Now, will you agree with me, Ms. Gilbert did not have  
14 signs and symptoms of colon cancer in 2010.

15 A Colon cancer may not have signs or symptoms.

16 Q I understand and that was my next question. I think  
17 you told me you agreed that she did not have signs or  
18 symptoms, but you told me that it was a silent colon  
19 cancer, is that right, at that time?

20 A I don't know if I used the word silent or otherwise,  
21 but that she did have a microcytosis that was not  
22 explained.

23 THE COURT: All right. We need to stop right there  
24 and let the jury go out just a second.

25 MR. BEIGHLEY: Yes, sir, absolutely.

## CAROL RUPPE, M.D. - CROSS

1 THE COURT: The jury can be excused.

2 (The jury left the courtroom.)

3 THE COURT: One of the jurors appeared to be  
4 nauseated, I was alerted by the bailiff, and so that was  
5 the reason we needed to take a break. And I don't know  
6 whether raising those shades made it hot over there but it  
7 might be a good idea for somebody that knows what they're  
8 doing to lower the shades.

9 (The jury returned to the courtroom.)

10 THE COURT: Thank you, ladies and gentlemen. That's  
11 the way it's supposed to work, and, in fact, it takes -- if  
12 anybody needs to go out immediately, do whatever you need  
13 to do to get our attention, all right, as quick as we can.  
14 Thank you for your patience, and I think we are ready to  
15 proceed. Mr. Beighley?

16 CONTINUED CROSS EXAMINATION

17 BY MR. BEIGHLEY:

18 Q Doctor, when we had taken the recess I had asked, you  
19 hadn't recalled describing this colon cancer as a silent  
20 colon cancer so I wanted to ask you to look at your  
21 deposition --

22 A All right.

23 Q -- if you would.

24 A What page were you looking at?

25 Q If you would please turn to page 33, and tell me when

## CAROL RUPPE, M.D. - CROSS

1 you're there.

2 A I believe I'm there.

3 Q Okay. Great. If you would look at line four.

4 Question, "Would you agree in her case, in fact, that at  
5 least in 2010 it was silent, referring back to her colon  
6 cancer?"

7 A Right. Put into context, yes.

8 Q And your answer at that time was?

9 A "She didn't have any symptoms, the colon cancer can  
10 also be silent.

11 Q And then -- I think you were reading line two and  
12 three but just -- let me just read four and five and then  
13 you can read six to put it in the right context if you  
14 would. Question, "Would you agree in her case, in fact,  
15 that at least in 2010 it was silent?" And then your  
16 answer?

17 A "2010, yes."

18 Q Thank you. You mentioned that there were a number of  
19 tests that you testified that Dr. Perera should have done  
20 on this patient in view of the finding of microcytosis. If  
21 those tests had been required, why weren't they done when  
22 she was in the hospital in August by her attending  
23 physician at that time?

24 A In 2010?

25 Q Yes.

## CAROL RUPPE, M.D. - CROSS

1 A Okay. They were looking at her more for her new  
2 onset diabetes, she had had hyperglycemia prior to. But  
3 they were more worried about her having the high blood  
4 sugar and were going after what was an acute problem at  
5 that time and then turning things back over to her primary  
6 care, and that's why it's important that we read the  
7 discharge summaries.

8 Q Did you read the discharge summary and note that  
9 microcytosis was not even listed on the discharge summary?

10 A Correct. But what was listed was the labs that she  
11 had done while she was there.

12 Q And they did nothing to pursue the finding of  
13 microcytosis while she was admitted.

14 A They did not, but they were taking care of the  
15 emergent problem at that time.

16 Q Did you have any criticism of them for taking care of  
17 the emergent problem at that time?

18 A No.

19 Q Doctor, would you agree with me that the patient has  
20 the ultimate right to decline to discuss preventative  
21 healthcare if they so desire?

22 A In general, yes.

23 Q If they don't want to talk about it they don't have  
24 to, do they?

25 A No. But it's our job to try to let them know the

## CAROL RUPPE, M.D. - CROSS

1 pros and cons of getting preventative care done as primary  
2 cares.

3 Q And even if they do listen and you tell them, they  
4 don't have to follow those recommendations, do they?

5 A In general, no.

6 Q In the end the patient still has -- even in this day  
7 and time has the right to manage their own healthcare  
8 decisions?

9 A If they're competent, yes.

10 Q Doctor, as I understand it you operate a separate  
11 business organization known as Mountainview Medical  
12 Services that manages your activities as an expert witness.  
13 Are you still running that business?

14 A Correct.

15 Q And you've been an expert I believe you testified, or  
16 you may not have, for about ten years?

17 A Since 2005.

18 Q So ten years if my math is right. You review about  
19 one new case a month for lawyers?

20 A It ebbs and flows, I never know what's coming in. I  
21 get a phone call, "Would you look at a case?" And I'll do  
22 it if I have the time, yes.

23 Q And I think at the time we took your deposition, which  
24 was --

25 A April, I believe.

## CAROL RUPPE, M.D. - CROSS

1 Q April of this year, right?

2 A Correct.

3 Q At that time you had reviewed about 133 cases, and I  
4 think you told me now you're at 144?

5 A That's correct.

6 Q And you've been registered as an expert with an  
7 organization known as Seak, S-e-a-k?

8 A Correct.

9 Q And I think you described that sort of the as a Yellow  
10 Pages for expert witnesses?

11 A That's true, any kind of expert, whether it be an  
12 architect, an engineer or a physician.

13 Q And you pay to advertise in their directory so people  
14 can find you?

15 A That's correct.

16 Q And you've been listed in the past with similar  
17 organizations known as ALM and also Jurispro?

18 A Correct.

19 Q And I believe when I counted up the states, you've  
20 viewed cases from approximately 22 different states, is  
21 that fairly accurate?

22 A Correct.

23 MR. BEIGHLEY: Thank you. I have no further  
24 questions, Your Honor.

25 THE COURT: Mr. Boulrier?



## CAROL RUPPE, M.D. - CROSS

1 MR. BOULIER: Thank you, Your Honor.

2 CROSS EXAMINATION

3 BY MR. BOULIER:

4 Q Good afternoon, Dr. Ruppe. Of course we met, I guess,  
5 about four months ago at your deposition, correct?

6 A That's correct.

7 Q I want to ask you a few questions this afternoon. Mr.  
8 Beighley was asking you some questions about your work and  
9 your history as an expert witness, and I think one of the  
10 things we didn't discuss -- and this is understandable, as  
11 an expert you certainly expect to be paid for your time,  
12 right?

13 A That's correct.

14 Q My understanding is you charge the sum of \$400 per  
15 hour just to review a case for an attorney; is that  
16 correct?

17 A That's correct.

18 Q And you also charge \$600 an hour to come into a  
19 courtroom and testify, correct?

20 A Correct.

21 Q So you'll review a case for a lawyer for \$400 an hour,  
22 right?

23 A Correct.

24 Q But to come in and give sworn testimony you want an  
25 additional \$200 an hour, and you get paid \$600 per hour,

## CAROL RUPPE, M.D. - CROSS

1 correct?

2 A Yes.

3 Q Now, you had, at the time of our deposition, and we  
4 took your deposition on April 9th of 2015, correct? And  
5 you can check the date if you need to.

6 A I know it was April 2015. Yes.

7 Q At that point I think your testimony was you had  
8 reviewed 133 cases, correct?

9 A That's correct.

10 Q And if I understood the statistics you keep about your  
11 history as an expert and your answers to Mr. Ravenel's  
12 questions, as of today some four and a half months later,  
13 you've now reviewed 144 cases, correct?

14 A That's correct.

15 Q So you've reviewed another 11 cases in the past four  
16 months.

17 A Yes.

18 Q As Mr. Beighley asked you, you use these services and  
19 you advertise your name as an expert witness, don't you?

20 A I do.

21 Q And you are seeking to get work for attorneys in doing  
22 that, aren't you?

23 A Right, to give my --

24 Q You're using the Yellow Pages, correct?

25 A Correct, to give my objective opinion.

## CAROL RUPPE, M.D. - CROSS

1 Q And some of the states you've been to, of course, you  
2 have been to South Carolina, been to North Carolina, New  
3 York.

4 A Well, in the state itself or do you mean --

5 Q Or reviewed a case involving the care in a state.  
6 You've reviewed cases involving care in New York?

7 A Correct.

8 Q Tennessee?

9 A Yes.

10 Q Texas?

11 A Yes.

12 Q Virginia?

13 A Correct.

14 Q West Virginia?

15 A Yes.

16 Q Pennsylvania?

17 A Correct.

18 Q New Jersey?

19 A Yes.

20 Q District of Columbia?

21 A Correct.

22 Q Kansas?

23 A Yes.

24 Q Arizona?

25 A Yes.

## CAROL RUPPE, M.D. - CROSS

1 Q And Arkansas?

2 A Yes.

3 Q And that was 13 I counted, we don't need to go over  
4 the other nine. But you have been well traveled as an  
5 expert, haven't you?

6 A By records, not in person.

7 Q And you keep statistics on the cases you've had and  
8 you've now reviewed a total of 144 cases. I think you told  
9 Mr. Ravenel during his examination of you that 125 of the  
10 144 cases you've reviewed have been on behalf of a  
11 plaintiff, a patient or the patient's attorney, correct?

12 A It's 124.

13 Q 124. I'm sorry, I was off by one. And so of the 144  
14 cases you've reviewed, 124 have been on behalf of a  
15 patient. If my math is right that's about 80 percent that  
16 you review on behalf of plaintiffs, correct?

17 A Correct.

18 Q And I couldn't hear this answer quite clearly, I want  
19 to make sure my notes are right, but I think I thought I  
20 understood you to say of the 125 cases you've reviewed for  
21 a plaintiff's attorney such as Mr. Ravenel, in 45 of those  
22 cases you found no breach from the standard of care.

23 A It was 124 cases that I reviewed for the plaintiff, I  
24 found no breach of standard of care in 45 cases.

25 Q So if my math is right, that means in 84 cases

## CAROL RUPPE, M.D. - CROSS

1 you found -- or 80 cases you found a breach of the standard  
2 of care?

3 A Seventy-nine. There was one case that required a  
4 specialist and not a primary care.

5 Q Thanks for helping me with my math. So 79 out of 124  
6 cases you review for a plaintiff's attorney you found a  
7 breach from the standard of care.

8 A Correct.

9 Q So two-thirds of the time your batting average is you  
10 find a breach in the standard of care, don't you?

11 A I do.

12 Q And the fact is you know from your experience of  
13 having reviewed over 144 cases over the past ten years, you  
14 know that if you find a breach in the standard of care you  
15 get to continue billing at your hourly rate, don't you?

16 A Well again, objectively I look at the records and  
17 determine.

18 Q Now, let's talk a little bit about your work as an  
19 expert witness in this case. When we took your deposition  
20 four months ago I think we asked you on that date, did we  
21 not, have you reviewed all of the records and all of the  
22 information you needed in order to give Mr. Beighley and me  
23 a complete opinion so we would understand the criticisms  
24 you had against our clients, correct?

25 A Correct.

## CAROL RUPPE, M.D. - CROSS

- 1 Q And you told us you had reviewed all of the records as  
2 of that date that you needed to in order to render fair  
3 opinions about the care provided by Dr. Perera, didn't you?
- 4 A I did, but stated that if any other records became  
5 available that, you know, opinions could change.
- 6 Q I understand that. But we asked you did you feel like  
7 you had reviewed all of the records you needed in order to  
8 give us complete opinions that day, didn't we?
- 9 A I did.
- 10 Q And you told us you had, didn't you?
- 11 A Correct.
- 12 Q And don't you agree, Dr. Ruppe, that if you're going  
13 to come in here and give testimonies that a colleague in  
14 your profession made mistakes that caused the death of a  
15 patient, you need to review the complete record and you  
16 need to have the whole picture before you give opinions  
17 about him as a professional?
- 18 A What is available, yes.
- 19 Q That's right, whatever is available by way of  
20 depositions, medical records, in fairness you should review  
21 it all before you come in here and give opinions about this  
22 man as a professional, shouldn't you?
- 23 A Yes.
- 24 Q Did you do that in this case?
- 25 A Yes.

## CAROL RUPPE, M.D. - CROSS

1 Q Well, let's talk about that.

2 A At that time those were the records that I had.

3 Q I want to ask you about the records you had as of  
4 April 9th, 2015 when you told Mr. Beighley and me you had  
5 everything you needed to give us opinions about the care of  
6 our clients. You had no CareNet records before 2010, did  
7 you?

8 A No.

9 Q Okay. So you hadn't reviewed any of the care that Dr.  
10 Perera provided to Ms. Gilbert before 2010 when you came in  
11 and gave opinions that he breached the standard of care and  
12 caused the death of a patient.

13 A At that time, no.

14 Q And so -- and I think the record is clear, the only  
15 time he saw her in 2010 was September 1st of 2010, correct?

16 A Correct.

17 Q So you never saw any of the visits, any of  
18 discussions, any of the information he had about his care  
19 of his patient prior to that date when you gave those  
20 opinions in this case.

21 A At that time, no.

22 Q And you had none of the 2010 hospital records on that  
23 date, did you?

24 A Not the full records. I had the discharge summary if  
25 I remember correctly.

## CAROL RUPPE, M.D. - CROSS

1 Q Well, the discharge summary is part of the CareNet  
2 records, right?

3 A Correct.

4 Q You didn't have any of the 2010 hospital records, did  
5 you?

6 A Not of the discharge summary that came to me.

7 Q Other than the discharge summary that was in the  
8 CareNet records, you didn't review any records from Springs  
9 Memorial Hospital from that August of 2010 hospitalization,  
10 did you?

11 A Not to my knowledge, no.

12 Q You only reviewed a portion, Dr. Ruppe, of the records  
13 from the May of 2011 hospitalization, correct?

14 A Correct.

15 Q You didn't review anything about -- you never reviewed  
16 that discharge plan you reviewed today when Mr. Beighley  
17 was questioning you, did you?

18 A Not to my knowledge, no, sir.

19 Q Because I think when we took your deposition you  
20 didn't know what the follow-up care was with Dr. Amato, did  
21 you?

22 A No.

23 Q And you didn't review any records as of May of 2011,  
24 did you?

25 A Just what I saw at the VA later on.



## CAROL RUPPE, M.D. - CROSS

1 Q As of the date of your deposition, April 9th of 2015  
2 when we took your deposition under oath so we could  
3 understand what you were going to say about your client in  
4 a courtroom, had you read any records after May of 2011?

5 A At that time, no.

6 Q And, in fact, I asked you for your understanding on  
7 that date, Dr. Ruppe, of Mr. Gilbert's medical history,  
8 didn't I, so you could give me an overview of what you  
9 understood about what had happened to her, didn't I?

10 A Yes.

11 Q And you told me on that date that it was your  
12 understanding she had been diagnosed with a peptic ulcer  
13 during her May 2011 hospitalization, didn't you?

14 A I think I did, yes.

15 Q And that was wrong, wasn't it?

16 A Yes.

17 Q So the records you had, you didn't review them all  
18 accurately, did you?

19 A I think I read it as gastritis with peptic ulcer  
20 disease.

21 Q That's not in the record, is it?

22 A No.

23 Q And Dr. Amato, you were sitting in here today when his  
24 video deposition was played, weren't you? You've been here  
25 all day today, correct?

## CAROL RUPPE, M.D. - CROSS

1 A Pretty much all day.

2 Q You heard his testimony, did you not?

3 A I did, and I read his deposition.

4 Q And he testified there was no peptic ulcer, didn't he?

5 A Yes.

6 Q But in your deposition under oath four months ago when  
7 we took your deposition, you told us she was diagnosed with  
8 a peptic ulcer in May of 2011, didn't you?

9 A That I would have to look at my deposition.

10 Q Okay. Well, let me help you with that. If you would  
11 turn to page 45, actually flip over to 44. Just let me  
12 know when you get there.

13 A I'm there.

14 Q All right. If you will look at line 22 on page 44,  
15 and I think this is when I was asking you questions during  
16 the deposition. I said, "If you would walk me through what  
17 your understanding is of her history and course of  
18 treatment." And your answer -- and I'll read it and you  
19 let me know if I say anything wrong. You said, "Basically  
20 Ms. Gilbert was a 52 year old female, history of new onset  
21 diabetes, at one point hypertension and hyperlipidemia, who  
22 did go into the hospital in 2011, was found to have peptic  
23 ulcer and anemia," correct?

24 A Correct.

25 Q Now, Dr. Ruppe, when you were deposed earlier in this

## CAROL RUPPE, M.D. - CROSS

1 case you didn't know what Dr. Amato's plan of care was,  
2 we've already agreed on that, correct?

3 A At that time, no.

4 Q Okay. And you would agree that it was absolutely  
5 appropriate for Dr. Amato to order a colonoscopy based on  
6 the findings that he had from the May of 2011  
7 hospitalization.

8 A Correct.

9 Q And you would agree that if Dr. Amato scheduled an  
10 appointment with Ms. Gilbert and sat down and explained to  
11 her, "We've done one test, we found no explanation for the  
12 bleeding, we need to run another test, a colonoscopy to try  
13 to explain the bleeding and it could be caused by a number  
14 of different things, one of which is colon cancer," you  
15 would agree if you had that discussion with Ms. Gilbert and  
16 he scheduled a follow-up appointment, it was then Ms.  
17 Gilbert's job to follow through with that appointment,  
18 wasn't it?

19 A In 2011, yes.

20 Q It was her job, correct?

21 A Yes.

22 Q Her responsibility. And you would agree that she was  
23 obligated to follow through on that, correct?

24 A Yes.

25 Q And you would agree with me, wouldn't you, that in

## CAROL RUPPE, M.D. - CROSS

1 your experience it's not unusual for patients who hit the  
2 magical age of 50, they often defer their screening  
3 colonoscopies for a year or two, don't they?

4 A Yes, we discussed that in my deposition.

5 Q We sure did. And you agree with that still, don't  
6 you?

7 A Yes, I do, unless there is a reason.

8 Q Right. And that leads me to my last question for you.  
9 You would agree with me that if there was a reason, such as  
10 rectal bleeding, in your experience a patient who has  
11 rectal bleeding and needs a colonoscopy, it would be  
12 unusual and strange for that patient not to follow through  
13 and get the colonoscopy as recommended by their doctor,  
14 correct?

15 A Correct. We talked about that in my deposition, too.

16 Q We did.

17 MR. BOULIER: Thank you, ma'am.

18 THE COURT: Mr. Ravenel?

19 REDIRECT EXAMINATION

20 BY MR. RAVENEL:

21 Q Doctor, in fact, did Mrs. Gilbert go to the Veterans  
22 Administrative Hospital and seek treatment for that very  
23 condition that you've just been asked about?

24 A Yes.

25 Q And in August of 2010, didn't Vito Badalamenti produce

## CAROL RUPPE, M.D. - REDIRECT

1 a report in which it was found among other things new onset  
2 diabetes mellitus, hypokalemia, hypertension and  
3 microcytosis was present?

4 MR. BEIGHLEY: Your Honor, I would object, he's  
5 leading the witness at this point.

6 THE COURT: Rephrase your question.

7 A There was microcytosis on there I know.

8 Q Let me hand you a document that is entitled history  
9 and physical and -- yes, history and physical. It's dated  
10 August the 29th of 2010, and it's dictated by Vito  
11 Badalamenti, and ask if you could refer to the portion of  
12 that that deals with the diagnosis that was made by Dr.  
13 Badalamenti?

14 A She came in with the chief complaint of blurred  
15 vision, dried mouth, urinating, weight loss. And then  
16 assessment by Dr. Badalamenti, if that's how it's  
17 pronounced, was new onset diabetes mellitus, hypokalemia,  
18 which is low potassium, hypertension and microcytosis.

19 Q And did you rely upon that report when you issued a  
20 report to me?

21 A This, plus the lab work.

22 Q Plus the lab work. And what is it about the  
23 microcytosis that would cause you concern about whether or  
24 not Dr. Perera had followed up on that in a timely fashion?

25 A Her age, her being African-American, her not having

## CAROL RUPPE, M.D. - REDIRECT

1 had a colonoscopy to the best of my knowledge, and her  
2 being postmenopausal.

3 Q Is microcytosis -- what could it conclude as far as  
4 the dangers to the person who has the microcytosis?

5 A Again, iron deficiency is a biggie and that's why we  
6 checked the blood work for iron deficiency. But again,  
7 you're losing blood from somewhere, and the most likely  
8 place to lose blood after not having periods anymore is  
9 through the gut.

10 Q And is your criticism of Dr. Perera related to his  
11 failure to follow-up on that information?

12 A Yes.

13 Q And that was the basis for your finding that he had  
14 failed to meet the standard of care that is required of  
15 family practitioners; is that correct?

16 MR. BEIGHLEY: Your Honor, objection, he keeps leading  
17 his own witness.

18 THE COURT: Rephrase your question. She can give her  
19 opinion but don't ask it in a leading way.

20 Q What is your opinion of the conduct that's represented  
21 by the information that was provided to Dr. Perera in the  
22 record that you have before you in August of 2010?

23 A Was that Ms. Gilbert was a 52 year old at that time  
24 African-American who was, of course, postmenopausal, who  
25 had microcytosis, and that no workup was done for the

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1 microcytosis emergently in the hospital, which is  
2 expected. But having received the paperwork that he had  
3 he knew that microcytosis did exist and that a work-up  
4 should be done to rule out something like a malignancy.

5 Q And is it your understanding that that was not done?

6 A That's my understanding in 2010.

7 Q And is the failure to do that evidence that satisfies  
8 you-- allows you to reach an opinion as to the negligence  
9 of the physician?

10 A Yes.

11 Q And what is your opinion about the negligence of the  
12 physician in failing to follow-up --

13 MR. BEIGHLEY: Objection, Your Honor, asked and  
14 answered, this is not proper redirect.

15 THE COURT: Overruled. She can answer the question.

16 A That -- can you ask it again, please?

17 Q What is your opinion as an expert witness in family  
18 practice about the conduct of Dr. Perera in failing to  
19 follow-up on the notice that this lady had microcytosis and  
20 the other elements that are set out in that report that I  
21 just handed to you?

22 A All right. Basically he deviated from the standard  
23 of care by not following up the microcytosis by a woman  
24 who is postmenopausal, had not had a colonoscopy.

25 Q And microcytosis could be a sign of what?

## CAROL RUPPE, M.D. - REDIRECT

1 A Of a malignancy.

2 Q And did she ultimately have a malignancy?

3 A Yes.

4 MR. RAVENEL: Thank you.

5 THE COURT: All right. You can step down, Dr. Ruppe.

6 Thank you. Ladies and gentlemen of the jury, what I would  
7 like to do is go until around 5:30, so the plaintiff is  
8 going to call another witness. We will go as long as we  
9 can with that witness until 5:30, may not finish with that  
10 witness, but we're not in a hurry with the case, but I do  
11 intend to give you some sort of light at the end of the  
12 tunnel this afternoon and we will try to go until around  
13 5:30. Mr. Ravenel, call your next witness.

14 MR. ASBILL: Your Honor, the plaintiff calls Stewart  
15 Barre to the stand.

16 The witness, STEWART BARRE, M.D. was first duly sworn

17 And testified as follows:

18 DIRECT EXAMINATION

19 BY MR. ASBILL:

20 Q Dr. Barre, you are currently the CEO, chief executive  
21 officer, of CareNet, are you not?

22 A I am.

23 Q And in addition to being the CEO you've also practiced  
24 with a family physician with CareNet, correct?

25 A I have.



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1 Q Is it your opinion today that Dr. Perera's care  
2 rendered as a physician and employee of CareNet was  
3 appropriate under the circumstances, correct?

4 A It is.

5 Q And just clarify, you yourself never provided medical  
6 treatment to Sandra Gilbert while she was at CareNet, did  
7 you?

8 A I did not.

9 Q So to the extent you're offering an opinion today,  
10 your opinion is based solely on the review of the medical  
11 records in this case.

12 A That's correct.

13 Q And you have reviewed all of the CareNet records that  
14 are contained in Defendant's Exhibit Number 2, which I will  
15 hand you for your review.

16 A I've been through this many times, I believe the  
17 answer to your question is yes.

18 Q Can you indicate anywhere in those medical records  
19 where it says a colonoscopy discussion was held with Ms.  
20 Gilbert while she was at CareNet?

21 A Yes, right there.

22 Q All right. And can you indicate anywhere in there it  
23 says colonoscopies?

24 A Where it reads discussed preventative exam.

25 Q But colonoscopies are not referenced in there

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1 anywhere.

2 A Yes, they are. Discussed preventative exam means  
3 colonoscopy in a patient of this age.

4 Q Right. But you weren't there in the room with Ms.  
5 Gilbert when that examination was made, correct?

6 A Of course not.

7 Q So how are you aware what was included in the  
8 preventative exam discussion?

9 A Because I practice the same kind of medicine and when  
10 this is written this is what it means to me.

11 Q That's what it means to you.

12 A That's what it means to any primary care physician.

13 Q Well, would you refer with me CareNet -- I'm not sure  
14 in there are bates marked. Yes. The records from July 5th  
15 of 2011.

16 A Give me one second, please, just confirming I have  
17 the right page.

18 Q Yes.

19 A I've got it.

20 Q That is a medical record from July 5th of 2011, is it  
21 not?

22 A It is.

23 Q And does that contain a discussion on preventative  
24 exams?

25 A It does.

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1 Q Does that contain notes as to what was discussed in  
2 the preventative exam?

3 A It does.

4 Q What does it say?

5 A It reads -- and I'm starting with number three,  
6 "Preventative healthcare briefly discussed including  
7 alcohol and tobacco cessation, as well as under planning,  
8 "encouraged pap smear and breast exams, et cetera."

9 Q No mention of colonoscopies in there.

10 A That is the et cetera.

11 Q Well, why would it spell out mammograms and pap smears  
12 and not colonoscopies?

13 A Respectfully as an attorney, have you ever used the  
14 language including but not limited to?

15 Q Well, I believe there was testimony earlier in this  
16 courtroom today that preventative exam discussions included  
17 pap smears, mammograms and colonoscopies.

18 A That's not it, that's not everything that is included  
19 in preventative health. I agree, you are right, that was  
20 said earlier during the day, yes.

21 Q So do you have an opinion as to why that would list  
22 out paps smears and mammograms but leave colonoscopies  
23 completely out of the discussion?

24 A I don't have an opinion about it. But I do want to  
25 stress that when a primary care provider, whether it's Dr.

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1 Perera or somebody else, says that he or she discussed  
2 preventive healthcare, that's preventive healthcare that's  
3 age appropriate.

4 Q Is it the protocol at CareNet for if a procure is  
5 offered to a patient and the patient expressly refuses it  
6 to make a notation in the records that the procedure was  
7 refused?

8 A Not necessarily.

9 Q So how is a patient or a physician going back and  
10 looking at the records afterwards supposed to determine  
11 what was offered?

12 A It depends. You have to be a little more specific if  
13 you don't mind.

14 Q Are you familiar with the mantra, I believe, that's  
15 been discussed twice earlier in this case that if it's not  
16 in the records it didn't happen?

17 A I think that's nonsense, but I've heard it said.

18 Q But I just want to clarify, there's nowhere in the  
19 medical records whatsoever where colonoscopies are  
20 discussed with Ms. Gilbert in those documents before you  
21 today.

22 A The way that you're asking the question I would have  
23 to disagree with you. If you're asking me if the word  
24 colonoscopy appears on certain pages that you select, then  
25 maybe so. But was the topic covered based on what's

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1 written here? I would say yes. If he came back to me and  
2 told me that he had discussed it, I'm not saying that he  
3 did, I'm saying if any provider came back and said, "I  
4 wrote preventative exam discussed and said yes, that  
5 included colonoscopy, yes it included breast exams, you  
6 know, or a mammogram or a pap smear," then sure.

7 Q Do you share in the medical opinion that colonoscopies  
8 are a preventative maintenance procedure that should be  
9 ordered when a patient turns 50 years of age?

10 A Yes.

11 Q And again, a colonoscopy referral was never made from  
12 CareNet when Ms. Gilbert turned 50 years of age, correct?

13 A I don't know that.

14 Q Can you look in those records and indicate if a  
15 colonoscopy referral was made from CareNet when she turned  
16 50, 51 or 52 years of age?

17 A I can't look in these records and tell you it wasn't.

18 Q But you've reviewed those records in forming your  
19 opinion today, correct?

20 A I have.

21 Q So do you remember seeing anything there referencing a  
22 colonoscopy referral?

23 A We can go back to the same note, it's the same thing.  
24 We discussed preventative exam. When somebody says  
25 preventative exam discussed, that means certain things at

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1 a certain age.

2 Q Would you agree with me that there's a difference  
3 between having a discussion, making a formal  
4 recommendation, the difference between saying you might  
5 want to have this done and you need to have this done?

6 A Not really.

7 Q So you don't believe there's a difference between a  
8 discussion and making a formal recommendation, "You need to  
9 have a colonoscopy?"

10 A How would you define formal recommendation?

11 Q Telling someone they need to have, using those  
12 affirmative words as opposed to might want.

13 A When you discuss preventative medicine for a 50 year  
14 old person you would say "You need to have a colonoscopy."

15 Q Okay. So if you say you need to have a colonoscopy  
16 and are ready to make a referral and they say no, you don't  
17 put any of that in the CareNet records?

18 A Well, we're going to have two different conversations  
19 right now because we're talking about what happened in  
20 2008 and how things happen today, and honestly, healthcare  
21 has gotten a lot better with electronic medical records.  
22 We are able to document things and a lot of this stuff  
23 that you're asking me is easier to document and keep track  
24 of. Back then, if he had made a referral to -- for the  
25 patient to have a colonoscopy, it would have been a

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1 separate piece of paper. That separate piece of paper is  
2 not something that would be tracked, it would be a  
3 reminder for somebody to make a phone call to put somebody  
4 on the list.

5 Q All right. Is any of that in the record before you?

6 A No.

7 Q Let's clarify right now, do you know how many  
8 instances in those medical records preventative healthcare  
9 was discussed?

10 A I don't. We can count right now if you want to.

11 Q Are you familiar right now after your review of the  
12 records how many times preventative healthcare has been  
13 discussed in those medical records?

14 A I just answered that.

15 Q If I told you they had been discussed on February 1st  
16 of 2008, would you dispute that?

17 A That preventative healthcare had been discussed on  
18 February 1st of 2008? That sounds right.

19 Q If I told you preventative healthcare was discussed on  
20 September 1st of 2010, would you dispute that?

21 A Let me take a look if you don't mind. In that case I  
22 would dispute it.

23 Q What do the medical records say from September 1st of  
24 2010?

25 A I'm looking at the transcribed note from September

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1 1st, 2010 and beginning reading at number two under plan,  
2 which reads as follows: "Preventative healthcare. Since  
3 patient is not in any mood to listen to brief talks we  
4 will postpone preventative healthcare discussion until  
5 next appointment, return to clinic in six months."

6 Q And there was also a visit on July 5th of 2011 that  
7 we've already discussed in which preventative healthcare  
8 was discussed, correct?

9 A Right.

10 Q So that's a three and a half year span, from February  
11 1st of 2008 until July 5th of 2011, correct?

12 A Okay.

13 Q That's a long span to be discussing preventative  
14 healthcare without making a referral, correct?

15 A You're suggesting a referral wasn't made and I can't  
16 tell you that it wasn't.

17 Q There's only 77 pages in the record before you. Have  
18 you not reviewed those in preparation for your testimony  
19 today?

20 A I have reviewed them, and the referral, the page  
21 you're looking for is not in here that says patient go to  
22 have a colonoscopy. The discussion is there. When the  
23 patient checks out at the window there is a verbal  
24 conversation that occurs and they set up a colonoscopy  
25 appointment.



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1 Q But there's no colonoscopy in those records before you  
2 today, which is the full set of CareNet records for Ms.  
3 Gilbert, correct?

4 A Not in the sense that you're asking for it.

5 Q Can you clarify that answer?

6 A Yeah. Because you're asking for a piece of paper and  
7 it didn't happen like that and it doesn't happen like  
8 that. And what happened was a conversation wherein the  
9 provider did what he was supposed to do, he made the  
10 patient aware of what was necessary at this point in her  
11 life. In this case, "Hey, you're turning 50 this year,  
12 you're going to need a colonoscopy, you're going to need a  
13 mammogram, you're going to need the following things,  
14 we'll set that up for you. Talk to the people at the  
15 front desk."

16 Q So CareNet as a protocol doesn't keep records of  
17 procedures that are discussed and denied for future  
18 reference, that's as a CareNet protocol?

19 A That is not a CareNet protocol.

20 Q Okay. It's all verbal.

21 A I didn't say that either.

22 Q I believe you said earlier there's nothing in the  
23 records that would have any indication of what was  
24 discussed at these checkout discussions.

25 A I understand. But the way that you're asking the

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1 question is limiting it to a certain way that's not  
2 acceptable. So in order for me to give you a fair answer,  
3 you're saying it's always this way or is it never that  
4 way, and the answer to your question is -- correct me if  
5 I'm misspeaking here, but you're asking does CareNet have  
6 a protocol that says we do not record when a patient  
7 denies something.

8 Q I'm asking if that's the CareNet protocol for when a  
9 formal referral is offered if the patient denies it to have  
10 a notation in the record?

11 A Right. Back then there was no such protocol in  
12 place.

13 Q Is that the protocol nowadays?

14 A Nowadays it's not a written protocol but it ends up  
15 getting recorded anyway because it's electronic.

16 Q Okay.

17 A I hope I answered your question right, I didn't mean  
18 to get you off track if that's what I did.

19 Q One of the questions, just to clarify, you're offering  
20 an opinion today on the standard of care that Dr. Perera  
21 provided to Ms. Gilbert, correct? Is that a yes?

22 A I am.

23 Q And you never examined Ms. Gilbert so your opinion is  
24 based solely on a review of medical records.

25 A The same as the other witnesses who've testified,

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1 yes.

2 Q Right. And I just want to make sure, you weren't  
3 there in the room when the preventative health discussion  
4 occurred, so all you can do is look at the records, the  
5 same records I've looked at, the same records everybody has  
6 looked at.

7 THE COURT: This has been asked and answer, let's move  
8 on.

9 THE WITNESS: And, Your Honor --

10 THE COURT: Don't ask any questions.

11 Q Dr. Perera was an employee at CareNet at all times in  
12 which he was treating Ms. Gilbert, correct?

13 A Yes, he was.

14 Q And Ms. Gilbert wasn't treated by any other physicians  
15 at CareNet; is that correct?

16 A That's not true.

17 Q Who was she treated by?

18 A Dr. Silva.

19 Q And what was Dr. Silva's interaction with Ms. Gilbert?

20 A She saw Ms. Gilbert on one occasion, I believe.

21 Q Just to clarify, what was substance of that  
22 interaction?

23 A I think it was a regular visit for refill of  
24 medications if I recall. Do you mind if I look it up real  
25 quick just to make sure?

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1 Q Yes.

2 A Oh, no. This is -- yeah, chief complaint is refill  
3 medications. It's on May 22nd of 2010.

4 Q But that's the only other instance where Ms. Gilbert  
5 had any interactions with an employee of CareNet other than  
6 Dr. Perera, a physician at CareNet other than Dr. Perera.

7 A I think so.

8 Q Okay. So to the extent we are discussing what  
9 happened during these preventative healthcare discussions  
10 at CareNet, the only person alive today who really knows  
11 what happened in those discussions is the defendant, Dr.  
12 Perera, correct?

13 A The only person who knows what was actually said in  
14 the room is Dr. Perera, that's true.

15 Q And would you agree with me that the need to have a  
16 colonoscopy at 50 gets more severe as you get older? In  
17 other words, the need at 52 is higher than it is at 50.

18 A Not based on any data, that seems right.

19 Q So you think as a patient gets older if they haven't  
20 had a colonoscopy the need doesn't increase?

21 A I'm not saying -- it's not based on any data but what  
22 you're saying seems right.

23 Q Just that if you're 50, you've come up in age where  
24 you now need to have a colonoscopy to check for basically  
25 preventative screening of potential complications and that

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1 gets worse as you get older, correct, the need increases?

2 A Again, I can't provide you with any statistic and I  
3 don't even know that it exists, I'm just saying logically  
4 that seems correct. It seems if you didn't have your  
5 colonoscopy done at 50 you're taking a chance that  
6 something has gone undiagnosed, and when you're at 52 then  
7 it seems like your risk would be a little bit higher.

8 Q Okay. So when Ms. Gilbert was 52 years of age in July  
9 of 2011 and she came and visited Dr. Perera and this was  
10 after she had been diagnosed with significant anemia would  
11 you say the need was higher during that visit than of the  
12 February 1st of 2008 visit?

13 A I think it's important to get done.

14 Q Right. And the referral wasn't made by CareNet,  
15 correct?

16 A I think we read his comment that preventative  
17 healthcare --

18 Q It says discussions, it doesn't say referral.

19 A I understand that. But I think we read that, if  
20 we're talking about the same visit, we're talking about the  
21 visit where he said the conversation was going to be  
22 deferred; is that correct?

23 Q Well, it doesn't matter for any of the three visits  
24 then; July 5th of 2011, February 1st of 2008 or September  
25 1st of 2010, there's no mention of a referral.

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1 A Okay. But there's no documentation that there's not  
2 either.

3 Q Well, that's true. There's nothing in the record one  
4 way or the other, correct? The records are barren as to  
5 what was actually discussed during preventative exam  
6 session.

7 A Well, that's absolutely not true..

8 Q Well, what's in the records that I haven't discussed  
9 with you?

10 THE COURT: Let's move on. We've been over all of  
11 this before, so let's move on to another area.

12 MR. ASBILL: Okay.

13 Q Do you believe the standard of care was followed in  
14 this case with regards to not making a referral for a  
15 colonoscopy, which is a normal opinion in this case today?

16 A I'm sorry to split hairs but I don't agree with the  
17 end of your statement that says that he didn't make a  
18 referral for a colonoscopy. Answering your statement in  
19 the affirmative would be acknowledging that that's true, I  
20 disagree with what you're saying.

21 Q Based on the records before you today there's nothing  
22 that indicates a referral was made, is that not true?

23 A There's nothing that indicates that a referral wasn't  
24 made. And I have been trying to share with you how the  
25 practice operates, and there is a difference between --

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1 and you have asked me a couple of times -- is my sole  
2 ability to interpret the points of this case based on this  
3 record, but the answer to that is no. Because the other  
4 people who testified, they didn't work there and I did,  
5 and so I have a lot more knowledge about the  
6 inner-workings. I'm not an oncology expert and I'm not  
7 testifying as one, what I know is that I worked in this  
8 forum and I know how it works. So I'm not trying to be  
9 argumentative, I'm just trying to say it's not true that  
10 because you didn't see a referral note in here that  
11 something didn't happen. You know, you would have to go  
12 back to the old system which just doesn't exist anymore.  
13 Q But do you have any idea, any evidence whatsoever to  
14 support that a referral was made?

15 MR. BOULIER: Objection, Your Honor, this has been  
16 asked and answered.

17 MR. ASBILL: Your Honor, I feel like we keep having to  
18 come back to it.

19 THE COURT: Will the lawyers approach?

20 (A bench conference was held.)

21 Q Dr. Barre, just to clarify, final question about  
22 referrals.

23 A Uh-huh.

24 Q There's no mention in the medical records that a  
25 referral was made for Ms. Gilbert to have a colonoscopy at

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1 any time from her first visit on February 1st of 2008 until  
2 her last visit on July 5th of 2011, correct?

3 A Not the way you worded it, no.

4 Q Can you point to a mention in the medical records of a  
5 colonoscopy referral?

6 MR. BOULIER: Your Honor --

7 THE COURT: Overruled, he can ask the question.

8 Q Can you point to anything in the medical records that  
9 shows that a colonoscopy referral was made?

10 A I feel like pointing to that tells you that the  
11 normal work flow is followed, and to me as a person who  
12 worked in that work flow who understands the language that  
13 my partner spoke and speaks, that means something to me.  
14 I would read that in another chart and I would interpret  
15 it the way if this discussion was had and that just with  
16 that information, not with any other referral or piece of  
17 paper in the chart, a colonoscopy might be done, an eye  
18 exam might be done, a referral somewhere else might be  
19 done. So I guess rounding back to your statement about if  
20 you didn't write it it never happened, it's just not true.

21 Q Dr. Barre, I'm asking you a simple question, can you  
22 look at those medical records in front of you, which are  
23 all of the medical records from CareNet, and point to any  
24 record that indicates a colonoscopy was made? It's a yes  
25 or no question.



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1 A If you want it in that form, the answer is no.

2 Q And of course, the last visit Ms. Gilbert paid to  
3 CareNet was on July 5th of 2011, correct?

4 A Yes.

5 Q And she was diagnosed with stage 3B colon cancer three  
6 months after that, correct?

7 A I don't know when her diagnosis was made.

8 Q Do you have any evidence to dispute she was diagnosed  
9 on October 24th of 2011 with stage 3B colon cancer?

10 A I don't have any evidence to dispute that.

11 Q Have you reviewed any of the medical records, the Dorn  
12 VA records?

13 A I have.

14 Q Did those not indicate that colon cancer, stage 3B was  
15 diagnosed on October 24th of 2011?

16 A What I was able to review of the Dorn records was not  
17 the pathology report, so the answer to your question is  
18 no.

19 Q So you don't know when Ms. Gilbert was diagnosed with  
20 colon cancer?

21 A No.

22 Q But you're offering an opinion today on the care that  
23 Dr. Perera provided to Ms. Gilbert?

24 A Yes.

25 Q Do you not think that's a relevant inquiry to know

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1 that she was diagnosed with stage 3B colon cancer three  
2 months after her last visit to CareNet?

3 A No. Not the way you're putting it, no.

4 Q Why not?

5 A Those two things aren't tied together that way.

6 Whether or not I knew that it was 3A or 3B or what day you  
7 knew it, it doesn't matter, that's not significant. I  
8 mean, I read the op. note, the operative report, so I know  
9 they did a left hemicolectomy and I know that they took  
10 out a six plus centimeter mass. So yes, I did read the  
11 notes, I do know what they say, but it was pending  
12 pathology report. They didn't know anything about -- and  
13 you heard earlier about the TNM system about staging, they  
14 didn't know about nodal involvement, they didn't know  
15 about metastatic disease or not yet. So the staging could  
16 not have been done based on what was available for me to  
17 read.

18 Q So you don't have any idea when Ms. Gilbert was  
19 diagnosed with colon cancer?

20 A I think a presumptive diagnosis was made when they  
21 took the tumor out.

22 Q Do you have any evidence to dispute the fact that Ms.  
23 Gilbert was diagnosed with colon cancer within three and a  
24 half months after her last visit to Dr. Perera and CareNet  
25 July of 2011?

STEWART BARRE, M.D. - DIRECT

1 A I don't have anything to dispute that, no.

2 Q Okay.

3 MR. ASBILL: Nothing further, Your Honor.

4 THE COURT: I think, ladies and gentlemen, just so  
5 that we don't disrupt the flow of the attorneys -- of the  
6 attorneys asking questions this would be an appropriate  
7 time to break for the evening. I anticipate we would start  
8 back in the morning at 9:30 with further questioning of Dr.  
9 Barre, so at this point we will break for the evening.  
10 Y'all be back and ready to go at 9:30 in the morning.  
11 Don't discuss the case, don't be looking up any information  
12 that you may have heard today, don't be doing any  
13 independent research. All right. See y'all in the  
14 morning.

15 (The jury left the courtroom.)

16 THE COURT: Dr. Barre, you can step down, don't  
17 discuss your testimony between now and in the morning with  
18 any of the attorneys. Anything else at this point? We  
19 will be at ease until 9:30 in the morning.

20 (Court recessed for the evening and resumed on  
21 Wednesday, August 26, 2015 at 9:30 a.m.)

22 THE COURT: Plaintiff ready this morning?

23 MR. RAVENEL: Plaintiff is ready, Your Honor.

24 THE COURT: Defense?

25 MR. BEIGHLEY: Yes, Your Honor.

STEWART BARRE, M.D. - DIRECT

1 MR. BOULIER: Yes, sir.

2 THE COURT: And I believe we have Dr. Barre on the  
3 stand, and either Mr. Beighley or Mr. Boulrier it will be  
4 your witness.

5 (The jury returned to the courtroom.)

6 THE COURT: Thank you, ladies and gentlemen, I really  
7 appreciate y'all's promptness in being on time. It really  
8 helps us in the efficiency of moving the case forward and  
9 it is beneficial to all of us, so thank you again for your  
10 promptness in being here, and we are ready to proceed with  
11 our next witness. Dr. Barre is on the stand, he is still  
12 under oath, and at this point I believe Mr. Boulrier, he is  
13 your witness.

14 MR. BOULIER: Thank you, Your Honor.

15 CROSS EXAMINATION

16 BY MR. BOULIER:

17 Q Good morning, Dr. Barre.

18 A Good morning.

19 Q I want to back up a little bit with your testimony.  
20 You had a chance to answer counsel's questions yesterday  
21 and maybe back up and allow you to tell the jury a little  
22 bit about yourself. Could you walk us through a little bit  
23 of your background, where you are from originally, where  
24 did you go to school and tell us a little bit what brought  
25 you to this place?

## STEWART BARRE, M.D. - CROSS

1 A My family is from South Carolina but I actually grew  
2 up in Jacksonville, Florida and went to high school in  
3 Virginia, and then went to the University of South  
4 Carolina for undergraduate.

5 Q Finished there in what year?

6 A And finished there in 1996 and then went to work  
7 after that.

8 Q What sort of work in general did you do?

9 A I worked for a private equity group and was a  
10 financial analyst initially.

11 Q And at some point did you decide you wanted to go to  
12 medical school?

13 A I did.

14 Q What caused you to make that change in career?

15 A It started out as more of a business interest than a  
16 medical interest. Actually I was from a family of  
17 physicians, my father is a physician, one of my  
18 grandfathers was a physician, but at the time I was very  
19 interested in sort of the business of healthcare.

20 Q Okay. And at some point did you become interested in  
21 the nuts and bolts of healthcare as well?

22 A I did. I went to medical school kind of late, I was  
23 35 years old when I started.

24 Q Went where to medical school?

25 A Went to the Medical University of South Carolina in

## STEWART BARRE, M.D. - CROSS

1 Charleston and so I was definitely on the older end of the  
2 age spectrum compared with other students there. But  
3 started out there, and went to medical school there and  
4 then went to the Johns Hopkins Hospital in Baltimore.

5 Q For residency?

6 A Yeah.

7 Q Are you married?

8 A I am.

9 Q Children?

10 A Three children.

11 Q And were you married and raising a family when you  
12 went to medical school?

13 A I was. I actually -- one of my favorite statistics  
14 is I graduated medical school with three times as many  
15 children as when I started, so --

16 Q What year did you finish medical school, Dr. Barre?

17 A 2010.

18 Q And tell us what brought you to -- you live in  
19 Kershaw, correct?

20 A I do.

21 Q Live and raise your family there?

22 A I do.

23 Q And what brought you to Kershaw?

24 A My wife is from Kershaw, grew up there and her family  
25 has always been from Kershaw. Her parents were getting

## STEWART BARRE, M.D. - CROSS

1 older and it was an opportunity for us to move back to be  
2 near them and for our children to be able to get to know  
3 the grandparents. Actually I am very glad that we did it,  
4 my mother-in-law passed away a few months ago.

5 Q And tell the jury, Dr. Barre, how you ended up at  
6 CareNet.

7 A Well, it was an odd set of circumstances. So CareNet  
8 started, you know, as a single facility up in Lancaster.

9 Q And that facility is where?

10 A The facility now is -- it's in Medical Arts Five  
11 building, which is actually on the grounds of the Springs  
12 Memorial Campus. And CareNet actually goes back a lot  
13 further, it goes back to 1993 is when it was first  
14 organized, but it started as a place where they were  
15 trying to make drugs available to people, certain  
16 affordable pharmaceutical medications to patients who  
17 otherwise wouldn't be able to get them. It wasn't until  
18 Dr. Perera came on in 2008, I believe, that it really  
19 became a clinic. And so they started as a clinic there,  
20 and then in the spring of 2011 I think it became what's  
21 called an FQHC, and a FQHC is a federally qualified health  
22 center. And so once they did that they wanted to open  
23 another location, they wanted to open a location in  
24 Kershaw, and it was originally planned to be opened three  
25 days a week and they needed a physician to come work there

## STEWART BARRE, M.D. - CROSS

1 three days a week. So I actually met the then executive  
2 director of CareNet through my father-in-law.

3 Q And you began working there as a physician in the  
4 Kershaw office?

5 A I did.

6 Q Okay. And why did you stick around?

7 A Well, it's funny, life has a funny way of turning  
8 things. You think you're going to do something and you  
9 end up doing something else and this was that case. You  
10 know, I already mentioned that I started with kind of a  
11 business interest in medicine, and I still have a business  
12 interest in medicine, and I fulfilled that as the CEO at  
13 CareNet. But I started seeing patients three days a week  
14 in Kershaw and I just really liked it, it was very  
15 gratifying, I enjoyed being able to have patient  
16 interactions and I felt like what I was doing was making a  
17 difference.

18 Q When did you become the CEO of CareNet?

19 A I think it was October 15th of 2013.

20 Q Okay. And do you still maintain an active medical  
21 practice seeing a full patient load?

22 A I do.

23 Q And manage the practice in your spare time?

24 A I do.

25 Q Now, tell us -- you've told us a little bit about



## STEWART BARRE, M.D. - CROSS

1 CareNet. CareNet is a non-profit?

2 A It is.

3 Q And do you have a board of directors?

4 A We do, we have an 11 member board right now.

5 Q And to whom do you report?

6 A I report to the board.

7 Q And how many people are on your board of directors?

8 A Well, 11 right now. But that can -- it can be as  
9 little as nine, it can be as much as, I believe, 24.

10 Q And without giving us names and full biographical  
11 sketches, tell us a little bit about your board, where do  
12 they live, who are they.

13 A Sure. Our board is composed of bankers, attorneys,  
14 stay-at-home-moms, school teachers, members of the  
15 community. Everybody is from Lancaster County and more  
16 than half of our board are patients at Care Health.

17 Q Now, you use the name Care Health and we've heard some  
18 reference during testimony to Care Health and CareNet. Are  
19 those names sort of interchangeable?

20 A They're equal.

21 Q Now, how many doctors do you currently have at  
22 CareNet?

23 A We have three.

24 Q Nurses?

25 A One RN, and two -- we'll use the term nurse to also

## STEWART BARRE, M.D. - CROSS

1 mean not necessarily a licensed nurse but if I use it  
2 during this discussion it also means our medical  
3 assistants.

4 Q And I think you alluded to this a minute ago, but was  
5 Dr. Perera the first doctor who practiced at CareNet?

6 A Yes, he was.

7 Q So he was the one that helped establish the medical  
8 practice there?

9 A That's right.

10 Q Okay. Now, you were asked about this yesterday,  
11 you've had the chance to review the care provided to Ms.  
12 Gilbert, correct?

13 A I did.

14 Q And this is the chart from CareNet?

15 A Yes.

16 Q Marked as Defendant's Exhibit 2. And you were asked  
17 this by counsel yesterday and you agreed you never had the  
18 opportunity to see Ms. Gilbert, correct?

19 A That's right.

20 Q Can you tell us then why you reviewed her chart, why  
21 did you have an interest in looking at this?

22 A I didn't look at the chart until I was the CEO, and  
23 when I was the CEO I became aware of the lawsuit, and as  
24 the CEO I think it's my responsibility to understand what  
25 is going on.

## STEWART BARRE, M.D. - CROSS

- 1 Q And you felt like that was important?
- 2 A Absolutely.
- 3 Q And do you expect CareNet doctors to practice within
- 4 the standard of care?
- 5 A Absolutely.
- 6 Q Based on your review of this chart, do you believe Dr.
- 7 Perera was within the standard of care with what he did
- 8 with Ms. Gilbert?
- 9 A I do.
- 10 Q Now, over -- I think we've got an exhibit here that's
- 11 marked as Plaintiff's Exhibit 3 but it was some notes
- 12 compiled by Dr. Perera about Ms. Gilbert's history, and it
- 13 looks like she was seen at CareNet on roughly half a dozen
- 14 to seven times over the course of two or three years. Was
- 15 Dr. Perera the only doctor she saw?
- 16 A No, he wasn't.
- 17 Q Who was the other doctor?
- 18 A Dr. Rosanna Silva.
- 19 Q Okay. And I think that was on one visit?
- 20 A That's the only visit I'm aware of, yes.
- 21 Q And we'll talk about that more in just a minute. From
- 22 your review of the chart in general -- and we've heard a
- 23 good bit about this already so if you could just summarize,
- 24 what were Ms. Gilbert's chronic health problems?
- 25 A Well, initially in 2008 what I understood to be her

## STEWART BARRE, M.D. - CROSS

1 chronic medical conditions were hypertension and high  
2 cholesterol, obesity.

3 Q With time did she develop something called  
4 hyperglycemia?

5 A Well, it was an accidental finding pretty early on.

6 Q Now, the first time, I believe, that Dr. Perera saw  
7 Ms. Gilbert was when, do you remember the date?

8 A It was in February of 2008, February 1st, I believe.

9 Q February?

10 A I believe it's the 1st but I will refer to the record  
11 if you want me to.

12 Q Let me, if I could, Doctor, put up what I believe is  
13 the office note from that visit. I will have to move it  
14 around because we can't get the whole document on the  
15 screen. But does that appear to be the record from that  
16 visit?

17 A It does.

18 Q Okay. And you were asked yesterday about a discussion  
19 about preventative healthcare during that exam, do you  
20 recall that?

21 A I do.

22 Q Let me show you if we look in the bottom right-hand  
23 corner -- and I'm going to try to enlarge this a little  
24 bit. Do you see a note on there about preventative exam?

25 A I do.

## STEWART BARRE, M.D. - CROSS

- 1 Q Let me -- I'll venture out on a limb here. Is it  
2 within that semicircle I attempted to draw?
- 3 A It is.
- 4 Q Okay. And what does that say right there?
- 5 A Discussed preventative exam, see you in three months.
- 6 Q And that's what you were referring to yesterday?
- 7 A That's right.
- 8 Q And during that visit, Doctor, how old was Ms.  
9 Gilbert?
- 10 A She was going to turn 50 that year.
- 11 Q So she was 49 at that time.
- 12 A That's right.
- 13 Q In your opinion, is that good care to discuss the need  
14 for preventative exams with a patient when they're about to  
15 turn 50?
- 16 A Absolutely, that would be the time to do it.
- 17 Q And we've heard a lot of testimony about discussions  
18 about mammograms, paps smears, colonoscopy. And would that  
19 be what you would expect the CareNet physician to discuss?
- 20 A I would expect them to discuss everything that was  
21 applicable to this patient for preventative care at that  
22 age.
- 23 Q And would that have been what was generally  
24 applicable?
- 25 A Yes.

## STEWART BARRE, M.D. - CROSS

1 Q Dr. Barre, so we're clear, when you see a record as a  
2 primary care physician, particularly someone who has  
3 practiced at CareNet and you see this term "discuss  
4 preventative exams," what does that mean to you?

5 A That means everything that is aging patient  
6 appropriate for that visit for that time.

7 Q What else would it mean to you?

8 A It wouldn't mean anything else. And beyond this  
9 patient and this note I'm going to go back to work next  
10 week and I'm going to see that again, that is standard  
11 language, it is still used.

12 Q But do you need to see the word colonoscopy there to  
13 know what Dr. Perera meant from your experience working at  
14 CareNet?

15 A I do not.

16 Q Now, one of the things I noticed in looking at this  
17 note is it is actually undated.

18 A Right.

19 Q How were you able to determine that it was a February  
20 1st office visit?

21 A Would you mind putting it back up for one second?

22 Q Yes, sir.

23 A You see the area that's highlighted there marked UA  
24 lipid BMP. So that's the urinalysis, a lipid profile and  
25 a basic metabolic panel.

## STEWART BARRE, M.D. - CROSS

1 Q Those are lab tests?

2 A Those are labs.

3 Q So how did you -- did you use that information to  
4 determine the date of this visit?

5 A I did, which led to another thing that further  
6 confirmed that. That unique set of labs, those three labs  
7 ordered together, those don't appear anywhere else in the  
8 record, no where else except one time.

9 Q And let me show you what is part of the CareNet chart.  
10 And can you identify what these are? Are these lab  
11 results?

12 A This is the basic metabolic portion of the lab  
13 result, correct.

14 Q And let's see if we can find the date on that.

15 A It's right there. Where it says REG, that's  
16 registered, that's when the patient came into the lab 2/1  
17 of '08, February 1st, 2008.

18 Q And does it have a collection date as well?

19 A Collected on the same date.

20 Q Okay. And you told us a minute ago, you referenced  
21 the labs that were ordered in the chart here. Do you see  
22 those lab results on this document?

23 A Part of them, yes.

24 Q Okay. And do these match the lab results that were  
25 ordered in the cart?

## STEWART BARRE, M.D. - CROSS

1 A They do.

2 Q Did you see that particular set of labs, the  
3 urinalysis, the BMP and the cholesterol ordered on any  
4 other visit?

5 A Doesn't exist in that combination anywhere else.

6 Q What is your level of confidence then that when we  
7 look at this note that says preventative healthcare  
8 discussed, that that occurred on or around February 1st of  
9 2008?

10 A 100 percent confident, and I can elaborate just a  
11 little bit. Because it wasn't just that that collection  
12 of labs only occurred on that single date, it's that the  
13 results of the urinalysis were slightly abnormal, and as a  
14 result Dr. Perera wrote a prescription or an antibiotic to  
15 treat and the patient had it filled.

16 Q Let me show you again from the CareNet chart, is that  
17 the note you're referring to?

18 A Yes.

19 Q And the date on that?

20 A 2/4.

21 Q Okay. And that's what you're referring to a minute  
22 ago when he responded to the lab results?

23 A That's right, urine lab abnormal.

24 Q Was that appropriate care?

25 A Absolutely.



## STEWART BARRE, M.D. - CROSS

1 Q Was that prompt care?

2 A Absolutely, it's the same day.

3 Q Now, let's move on, Dr. Barre, and you talked a little  
4 bit about hyperglycemia and that that was an incidental  
5 finding from the beginning. Could you tell us if -- and  
6 we've heard testimony already about the diagnosis of  
7 diabetes in August of 2010. Prior to that, did Ms. Gilbert  
8 have a history of hyperglycemia or high blood sugar?

9 A She did, even as far back as that first visit you  
10 just put up.

11 Q Now, is it important to try to manage hyperglycemia?

12 A Yes, but you have to qualify that. You're not going  
13 to manage it -- you're not going to manage it with  
14 medication at this point, it's going to be managed with  
15 recommendations and changes in life-style and exercise and  
16 so forth.

17 Q If a patient has high blood sugar and hyperglycemia  
18 and it's not properly managed, can that become diabetes?

19 A Sure.

20 Q And did Ms. Gilbert eventually develop diabetes as  
21 we've heard?

22 A She did.

23 Q Were there certain recommendations that were made  
24 prior to that diagnosis in August of 2010 to help her  
25 manage her hyperglycemia?

## STEWART BARRE, M.D. - CROSS

1 A Yes. She was advised to see the diabetes education  
2 clinic.

3 Q And let me show you the document that -- and this  
4 again is from the CareNet chart. And it appears to be a  
5 letter dated December 9th of 2008. And what is that  
6 document, Dr. Barre?

7 A It appears to be a letter from the diabetes education  
8 clinic, specifically one of the patient educators, to Dr.  
9 Perera.

10 Q Okay. And that indicates that a referral was made on  
11 November 7, 2008?

12 A That's right.

13 Q So this would be roughly nine months after Dr. Perera  
14 first saw her?

15 A That's right.

16 Q Does it indicate that an appointment had been  
17 scheduled?

18 A Indicates that an appointment was scheduled and the  
19 patient didn't keep the appointment.

20 Q What is the diabetes education clinic here in  
21 Lancaster?

22 A Well, it was over at USCL. You don't have to be  
23 diabetic to go to the diabetes education clinic and get  
24 advice on proper foods to eat, exercise, weight loss, all  
25 of these things would, you know, help to prevent you from

## STEWART BARRE, M.D. - CROSS

1 eventually developing diabetes.

2 Q Now, we've heard a lot of discussion about diabetes  
3 and I'm sure everybody in the courtroom knows somebody or  
4 has somebody in their life with diabetes, some people may  
5 have it. Tell us from a medical standpoint, what it  
6 diabetes?

7 A Well, there are a few different ways you can diagnose  
8 it, but diabetes is just basically uncontrollable blood  
9 sugar, high blood sugar. And in a patient like this  
10 probably the two most common ways you would diagnose it is  
11 if you ever had a blood sugar, fasting or not, over 200  
12 milligrams per deciliter, or if you've ever had a A1C,  
13 hemoglobin A1C greater than the 6.5 percent, either one of  
14 those would be diagnostic.

15 Q A lot of people lead relatively normal lives with  
16 diabetes --

17 A Yes.

18 Q -- you would agree with that? Is it a serious disease  
19 to have?

20 A It's a very serious disease to have but it's a very  
21 manageable disease.

22 Q Is compliance important when somebody has diabetes?

23 A In a compliant patient it's completely manageable.  
24 In a non-compliant patient it can kill you.

25 Q Let me move forward a little bit, Dr. Barre. You

## STEWART BARRE, M.D. - CROSS

1 talked earlier that there was one office visit that Ms.

2 Gilbert had with CareNet where she saw Dr. Silva, do you

3 recall that?

4 A That's right.

5 Q Let me show you a note. And do you see the signature

6 at the bottom of that?

7 A I do.

8 Q Whose signature is that? Or do you recognize the

9 handwriting?

10 A I recognize the handwriting and the style of the

11 note.

12 Q Whose note is that?

13 A It's Dr. Silva, Rosanna Silva.

14 Q Do you know what date Dr. Silva saw Ms. Gilbert?

15 A I think it's on the top of that note, but I want to

16 say it was in May of 2010.

17 Q Okay. Let me show you some -- again, some labs that

18 may assist you. This is from the Springs record and it's

19 some labs that are dated May 27, 2010. And does that

20 appear to have been ordered by Dr. Silva?

21 A It does.

22 Q And does that correlate with the handwritten note you

23 just looked at?

24 A It does.

25 Q Now, let's look at the information on that note, May

## STEWART BARRE, M.D. - CROSS

1 27th of 2010. There's a note -- and I've added some  
2 highlights on here, Dr. Barre, just to point you in the  
3 direction of things I would like to address. Do you see  
4 the note that I've highlighted under the section HPI?

5 A Yes.

6 Q What is HPI?

7 A HPI means history of present illness, it's a brief  
8 description of why they're here.

9 Q So that's straight from the patient's mouth more or  
10 less?

11 A It's the physician reporting what the patient is  
12 saying. The line up top that reads CC, that's chief  
13 complaint, that would frequently be written in quotes if  
14 someone were to say, "I have a headache," he would write  
15 that in quotes and put it up there, that is straight from  
16 the patient's mouth. The HPI is the physician's  
17 opportunity to record what he or she hears from the  
18 patient.

19 Q Fair enough. Now, what is -- you see the note there  
20 that I've highlighted, can you read that?

21 A I do. It reads, "Stopped Lovastatin 'months ago' but  
22 still has it at home."

23 Q What is Lovastatin?

24 A Lovastatin is a statin drug that is designed to lower  
25 cholesterol?

## STEWART BARRE, M.D. - CROSS

- 1 Q Statin drugs, lower cholesterol?
- 2 A Right.
- 3 Q And one of her chronic conditions was high
- 4 cholesterol.
- 5 A That's right.
- 6 Q And what's the risk of going off your statin
- 7 medication if you have high cholesterol?
- 8 A It's not good. And even if she didn't have high
- 9 cholesterol, someone with diabetes, the standard of care
- 10 is to have that person on a statin drug anyway, so she had
- 11 two reasons to be on statin.
- 12 Q In fairness she hadn't been diagnosed with diabetes at
- 13 this point.
- 14 A That's true.
- 15 Q So under the bottom has something called A/P. What is
- 16 that?
- 17 A Assessment and plan.
- 18 Q Okay. And number one says HTN, do you recognize that
- 19 abbreviation?
- 20 A I do, hypertension.
- 21 Q And to the right of that?
- 22 A Med compliant stressed.
- 23 Q From your review of the records -- and we've heard
- 24 testimony about this already, were there some issues with
- 25 Ms. Gilbert staying on her hypertension medication as

## STEWART BARRE, M.D. - CROSS

1 prescribed?

2 A There were.

3 Q Now, if you look at the bottom, number three, can you  
4 read that for us?

5 A Prediabetes.

6 Q Is that hyperglycemia?

7 A It is.

8 Q And the note there, what does that -- the check and  
9 then after that?

10 A It says check repeat, fingers, blood sugar and  
11 hemoglobin A1C.

12 Q And are those tests a measure for diabetes  
13 potentially?

14 A They are.

15 Q And then below that to the last note, follow-up in?

16 A Follow-up in three months prn.

17 Q And we looked at this a minute ago, but Dr. Silva got  
18 some lab results on May 27th. And I show you what appears  
19 to be the glucose level for that day. And what was it?

20 A 183 milligrams per deciliter.

21 Q And let me show you another lab result from that day.  
22 And this appears to be a hemoglobin A1C?

23 A It is.

24 Q Can you tell us in layperson terms what a hemoglobin  
25 A1C is?

## STEWART BARRE, M.D. - CROSS

1 A I can. This one is six percent, and if someone were  
2 to come in and we did a finger stick blood sugar, there  
3 are two problems with that. One is you may have just  
4 eaten or you may be fasting or somewhere in between. It's  
5 all just one data point, that's not a whole lot of  
6 information to go on, and so it's actually quite  
7 brilliant, whoever came up with it. But the hemoglobin  
8 A1C is a test that sort of measures what your average  
9 blood sugar has been over about three months. And so  
10 anybody who is diabetic or knows a diabetic knows this is  
11 the number that always gets quoted, it's a percent. What  
12 they're doing is they're saying what is the percent of  
13 this particular type of hemoglobin in the body. And it  
14 should be -- this says six, it's now 5.7 percent or less.  
15 6.5 percent, as I said a minute ago, by itself with no  
16 other information would be diagnostic of diabetes. And  
17 the reason why this thing works is the hemoglobin -- and  
18 we've had this conversation in some other testimony around  
19 here, hemoglobin is this oxygen carrying component in the  
20 blood, it's then red blood cells, well; they're different  
21 types. And the red blood cell lives for 120 days and then  
22 it gets destroyed, new ones get born. And so this is  
23 giving you a pretty good look over the last three months  
24 of what blood sugar was been. And so the last question is  
25 how are those two correlated. Well, this certain type of



## STEWART BARRE, M.D. - CROSS

1 hemoglobin can get glycated, that means it has a sugar  
2 stuck on it and once you stick a sugar on it it's hard to  
3 unstick and so it is very easy to measure in the body, so  
4 that's why it works.

5 Q So it gives us a picture of the last 90 days.

6 A A pretty good one.

7 Q And six means what?

8 A ~~Six is somebody~~ who is definitely getting close to  
9 being diabetic.

10 Q Do you see a note at the bottom of those lab results?

11 A I do.

12 Q Do you recognize that handwriting?

13 A I don't know if -- it's probably Dr. Silva's  
14 handwriting, borderline diabetes, greater than six is  
15 diabetic. And I just want to qualify here, this is from  
16 2008 and what I'm quoting today, 6.5 percent is diagnostic  
17 today.

18 Q Let's be clear, this lab results is from 2010.

19 A 2010. I'm sorry, 2010.

20 Q And so she wrote borderline diabetes?

21 A That's right.

22 Q And what's the note on the bottom right?

23 A Must lose weight, decrease carbs, decrease fat  
24 sugars, repeat blood in six months, follow prn.

25 Q Prn means what?

## STEWART BARRE, M.D. - CROSS

1 A As needed.

2 Q This is on May 27th, 2010, and she was advised to try  
3 to lose weight?

4 A Yes.

5 Q Dr. Barre, let's move forward to Ms. Gilbert's  
6 admission to Springs Memorial on August 29th of 2010. Have  
7 you had a chance to review some of those records?

8 A I have.

9 Q And again, not to rehash everything we've heard  
10 already, but was that the hospitalization where she was  
11 diagnosed for the first time as having diabetes?

12 A It was.

13 Q Let me show you some lab results from that day, which  
14 I'll put up on the screen for everyone. And let's start  
15 with the middle column just so we can get a date and a  
16 time. Do you see that date there?

17 A August 29th.

18 Q Okay. And if we move down, did they take a blood  
19 glucose?

20 A They did.

21 Q And that measures blood sugar?

22 A It does.

23 Q And normal is what?

24 A Well, 70 to 100.

25 Q Okay. And you see the results of Ms. Gilbert's blood

## STEWART BARRE, M.D. - CROSS

1 sugar on that day?

2 A 474.

3 Q You see right beside that there's a small b in  
4 parenthesis?

5 A Yes.

6 Q Does that correlate to a note on the bottom of this  
7 lab result?

8 A It does.

9 Q And let's look at that note. Do you see the heading  
10 there, notes?

11 A Yes.

12 Q The B there, does that correlate with the note that we  
13 saw about the blood glucose level?

14 A It is.

15 Q What does that say there, Dr. Barre?

16 A "Called panic results to Carol Hunter, results read  
17 back by Carol Hunter."

18 Q What is a panic result?

19 A Something that's going to require immediate action or  
20 could cause the patient harm.

21 Q Is a panic result something that's potential life  
22 threatening?

23 A Yes.

24 Q Something that requires immediate action?

25 A Yes.

## STEWART BARRE, M.D. - CROSS

- 1 Q On this same note, do you see a hemoglobin result A1C?
- 2 A I do.
- 3 Q Right there?
- 4 A Yes.
- 5 Q And you explained to the jury a minute ago about
- 6 hemoglobin A1C. What was hers on that day?
- 7 A It looks like 11.1.
- 8 Q You told us earlier at this point in time the standard
- 9 was over six was diabetes?
- 10 A 6.1.
- 11 Q Is that confirmation that she's now diabetic?
- 12 A Absolutely.
- 13 Q And there's a note by that one as well, C?
- 14 A Yes.
- 15 Q If you go down to the bottom, C talks about hemoglobin
- 16 A1C degree of glucose control?
- 17 A Right.
- 18 Q And the top line there says anything greater than
- 19 eight percent what?
- 20 A Action suggested.
- 21 Q Okay. Now, Dr. Barre, what does that suggest to you
- 22 as a physicians about the degree of compliance with blood
- 23 sugars between the office visit with Dr. Silva on May 27,
- 24 2010, and the admission to Springs three months later on
- 25 August 29th of 2010?

## STEWART BARRE, M.D. - CROSS

1 A It suggests not great compliance. She told her  
2 "Decrease your carb intake, decrease your sugars and lose  
3 weight," and this is going in the wrong direction.

4 Q Let me show you something just for demonstration  
5 purposes, a chart that I think you gave me. It has got  
6 some formula at the top that makes no sense to me, but it  
7 has two columns. Can you explain to us generally what you  
8 use this chart for in your practice?

9 A This is just conversion to take the hemoglobin A1C  
10 which I said is quoted as a percent, but somehow you need  
11 to turn that in to something more meaningful to you. And  
12 that little EAG on here, that's the estimated average  
13 glucose, the average daily glucose. So if I take this  
14 percentage number like in this case I think we said 11.1  
15 but let's just use 11 because it's on the chart, and I see  
16 an A1C of 11 percent, that suggests to me that a patient  
17 with a hemoglobin A1C 11 percent had an average daily  
18 glucose over the last two months 269 milligrams per  
19 deciliter.

20 Q And the goal again for good control is what?

21 A Diabetic is 70 to 130, in a normal patient 70 to 100.

22 Q A prediabetic, what would you --

23 A 70 to 100.

24 Q Now, we've heard a lot of discussions in this case,  
25 Dr. Barre, about microcytosis. And not to rehash

## STEWART BARRE, M.D. - CROSS

1 everything, you would agree with what you've heard that  
2 microcytosis is small blood cells?

3 A Right.

4 Q You're familiar with Ms. Gilbert's lab results from  
5 Springs that showed she had microcytosis?

6 A Yes.

7 Q How-would you categorize the microcytosis she had?

8 A Mild.

9 Q Let me show you some again some lab results, Dr.  
10 Barre, and they appear to have been drawn at the same time  
11 as blood glucose lab that we looked at earlier.

12 A Uh-huh.

13 Q Are these blood studies?

14 A It is. This is a CBC, a complete blood count.

15 Q And do you see the item I've highlighted on the  
16 bottom?

17 A Right.

18 Q Labeled MCV. Is that the lab value that resulted in  
19 the diagnosis of microcytosis?

20 A It is. That stands for mean corpuscular volume.

21 Q If they're looking over to the right on the labs, and  
22 I think this is a column called reference column, correct?

23 A That's right.

24 Q And what is the reference on labs, what does that tell  
25 us?

## STEWART BARRE, M.D. - CROSS

1 A This particular lab is giving you a reference based  
2 on the calibration of its equipment, based on what  
3 literature and studies have determined to be normal  
4 values. They're prompting you, they're saying this is  
5 what normal should be so that we don't have to memorize  
6 everything.

7 Q So normal for that MCV value...is what?

8 A It says 81 to 99, but you'll see 79 to 100, you'll  
9 see variations of that plus or minus a couple of  
10 milliliters.

11 Q And so her result was 75.5?

12 A Correct.

13 Q How would you characterize that value?

14 A That's pretty mild. And like just to give a frame of  
15 reference, I'm not sure I have heard the units yet and  
16 I've heard this term thrown around a lot, mean  
17 corpuscular, it's a volume. Like if you go buy a two  
18 liter bottle of Pepsi, that's a volume, it is measured in  
19 liters. This is measured in femtoliters, ten to the minus  
20 15 liters, that is one quadrillionth of a liter. So if  
21 you are off by, you know, two and a half you are off by  
22 two and a half quadrillionths of a liter. It's mild.

23 Q Let me show you -- this is from CareNet's chart and it  
24 has our number CareNet 65, but it's the history and  
25 physical from Springs that was prepared by Dr. Badalamenti

## STEWART BARRE, M.D. - CROSS

1 whose name we have heard a lot in this case. This one is  
2 going to be a little hard to get on here, Dr. Barre, but it  
3 has some information about history on here. And again, you  
4 explained to us that HPI is history of present illness, so  
5 this would be, I assume, information that the doctors got  
6 from Ms. Gilbert when she came to the hospital.

7 A Right.

8 Q Now, she's got some history on here, and it says,  
9 "States that for the past several weeks has been extremely  
10 thirsty." Is that a symptom that's consistent with  
11 diabetes?

12 A Yes.

13 Q Is that consistent with colon cancer?

14 A No.

15 Q "Unable to drink enough and having difficulty even  
16 drinking water at times." Is that consistent with new  
17 onset diabetes?

18 A I'm not sure what having difficulty drinking water  
19 is, but unable to drink enough certainly sounds like it.

20 Q "She has been urinating quite frequently." Is that  
21 consistent with diabetes?

22 A Absolutely.

23 Q Do you see any symptoms on there, Dr. Barre, that are  
24 consistent with colon cancer?

25 A No.



## STEWART BARRE, M.D. - CROSS

- 1 Q But we did have a panic value on the blood sugar.
- 2 A Yes.
- 3 Q Let's move forward to Dr. Perera's September 1, 2010
- 4 office visit. Have you reviewed his note from that visit?
- 5 A Yes.
- 6 Q Is this his note from that visit?
- 7 A It is. It's the transcribed note, yes.
- 8 Q As I understand it he would transcribe his notes, but
- 9 we will go to the typed version if that's okay.
- 10 A That sounds good to me.
- 11 Q Now, in this note which we've discussed at length,
- 12 Doctor, what steps did Dr. Perera take to address the new
- 13 diagnosis of diabetes?
- 14 A So if I wanted to find that I would go down to the
- 15 assessment and plan where it says, you know, what do you
- 16 think they have and my --
- 17 Q Assessment and plan would be?
- 18 A Down at the bottom.
- 19 Q There.
- 20 A That's it. And so assessment is going over this is
- 21 what I think this patient has; diabetes, hypertension
- 22 lipidemia, fairly stable at the moment. Plan, what are
- 23 you going to do about it? Well, I'm going to refill your
- 24 medications for six months, refer for an eye exam,
- 25 absolutely appropriate step, every diabetic patient should

STEWART BARRE, M.D. - CROSS

1 have an eye exam at least once a year. Checked hemoglobin  
2 A1C, and once the value is checked we will consider  
3 referral to the diabetes educational clinic here,  
4 abbreviated DEC. Number one, preventative healthcare.

5 Since patient is not in any mood to listen to brief talks  
6 we will postpone preventative healthcare discussion until  
7 the next appointment, return to the clinic in six months.

8 Q So why recheck the hemoglobin A1C at that point if we  
9 had just had one from the hospital?

10 A Well, he may not have the number from the hospital.

11 Q Is that cautious care?

12 A Absolutely.

13 Q Now, preventative healthcare, we see that term again  
14 in this note.

15 A Uh-huh.

16 Q Does it mean anything different to you on this note  
17 than it did on the one from two and a half years earlier,  
18 on February 1st of 2008?

19 A It means the same thing.

20 Q Okay. And just to ask the question, will you assume  
21 that included a discussion about a colonoscopy?

22 A Yes.

23 Q There was no specific reference in here to treating  
24 microcytosis. Do you agree with that decision?

25 A Do I agree with the decision?

## STEWART BARRE, M.D. - CROSS

1 Q Yes, sir. Do agree with how that was managed?

2 A I guess I would have to say I'm not sure -- there's  
3 been a lot of discussion and you're going back to 2010 and  
4 what he did on that day. One of the things that I noticed  
5 in the testimony from yesterday is that someone mentioned  
6 a reference to microcytosis on the discharge summary from  
7 the hospital and, in fact, it's not on there.

8 Q It's not on the discharge summary?

9 A It is not. And that same testimony said that the  
10 labs were there, they were not. And if we would like to  
11 pull it up again we can, but they weren't on there. So  
12 it's something that's important to point out here is that  
13 when we have the patients come in for hospital follow-up,  
14 it's like any other business, it is not perfectly  
15 efficient, they don't show up with all of their records in  
16 hand and everything ready to go. In fact they don't show  
17 up with them, those records would come from the hospital,  
18 and when you get a record from the hospital normally you  
19 just get the discharge summary and there's a reason for  
20 that. So when you're looking over stuff, when someone  
21 comes in the hospital, if they come through the ER there's  
22 an ER note and the ER is first track, this is what we  
23 think happened. The next thing is if they get admitted to  
24 the hospital is called a HAP, a history and physical. And  
25 on that history and physical they're going to have this

## STEWART BARRE, M.D. - CROSS

1 HPI and they're going to have their differential  
2 diagnosis. But at that point they haven't done the whole  
3 workup, they don't know really what's wrong with them.  
4 The best information you have is the discharge summary  
5 where it finally says, "Okay. After all of our studies,  
6 all the work we did, this is what we think was going on  
7 with this patient." That's the most important piece of  
8 information and it wasn't on there.

9 Q But you've heard Dr. Perera's testimony that he was  
10 aware she had microcytosis.

11 A Right.

12 Q Do you agree with his management on that day?

13 A I think it's okay.

14 Q Was it appropriate to follow that?

15 A Sure.

16 Q Where should your focus -- in your opinion as a  
17 reasonable prudent primary care physician given the history  
18 she had in the hospitalization, where should your focus be  
19 in that visit on September 1st of 2010?

20 A Your focus should be on the thing that could really  
21 hurt her quickly and that was the diabetes. And in  
22 addition to that she'd had several visits of very poorly  
23 controlled blood pressure, anyone of which could have  
24 caused her demise. So you had two things to look at that  
25 were more important at the time then chasing a lab value

## STEWART BARRE, M.D. - CROSS

- 1 that was not very far off from normal.
- 2 Q Now, we talked about a hemoglobin A1C he ordered that
- 3 day.
- 4 A Right.
- 5 Q Is this the lab result from that?
- 6 A Yes.
- 7 Q What was it on that day?
- 8 A 11.6 percent.
- 9 Q So it had gone up from the hospitalization?
- 10 A Yes.
- 11 Q Does that suggest it still wasn't normalizing?
- 12 A It's not going to move a lot for 90 days or so.
- 13 Q And there is some handwriting there. Do you recognize
- 14 that handwriting?
- 15 A It's his.
- 16 Q And says?
- 17 A Bad.
- 18 Q And below this it looks like there's another note. Do
- 19 you recognize that handwriting? Is that Dr. Perera's
- 20 handwriting?
- 21 A It is.
- 22 Q And it appears to say med maxed out?
- 23 A Right.
- 24 Q Time has come to go to DEC?
- 25 A Yes.

STEWART BARRE, M.D. - CROSS

1 Q And is that the education clinic you talked about  
2 earlier?

3 A Diabetes education clinic.

4 Q Before thinking of insulin?

5 A Right.

6 Q Why would you want to do that before putting somebody  
7 on insulin?

8 A This A1C is really high but she hasn't really had a  
9 chance yet -- she's just been diagnosed, she hasn't really  
10 had a chance yet to make two changes, one is life-style  
11 modifications and the other is trial of oral medications.  
12 So the first thing you'll try with a diabetic patient is  
13 oral medications. And if somebody is not able to be  
14 managed on oral medications alone and they continue to  
15 have an A1C -- here is a little gray area for providers  
16 but let's say eight and a half, nine percent, then they  
17 are going to go on insulin. He's giving her a chance here  
18 to go to diabetes education, lose some weight, change your  
19 eating habits and try the oral medications before  
20 switching her to insulin.

21 Q Do you want to stay off insulin if you can?

22 A I would want to be off insulin as a patient, it's  
23 uncomfortable.

24 Q There's a note here in the bottom left-hand corner of  
25 these lab results from September 1st, 2010. Do you see

## STEWART BARRE, M.D. - CROSS

- 1 that? Does that say patient aware?
- 2 A Yes, 9/2/10, patient aware.
- 3 Q What does that indicate to you?
- 4 A As an extension of the previous note?
- 5 Q What's the purpose of that note? Does that indicate
- 6 somebody contacting Ms. Gilbert?
- 7 A That's an acknowledgment, "Hey, I spoke to this
- 8 person, she acknowledged receiving the information.
- 9 Q And so does that indicate that by this point in time
- 10 Dr. Perera had reviewed the labs and come up with a plan?
- 11 A Yes.
- 12 Q On September 2nd?
- 13 A Yes.
- 14 Q Is that good care?
- 15 A Sure, prompt care.
- 16 Q Let me show you another document. Do you recognize
- 17 this? And again, I can't get the whole thing on the screen
- 18 for you, Dr. Barre. Let me just walk over and show you the
- 19 whole document, then we'll put it on.
- 20 A Okay.
- 21 Q Do you recognize that document?
- 22 A Yes.
- 23 Q And what is that document? And again, this is from
- 24 the CareNet chart, it has CareNet 63 at the bottom.
- 25 A It's a referral to the diabetes education counseling.

## STEWART BARRE, M.D. - CROSS

- 1 Q And is that what we looked on the lab results where we  
2 saw referral to DEC, is this the referral?
- 3 A Uh-huh.
- 4 Q And what's the date on -- do you see the signature?
- 5 A Dr. Perera's.
- 6 Q And what's the date on that?
- 7 A September 2nd of 2010.
- 8 Q So one day after he saw her in the office he referred  
9 her to the diabetes education clinic?
- 10 A That's right.
- 11 Q And filled this form out?
- 12 A Yes.
- 13 Q Is that good medical care?
- 14 A Yes, it is.
- 15 Q Let me put this up for you. This is another document  
16 from the CareNet chart, CareNet 59 and it has a date at the  
17 top of September 20th, 2010. Do you recognize that?
- 18 A Yes, I do.
- 19 Q What is that document, Dr. Barre?
- 20 A That's a consultation or progress note back to Dr.  
21 Perera from the diabetes education clinic.
- 22 Q And that indicates that Ms. Gilbert went to the  
23 diabetes education clinic, right?
- 24 A That's right.
- 25 Q And it looks like they put together sort of a care



## STEWART BARRE, M.D. - CROSS

1 plan for them?

2 A They did.

3 Q And you see some initials on that?

4 A That's right.

5 Q Whose initials are those?

6 A That's Dr. Perera's.

7 Q Okay. Now, did Ms. Gilbert choose to follow through  
8 on that appointment?

9 A She went to that appointment.

10 Q Yeah. After that did she ever return? That was a  
11 poor question.

12 A No.

13 Q Do you recognize this document?

14 A Yes.

15 Q It's dated November 8th of 2010 from the CareNet  
16 chart. And what is that document, Dr. Barre?

17 A That's another note back from the Diabetes Education  
18 Clinic back to Dr. Perera updating him on the patient.

19 Q And we saw that letter acknowledging that she had been  
20 in in September. Based on this letter did Ms. Gilbert  
21 chose to go back to the diabetes education clinic?

22 A Unfortunately she didn't.

23 Q Now, Dr. Perera's plan when he saw her on September  
24 1st was to see her back in how many months?

25 A Six months.

## STEWART BARRE, M.D. - CROSS

- 1 Q Okay. Did she come back in six months?
- 2 A No.
- 3 Q Let me show you if you go back -- it's probably  
4 easiest to look at it on the September 1st office visit  
5 note from CareNet. And do you see some handwriting in the  
6 lower right of that note?
- 7 A Right, I do.
- 8 Q Lower left, I'm sorry. If we look right here.
- 9 A Right.
- 10 Q What is that note that I have highlighted?
- 11 A It's dated in April of 2011 and it indicates 30 days  
12 prescription, "30 day RX, come and see us before refills."
- 13 Q And what does that mean to you?
- 14 A Well, she would have run out of her medication by  
15 that time. If he would have given her six months of  
16 medication she's running out now looking for medication  
17 refills and he's saying he's going to give her 30 days,  
18 essentially a bridge prescription, "I will give you enough  
19 medicine to get in but I need you to come back and see  
20 me."
- 21 Q Okay. Let me show you another document from the  
22 CareNet chart. And this appears to be a refill  
23 authorization request?
- 24 A That's right.
- 25 Q And it's dated and signed at the bottom, May 5th of --

## STEWART BARRE, M.D. - CROSS

1 excuse me, April 5th of 2011?

2 A Right.

3 Q Does that correlate to the note we just looked at from  
4 the September 1, 2010 office note?

5 A It's the same day.

6 Q Okay. And it's checked and it said "authorized the  
7 refill and have patient contact office."

8 A That's right.

9 Q "For appointment ASAP." From your review of records,  
10 did Ms. Gilbert choose to schedule an appointment as soon  
11 as possible as Dr. Perera requested?

12 A No, she did not.

13 Q And how many months are we at at this point?

14 A Well, it was September back then, now you're April,  
15 so eight, seven months.

16 Q Seven months? And he had asked to see her in how many  
17 months?

18 A Six months.

19 Q And did he see her -- you're familiar with the fact  
20 she was hospitalized at Springs in May of 2011.

21 A Yes.

22 Q Did Dr. Perera get a chance to see her back in the  
23 office before that?

24 A No.

25 Q And she was hospitalized -- you understand she was

## STEWART BARRE, M.D. - CROSS

1 hospitalized with rectal bleeding?

2 A Yes.

3 Q When did she next return to CareNet after the  
4 September 1, 2010 visit?

5 A Not until July of 2011, I believe.

6 Q Let's talk a little bit about the hospitalization. Is  
7 rectal bleeding a sign and symptom consistent with colon  
8 cancer?

9 A Yes.

10 Q Along with a host of other things.

11 A That's right.

12 Q And you're aware and you've heard the testimony that  
13 Ms. Gilbert was referred to a GI specialist, correct?

14 A Yes.

15 Q And that's consistent with your review of the records.

16 A It is.

17 Q Do you know Dr. Amato?

18 A Not personally, only professionally, yes.

19 Q And he is a GI doctor here in town, somebody you  
20 recognize as a specialist?

21 A Absolutely.

22 Q Is he somebody you refer patients to to have a  
23 colonoscopy?

24 A We send a lot of patient to Dr. Amato and his  
25 partner.

## STEWART BARRE, M.D. - CROSS

1 Q Now, are you aware, Dr. Barre, of the discharge  
2 instructions that were given to Ms. Gilbert on discharge  
3 from Springs?

4 A Yes.

5 Q Let me show you the discharge instructions dated May  
6 19, 2011, and these are in evidence and they have Springs  
7 Memorial 285 and 286 on the bottom. And do you see at the  
8 top where it says patient discharge instructions?

9 A Right.

10 Q And do you see below that it has got one heading for  
11 scheduled appointments for follow-up after discharge?

12 A Right.

13 Q And do you see the follow-up appointment with Dr.  
14 Amato?

15 A I do, on 6/2 of 2011.

16 Q Based on your review of the records, was that an  
17 appointment to be scheduled for Ms. Gilbert at that point  
18 in time?

19 A Yes.

20 Q How important would you say it was for her to  
21 follow-up with that appointment?

22 A It was probably the single most important thing she  
23 needed to do.

24 Q There is a note on there also called for and scheduled  
25 appointments after discharge, do you see that?

## STEWART BARRE, M.D. - CROSS

- 1 A I do.
- 2 Q And it says to follow one week for Dr. Perera?
- 3 A Right.
- 4 Q And under special instructions, what does that say?
- 5 A Remain compliant with medications.
- 6 Q And let me show you the second page of that document.
- 7 Does that appear to be the signature of Sandra Gilbert?
- 8 A Yes.
- 9 Q From your review of the CareNet records, did she call
- 10 to schedule a follow-up appointment with Dr. Perera within
- 11 one week as instructed?
- 12 A No.
- 13 Q Did she call for anymore refills?
- 14 A She did.
- 15 Q Let me show you a document from CareNet, it's CareNet
- 16 51. And this appears to be another refill authorization
- 17 request?
- 18 A That's right.
- 19 Q Does that appear to be Dr. Perera's writing?
- 20 A It is.
- 21 Q And a similar note to what we saw before?
- 22 A That's right.
- 23 Q From your review of the records -- and this note was
- 24 dated what date, Doctor?
- 25 A 5/31.

## STEWART BARRE, M.D. - CROSS

- 1 Q Okay. From your review of the records, did Ms.  
2 Gilbert call to schedule an appointment after this request  
3 by Dr. Perera?
- 4 A No.
- 5 Q Now, let me show you, Dr. Barre, another refill  
6 authorization request, and this again is from the CareNet  
7 chart marked as an exhibit, CareNet.47. Do you see a  
8 similar note at the bottom of this one?
- 9 A I do, but this one is a little different. Because  
10 now he's telling her he has to see her back before he can  
11 refill her medications.
- 12 Q And what's the note in the lower right-hand?
- 13 A 6/22/2011 -- oh, that one?
- 14 Q Yeah.
- 15 A ASAP -- I can't read the thing underneath that.
- 16 Q It appears to refer to 9/10?
- 17 A Right.
- 18 Q Last seen --
- 19 A Oh, last seen.
- 20 Q So at this point he's decided he can't refill the meds  
21 anymore.
- 22 A That's right.
- 23 Q Is that good care?
- 24 A Absolutely.
- 25 Q And did Ms. Gilbert schedule a follow-up appointment

## STEWART BARRE, M.D. - CROSS

1 in response to that?

2 A At that point she did.

3 Q Was that the July 5th appointment you've talked about?

4 A That's right.

5 Q Is this an office visit?

6 A Yes.

7 Q Was this the last time Ms. Gilbert was ever seen at  
8 CareNet?

9 A Yes.

10 Q We're now ten months after her visit with Dr. Perera.

11 A Right.

12 Q And you were asked a lot of questions by Mr. Asbill  
13 yesterday about this note and why wasn't a referral made  
14 for a colonoscopy on that date. Let me ask you this  
15 question, Dr. Barre, at this point in time on July 5th of  
16 2011, had a referral already been made for a colonoscopy?

17 A Yes.

18 Q To whom?

19 A To Dr. Amato.

20 Q Now, do you see on here, Dr. Barre, under assessment,  
21 there's a line there that begins request MR from GI to  
22 learn more about her endoscopic studies?

23 A Right.

24 Q What's that referring to?

25 A Dr. Perera wants the medical records to find out what



## STEWART BARRE, M.D. - CROSS

1 they found out.

2 Q Would there be any reason in the world in light of  
3 that for him to make another order for a colonoscopy on  
4 that date?

5 A No, it's already done.

6 Q And as a primary care physician when you have a patient  
7 with unexplained rectal bleeding that could be colon cancer  
8 and the patient has been referred by hospitalist to a  
9 gastroenterologist, is there anything else that's left for  
10 you to do as a primary care physician?

11 A No. I'm going to wait for the findings from the  
12 gastroenterologist, and then based on those findings I'm  
13 going to manage all of the things that fall within my  
14 domain and then follow whatever recommendations he has.

15 Q And that was the last time we ever had the opportunity  
16 to see Ms. Gilbert.

17 A That's right.

18 Q Dr. Barre, how would you describe the relationship  
19 between a physician and a patient?

20 A Well, I think it's a relationship that has  
21 responsibility on both sides. I think a relationship with  
22 your physician and your priest are probably the two  
23 closest relationships you will ever have, but you need to  
24 be completely honest and open and you need to follow  
25 instructions.

## STEWART BARRE, M.D. - CROSS

1 Q And you agree that Ms. Gilbert had a right to expect  
2 CareNet's physicians and Dr. Perera to provide appropriate  
3 care.

4 A Yes.

5 Q In order to provide appropriate care, does a doctor  
6 need the cooperation of his patient?

7 A It's essential, he can't do it without it.

8 Q And do you agree that a patient has the absolute right  
9 to choose what they do want to have done and what they  
10 don't want to have done?

11 A They do.

12 Q We've discussed -- going through this history, based  
13 on your review of the records do you think Ms. Gilbert  
14 followed the advice of her physicians from CareNet?

15 A No.

16 Q Let me be real clear. When you say that, Dr. Barre,  
17 are you in any way imputing the character of Ms. Gilbert,  
18 calling her a bad person, criticizing her?

19 A No, not in any way.

20 Q Do you have any reason to believe she was anything  
21 other than a fine person?

22 A No.

23 Q And finally, Dr. Barre, having gone through this in  
24 some detail, what is your opinion as to whether Dr. Perera  
25 met the standard of care in this case?

## STEWART BARRE, M.D. - CROSS

1 A He did meet the standard of care in this case.

2 MR. BOULIER: Thank you, Dr. Barre.

3 THE COURT: Mr. Beighley, anything from this witness?

4 MR. BEIGHLEY: I have no questions for this witness.

5 THE COURT: Anything, Mr. Asbill?

6 MR. ASBILL: Just a few follow-up questions, Your  
7 Honor.

8 REDIRECT EXAMINATION

9 BY MR. ASBILL:

10 Q Dr. Barre, I just want to clarify a couple of things  
11 from your testimony you've just given. You would agree  
12 with me that Dr. Perera knew Sandra Gilbert had  
13 microcytosis in September of 2010, correct?

14 A I can't tell you that, no.

15 Q Was that the testimony you heard earlier in this trial  
16 from Dr. Perera?

17 A If he tells me that then I believe it, and I'll say  
18 yes because he told me that.

19 Q Just curious, is it your testimony today that Dr.  
20 Perera knew or did not know that Ms. Gilbert had  
21 microcytosis in September of 2010?

22 A Okay. So I think I just answered the question but  
23 let's do this. Has Dr. Perera testified that you knew  
24 that? Is it on the record that he knew that? Because if  
25 he did then it's my testimony, yes.

## STEWART BARRE, M.D. - REDIRECT

1 Q So you're just going with what Dr. Perera testified to  
2 earlier in this trial.

3 A If he knew it, and there's a reason for that. Now  
4 I'm not trying to be evasive but I want to be clear about  
5 this because you need to understand the work flow, you  
6 don't do this for a living so I don't expect you to know  
7 it. So when we get records from a hospital on a patient,  
8 I don't get the whole thing, ever, ever. So everything  
9 that's in those files up there, that's not in the CareNet  
10 chart, never was, pieces of it were. And the first piece  
11 that we would have gotten would be the discharge summary,  
12 microcytosis is not on the discharge summary, the lab  
13 value is not on the discharge summary. If that's what he  
14 got on that day then the answer is no. Now, if he tells  
15 you that he knew then I'm going to say yeah, he probably  
16 knew because he's telling he did.

17 Q So you would defer to Dr. Perera's trial testimony  
18 earlier on Monday and Tuesday of this week.

19 A Yes, I would.

20 Q Okay. Is it your opinion that with the microcytosis  
21 diagnosis in September of 2010 that it's okay to wait six  
22 months before you follow-up on that?

23 A In this case I think it makes sense to manage the  
24 most important illnesses, the hypertension and the  
25 diabetes that are going to kill her.

## STEWART BARRE, M.D. - REDIRECT

1 Q Right. Did Ms. Gilbert pass away from diabetes or  
2 hypertension?

3 A No.

4 Q What did she pass away from?

5 A She died from my understanding, metastatic cancer.

6 Q Metastatic colon cancer. It originated from the  
7 colon.

8 A Okay.

9 Q And obviously hindsight can be 20/20 at times, but  
10 going back to September 2010 with knowledge of  
11 microcytosis, is it your opinion that a colonoscopy  
12 referral should have been made by CareNet?

13 A No, I'm not going to do that. Because you are going  
14 in hindsight, you are going Monday morning quarterback,  
15 and the standard of care is what a reasonable physician  
16 would do with the information that he had at the time, at  
17 the time.

18 Q So if Dr. Perera knew that Ms. Gilbert had  
19 microcytosis you're saying he would be okay not to make a  
20 referral at that time.

21 A Even if he did it would be a maybe, maybe. If you  
22 came in for a headache do you think I should do a MRI? I  
23 don't know. I'm just saying some things you watch. When  
24 physicians start, especially physicians trained in  
25 psychiatry, by the way, physicians from very early on are

## STEWART BARRE, M.D. - REDIRECT

1 taught to notice all kinds of things. So when other  
2 people just see a person walking, I see how you hold your  
3 hands and how you tilt your head and everything that you  
4 do, he's going to notice things he's going to follow-up  
5 on. He's going to say, "That's relatively benign right  
6 now, I will keep it in mind," or "I will come back to it  
7 later." So it's not a concrete thing, medicine is an art  
8 in addition to a science. It might have been okay, yeah.  
9 Q Well, I'm just trying to understand what you're  
10 opinion is on the standard of care.

11 A I understand. I know.

12 Q Do you believe that with a microcytosis diagnosis in  
13 September of 2010 that a colonoscopy referral should or  
14 should not have been made?

15 A I think a colonoscopy referral gets made as part of  
16 screening healthcare at that point. I don't look at  
17 somebody who has microcytosis and say this person needs a  
18 colonoscopy.

19 Q So that's your opinion is that if there's microcytosis  
20 a colonoscopy referral doesn't have to be made?

21 A I think you need to do some work before you get  
22 there, yeah.

23 Q What work would you think would need to be done?

24 A I think you would need to do some additional labs.  
25 And first of all, we need to make sure that this is a real

## STEWART BARRE, M.D. - REDIRECT

1 finding. You know, you've had this thing checked, I heard  
2 the name 74 femtoliters thrown out a lot, but we just  
3 looked at the labs a minute ago and it's 75.5, so which  
4 number should I go with? And if we measure it again is it  
5 going to be higher still? So she's got two things on the  
6 table, one of them put her in the hospital with a very  
7 very serious illness, diabetes, and I don't just mean  
8 anybody's general diabetes, I mean she was really sick,  
9 like that could have been the end of her right there. She  
10 went into the hospital with that, she comes out and maybe  
11 there's this lab finding that he saw, maybe he didn't, I  
12 don't know if he saw it or. Not, he will testify to that,  
13 he will testify to what he knew on that day when he saw  
14 her, not me. But he's treating what's really going to  
15 hurt her right now, he's triaging, he's making sure that  
16 he's covered the things that's really going to cause her  
17 harm. And then he says, "Come back and see me, and when  
18 you come back I need to make sure that we can see you and  
19 do all of the things we need to do." Part of Dr. Amato's  
20 testimony yesterday was that a colonoscopy may not be  
21 appropriate in a patient who can't tolerate it. So if she  
22 comes in with a blood pressure like he saw in that last  
23 visit, she's not a candidate for a colonoscopy, you're  
24 going to have to get that under control. When you have  
25 someone whose got uncontrollable blood sugar, it's very

## STEWART BARRE, M.D. - REDIRECT

1 hard to get those people to heal and stop bleeding.

2 Colonoscopy is not just a diagnostic procedure, it's a  
3 surgical procedure too. If he had found a polyp he would  
4 have cut it out, that's a surgical procedure.

5 Q But Dr. Amato's testimony, I believe, yesterday was  
6 also that microcytosis is concerning.

7 A It can be.

8 Q That's why you have to do a colonoscopy referral to  
9 make sure nothing is going on, correct?

10 A Well, possibly.

11 Q And that wasn't done in this case, correct?

12 A It wasn't done on that date.

13 Q But you -- I don't want to rehash the discussion  
14 yesterday, but you would agree with me that CareNet never  
15 made a referral on any date, correct?

16 A I did not say that yesterday and I'm not saying that  
17 right now.

18 Q It's not on the records anywhere.

19 A I thought about this and this is kind of a circular  
20 argument so I want to give you an example. We don't --

21 Q Can you identify what you're looking at right now?

22 A Absolutely. I'll show you and you can keep it if you  
23 want to. These days we do everything electrically, which  
24 is great because the next time we have this conversation  
25 it will be pretty short. So back in 2008 everything was



## STEWART BARRE, M.D. - REDIRECT

1 on paper. So if I write you a prescription -- and this is  
2 a prescription pad, my name all of that on it, if I write  
3 you a prescription for a medication and I give it to you  
4 like a referral, do you think I ever get that back?

5 Q So you don't make a notation in the records?

6 A If I don't, does it mean I didn't do it?

7 THE COURT: You need to answer his questions and not  
8 ask him questions.

9 THE WITNESS: Okay.

10 A Ask me again, please.

11 Q What I'm trying to figure out is when you go back and  
12 you look through the records, the records are what we have,  
13 they are what you have reviewed, they're what the experts  
14 have reviewed, to the extent there's not a colonoscopy  
15 referral in here, the only evidence we can rely on is Dr.  
16 Perera's testimony, correct?

17 A That's not the only evidence you can rely on. You're  
18 relying on the testimony of others as well, including  
19 mine.

20 Q True. But the point I'm trying to make is Dr. Perera  
21 is the only person alive in that room, to the extent Ms.  
22 Gilbert's is not alive we have to look at the records,  
23 correct?

24 A The records are --

25 Q That's what we have to look at today, the records, the

## STEWART BARRE, M.D. - REDIRECT

1 hard records.

2 A That's what you have to look at. But that's not --  
3 you can't say that if it wasn't written in those records  
4 that it didn't happen, you can't say that.

5 Q And I would agree with that. But the point I'm trying  
6 to make is when we go back and when people look to try to  
7 figure out what happened, what was the care that was  
8 provided to Mrs. Gilbert, this is what we have, correct?

9 A That is what you have.

10 Q Right. And there's not a colonoscopy referral in  
11 here, is there?

12 A There's not a colonoscopy referral in that record  
13 that you have.

14 Q All right. Thank you.

15 MR. ASBILL: No further questions.

16 THE COURT: Anything else?

17 MR. BOULIER: No further questions.

18 THE COURT: Mr. Beighley? All right, thank you. Dr.  
19 Barre you can step down. Ladies and gentlemen, let's take  
20 about a ten minute break and refresh ourselves. You can go  
21 back to your jury room and we'll be back in about ten or 15  
22 minutes. Thank you.

23 (The jury left the courtroom and a break was taken.)

24 THE COURT: Mr. Ravenel, are y'all ready?

25 MR. RAVENEL: Yes, sir.

## JOHNNIE MAE REED - REDIRECT

1 f3evshe was afraid.

2 Q All right. And do you recall what time what -- date  
3 that was, approximately what year and how long before she  
4 died?

5 A Well, months went by and she started going back to --  
6 she was taking her chemo and they had told her that they  
7 had got rid of the cancer --

8 Q Don't tell them what they said.

9 A Months went by. And so we had to go back and there  
10 was nothing else that medical science could do.

11 Q When did she die?

12 A She died March 1st of 2014.

13 MR. RAVENEL: Thank you. Your Honor, I would offer  
14 those exhibits.

15 THE COURT: We'll take that up in just a moment.  
16 Anything else for this witness?

17 MR. BEIGHLEY: No, sir.

18 MR. BOULIER: No, sir.

19 THE COURT: All right. Thank you, Ms. Gilbert, you  
20 can step down -- I'm sorry, Ms. Reed. All right, Mr.  
21 Ravenel, call your next witness.

22 MR. RAVENEL: Dr. Oliver Wood.

23 The witness, OLIVER WOOD, JR. was first duly sworn an  
24 testified as follows:

25 DIRECT EXAMINATION

MARK O'ROURKE, M.D. - DIRECT

1 the policy, and most doctors do, to continue treating the  
2 patient.

3 Q Focusing on the VA hospital records about Ms.  
4 Gilbert's colon cancer that was diagnosed in October of  
5 2011, can you give us a general description of the type of  
6 cancer she had?

7 A The cancer was colon cancer and it was found at  
8 surgery in the left side of her colon, the so called  
9 descending colon, and there was involvement in one lymph  
10 node of the group of lymph nodes that was removed.

11 Q Were the surgeons at the VA hospital successfully able  
12 to remove all of the cancer?

13 A Yes. At the conclusion of her surgery all of the  
14 cancer was removed and she was free of cancer.

15 Q Now, at some point later on Ms. Gilbert developed  
16 metastatic disease; is that correct?

17 A Yes, that's correct.

18 Q Tell the jury what metastatic disease is.

19 A Metastatic refers to metastasis or cancer spread to a  
20 different part of the body, so in her case in September of  
21 2012 cancer was found in the liver. We would not call  
22 that liver cancer, rather we would call it cancer  
23 metastatic from her original colon cancer. So metastatic  
24 refers to a cancer that was removed showing up some place  
25 else at some later time.

## VERDICT

1 MR. BEIGHLEY: Thank you, sir.

2 THE COURT: Anything else, Mr. Boulier?

3 MR. BOULIER: No, sir.

4 (The jury began deliberations.)

5 THE COURT: All right. The Court has been informed by  
6 the clerk that the jury has reached a verdict so let's  
7 bring the jury in.

8 (The jury returned to the courtroom with a verdict.)

9 THE COURT: All right. Ladies and gentlemen of the  
10 jury, have y'all reached a verdict?

11 FOREMAN: Yes, sir.

12 THE COURT: If you would pass the verdict form up,  
13 please. Mr. Clerk, if you would publish the verdict.

14 THE CLERK: Yes, sir, Your Honor. Case number  
15 2013-CP-29-1339, Johnnie Mae Reed as personal  
16 representative of the estate of Sandra Gilbert, plaintiff,  
17 versus CareNet Inc. of Lancaster, Nimal A. Perera, M.D.  
18 Number one, "Was Dr. Perera, CareNet, Inc. negligent in its  
19 treatment of Ms. Gilbert? No." And this was signed  
20 foreman, Michael Fiery, dated 8/27/2015. Ladies and  
21 gentlemen of the jury, if this be your verdict so say you  
22 all by the raising of your right hands. Let the record  
23 reflect all jurors raised their right hands.

24 THE COURT: Anything further from the plaintiff?

25 MR. RAVENEL: Nothing further, Your Honor.

|                         |   |                     |
|-------------------------|---|---------------------|
| State of South Carolina | ) |                     |
|                         | ) |                     |
| County of Lancaster     | ) |                     |
|                         | ) |                     |
| Johnnie Mae Reed, as    | ) | 2013-CP-29-1339     |
| Personal Representative | ) |                     |
| of the Estate of Sandra | ) |                     |
| Gilbert,                | ) |                     |
|                         | ) |                     |
| Plaintiff,              | ) | 30(b)(6) Deposition |
|                         | ) |                     |
| v.                      | ) | of                  |
|                         | ) |                     |
| CareNet, Inc., of       | ) | CareNet, Inc., of   |
| Lancaster and Nimal A.  | ) | Lancaster           |
| Perera, M.D.,           | ) | (Stewart Barre, MD) |
|                         | ) |                     |
| Defendants.             | ) |                     |
|                         | ) |                     |
|                         | ) |                     |
|                         | ) |                     |

Date: Wednesday, September 3, 2014

Time: 10:00 a.m.

Location: Richardson Plowden & Robinson, PA,  
1900 Barnwell Street, Columbia, South Carolina.

Reported by  
Sandra J. Ayers

#### APPEARANCES

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For the Defendant  
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Columbia, South Carolina 29201

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#### EXHIBITS

|                                                                       |    |
|-----------------------------------------------------------------------|----|
| Plaintiff's Exhibit Number 1, "Recruitment Agreement."                | 18 |
| Plaintiff's Exhibit Number 2, "Employment Agreement," dated 11/28/07. | 20 |
| Plaintiff's Exhibit Number 3, "Employment Agreement," dated 01/06/09. | 20 |
| Plaintiff's Exhibit Number 4, "Employment Agreement," dated 01/19/10. | 21 |
| Plaintiff's Exhibit Number 5, "Employment Agreement," dated 01/07/11. | 21 |

1 STIPULATIONS

2 It is stipulated by and between counsel for  
3 the respective parties that all objections are  
4 reserved until the time of trial, except as to  
5 the form of the questions.

6 This deposition is being taken pursuant to the  
7 South Carolina Rules of Civil Procedure.

8 - - - -

9 The reading and signing of this deposition is  
10 reserved by the deponent and counsel for the  
11 respective parties.

12 Whereupon,

13 Stewart Barre, MD, being duly sworn and  
14 cautioned to speak the truth, the whole truth,  
15 and nothing but the truth, testified as  
16 follows:

17 EXAMINATION

18 BY MR. RAVENEL:

19 Q Mr. Barre, my name is Cravens Ravenel, and I  
20 represent the plaintiff of the estate of Sandra  
21 Gilbert in a lawsuit against CareNet of Lancaster  
22 and Nimel A. Perera. I'm going to be asking you  
23 some questions in your -- in connection with you as  
24 a representative of CareNet of Lancaster. Does --  
25 do you understand that?



1 A He's no longer employed by CareNet.

2 Q Where is he employed?

3 A I don't know.

4 Q Why is he no longer employed?

5 A He resigned in January of 2014.

6 Q Was he -- did he resign under pressure, for him to  
7 resign, by CareNet?

8 A Yes, sir. I believe so.

9 Q And what was the reason for the concern that  
10 CareNet had? What -- I mean, what, specifically,  
11 factual basis?

12 A Specifically, the -- the current lawsuit and the  
13 other lawsuit we've already discussed, the board  
14 felt like had -- or his actions, rather, had put  
15 the organization at risk. And -- and this -- the  
16 timing of this coincided with a goal that Dr.  
17 Perera had set out, probably two years before,  
18 saying that he wanted to retire when he turned 65  
19 during the year 2013, and he had been telling the  
20 prior administrator at CareNet that he wanted to  
21 practice part-time; he wanted to cut down, and he  
22 was going to do that, no matter what, and, so, I  
23 think that the board felt like with, you know, Dr.  
24 Perera's professional goals and -- and the fact  
25 that, you know, they felt like a lot of this stuff

1           had sort of put the organization at risk. And they  
2           wanted to move to some more permanent, you know,  
3           full-time employees; that it was time to -- to part  
4           ways.

5     Q     So, when you say his actions had put CareNet at  
6           risk, I mean, are you suggesting that his actions  
7           did not meet the standard of care?

8     A     I'm not suggesting that.

9     Q     Okay. So you're just saying that the mere fact  
10           that the claims were made was sufficient for y'all  
11           to let him go or encourage him to leave?

12    A     I think the fact that the claims were made and --  
13           and the, you know, further desire of his, to cut  
14           down anyway, were enough momentum to encourage the  
15           board to go out and find its new long-term  
16           practitioners.

17    Q     Are you aware of the allegations brought by my  
18           client's estate?

19    A     Specifically -- I mean, can you say a little bit  
20           more, if you don't mind?

21    Q     No. I -- if you don't, you know, you don't know,  
22           but, I -- I mean, I -- he -- have you read the  
23           pleadings?

24    A     Yes, sir.

25    Q     Okay. So you know what -- what the allegations

1 y'all do that, to remind you to do that.

2 MR. RAVENEL: That's all I have. Thank you.

3 MR. BOULIER: Let's go off for just a second.

4 Let me talk to my cohort, here.

5 (Off the record from 11:01 a.m.

6 until 11:06 a.m.)

7 EXAMINATION

8 BY MR. BOULIER:

9 Q All right, Dr. Barre, I -- I wanted to follow up on  
10 a couple of topics in the 30(b)(6) notice that Mr.  
11 Ravenel questioned you about earlier, and in  
12 interest of making sure that pertinent information  
13 is disclosed, you -- you were -- you were asked  
14 about the circumstances of Dr. Perera's retirement  
15 or resignation from CareNet in -- effective January  
16 of 2014. You recall those questions?

17 A Yes.

18 Q Okay. And you, in response to a question from Mr.  
19 Ravenel, you -- you acknowledge that he did resign  
20 under some pressure because he had placed the  
21 organization in some jeopardy?

22 A Uh-huh.

23 Q Correct?

24 A Yes.

25 Q Okay. And did one of those issues involve an

1 allegation that Dr. Perera improperly altered the  
2 medical chart in the Lackey case, which is  
3 currently pending?

4 A Yes. It did.

5 Q Okay. And, as a result of the allegation that Dr.  
6 Perera improperly altered the records, did you, in  
7 turn, get a reservation-of-rights letter from Mag  
8 Mutual?

9 A We did.

10 Q Okay. And was that what you were alluding to in  
11 terms of Dr. Perera's actions placing the  
12 organization at jeopardy?

13 A Yes, sir. That is a contributing factor.

14 Q Okay. And was that a contributing factor in the  
15 board's decision, with regard to the -- the meeting  
16 they had with Dr. Perera?

17 A Yes, sir. It was.

18 Q Okay. Now, was in -- in response to the alteration  
19 of record, since Dr. Perera resigned, was there any  
20 formal discipline against him in connection with  
21 that -- that allegation?

22 A No.

23 Q Okay.

24 MR. BOULIER: Those are all the questions I  
25 have.

STATE OF SOUTH CAROLINA ) IN THE COURT OF COMMON PLEAS  
COUNTY OF LANCASTER ) SIXTH JUDICIAL CIRCUIT

Johnnie Mae Reed, as Personal ) Civil Action No.: 2013-CP-29-1339  
Representative of the Estate of Sandra )  
Gilbert, )

Plaintiff, )

v. )

CareNet, Inc. of Lancaster and Nimal A. )  
Perera, MD, )

Defendants. )

**MOTION IN LIMINE ON  
BEHALF OF DEFENDANTS**

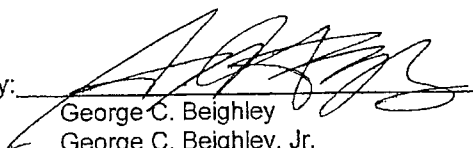
**TO: D. CRAVENS RAVENEL, ESQUIRE AS ATTORNEY FOR THE PLAINTIFF**

The Defendants, CareNet, Inc. of Lancaster and Nimal A. Perera, MD, by an through their undersigned counsel, come before this Court respectfully requesting that this Court exclude certain anticipated testimony and documents on the grounds that such testimony and documents would be irrelevant, prejudicial, and lead to confusion of the issue in this case and would violate Rule 404 of the SCRE. Said motion shall be based on the S.C.R.C.P., the case and statute laws of South Carolina, and such other argument or information as may be received by the Court.

**Matters Requested for Exclusion:**

1. Any reference to prior cases against Dr. Perera/CareNet by other Plaintiffs.
2. Any reference to changes made to a medical record in a prior unrelated case.
3. Any reference to Dr. Perera reprimand by NC medical board for failure to supervise a physician assistant.
4. Any reference to circumstance surrounding Dr. Perera's resignation from CareNet.
5. Any reference to Dr. Perera's attempt to have a nurse fill a prescription for his son and his allegedly improper attempt to fill a second prescription.

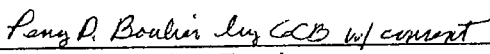
**RICHARDSON PLOWDEN & ROBINSON, P.A.**

By: 

George C. Beighley  
George C. Beighley, Jr.  
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August 13, 2015

**HOLCOMBE BOMAR, PA**

By: 

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Attorney for Defendant CareNet, Inc. of  
Lancaster

August 13, 2015

|                                         |   |                                     |
|-----------------------------------------|---|-------------------------------------|
| STATE OF SOUTH CAROLINA                 | ) | IN THE COURT OF COMMON PLEAS        |
|                                         | ) | SIXTH JUDICIAL CIRCUIT              |
| COUNTY OF LANCASTER                     | ) |                                     |
| Johnnie Mae Reed, as Personal           | ) | Civil Action No.: 2013-CP-29-1339   |
| Representative of the Estate of Sandra  | ) |                                     |
| Gilbert,                                | ) |                                     |
|                                         | ) |                                     |
| Plaintiff,                              | ) |                                     |
|                                         | ) |                                     |
| v.                                      | ) | <b>MEMORANDUM IN SUPPORT OF</b>     |
|                                         | ) | <b>DEFENDANTS' MOTION IN LIMINE</b> |
| CareNet, Inc. of Lancaster and Nimal A. | ) |                                     |
| Perera, MD,                             | ) |                                     |
|                                         | ) |                                     |
| Defendants.                             | ) |                                     |

The Defendants, CareNet, Inc. of Lancaster and Nimal A. Perera, MD, by an through their undersigned counsel, come before this Court respectfully requesting that this Court exclude certain anticipated testimony and documents on the grounds that such testimony and documents would be irrelevant, prejudicial, and lead to confusion of the issue in this case and would violate Rule 404 of the SCRE.

**Matters Requested for Exclusion:**

1. Any reference to prior cases against Dr. Perera/CareNet by other Plaintiffs.

**Issue Presented:**

Would admission of other medical malpractice actions against Dr. Perera and Caremark be unfairly prejudicial, irrelevant, and lead to confusion of the issue?

**Argument:**

**Evidence is Irrelevant**

Under Rule 402, in the South Carolina Rules of Evidence:

All relevant evidence is admissible.... Evidence which is not relevant is not admissible.

Under Rule 401 of the South Carolina Rules of Evidence:

"Relevant evidence" means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more or less probable than it would be without the evidence. In Green v. Shaw, 136 S.C. 56, 134 S.E. 226, 227 (1926), the South Carolina Supreme Court held: A doctor's reputation for skill and ability will not exonerate him, where gross negligence and want of the application of skill is alleged and proved. Nor can the fact that a doctor is reputed to be negligent or unskillful be allowed as proof to establish negligence or unskillful treatment in a particular case, because he may have treated that case with unusual skill and care. The introduction of that evidence was not only improper from a legal view, but it was of a character which may have unjustly prejudiced defendant's case before the jury upon a point where defendant had made no preparation to defend.

In this instance Plaintiff is seeking to introduce evidence that Dr. Perera allegedly acted without due care in other cases, so the jury should infer that he acted without due care in this instance as well. Under the plain language of Green v. Shaw this is prohibited because it uses character or reputation evidence based on prior cases to assess the actions of the defendant in this particular case. Therefore, the evidence of any other malpractice claims against Dr. Perera and Caremark should be barred from admission as being irrelevant and unfairly prejudicial.

#### **Evidence Violates Rule 404**

Under Rule 404(b) of the South Carolina Rules of Evidence:

Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show action in conformity therewith. It may however, be admissible to show motive, identity, the existence of a common scheme or plan, the absence of mistake or accident, or intent.

Evidence of prior malpractice cases is sought to be introduced in this case only on the grounds that attempts to establish Dr. Perera's lack competence as a medical professional. Plaintiff does not contend that Dr. Perera set out to deliberately injure Ms. Gilbert and other patients, which to be admissible under Rule 404 it would require. Therefore, testimony of Dr. Perera's other medical malpractice actions must be excluded on the grounds that it violates Rule 404 because the evidence is to attempt to prove that Dr. Perera's character is to commit malpractice.

2. Any reference to changes made to a medical record in a prior unrelated case.

#### **Issue:**

Does reference to changes made to a medical record in a prior unrelated case violate Rule 404(b)?



**Argument:**

Under Rule 404(b) of the South Carolina Rules of Evidence:

Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show action in conformity therewith. It may however, be admissible to show motive, identity, the existence of a common scheme or plan, the absence of mistake or accident, or intent.

We must first ask what is the purpose for the Plaintiff introducing evidence of Dr. Perera's past alteration of an unrelated medical record? The goal is to establish that because Dr. Perera altered a medical record in the past he is of the type of character that would not give honest recollections of his care of Ms. Gilbert.

The Plaintiff does not contend that Dr. Perera altered the medical record in this case. The only reason it is attempted to be introduced is to establish that Dr. Perera is of bad character and would be an unreliable witness. Under Rule 404(b) evidence of other wrongs are not admissible to prove the character of a person. A prior action of altering a medical record would constitute a prior wrong, or act. Therefore, since the evidence is of a prior act or wrong and is being introduced to show the character of Dr. Perera it must be inadmissible under Rule 404(b).

3. Any reference to Dr. Perera reprimand by NC medical board for failure to supervise a physician assistant.

**Issue:**

Is evidence of a reprimand by NC medical board for failure to supervise a physician assistant inadmissible as being irrelevant and unfairly prejudicial?

**Argument:**

Under Rule 402, in the South Carolina Rules of Evidence:

All relevant evidence is admissible.... Evidence which is not relevant is not admissible.

Under Rule 401 of the South Carolina Rules of Evidence:

"Relevant evidence" means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more or less probable than it would be without the evidence.

The issue is whether the action of failure to supervise a physician's assistant is relevant to this current case. In order for them to be relevant they must make the existence of any fact that is of consequence more probable than without them. In assessing whether evidence is relevant we must first determine the purpose it is being introduced for. Then ask

does that purpose make the existence of any fact that is of consequence to the determination of the action more or less probable.

**Evidence is unfairly prejudicial**

There is no issue relating to supervision of a physician's assistant in this case. In this instance the Defendant may seek to introduce evidence of Dr. Perera's failure to supervise a physician's assistant to show the lack of medical competence of Dr. Perera in assessing his testimony as it relates to the medicine involved in this case. Such evidence is irrelevant because failure to supervise a physician's assistant is not one of the allegations in this case. See: Green v. Shaw, 136 S.C. 56, 134 S.E. 226, 227 (1926).

Under Rule 403 of the South Carolina Rules of Evidence:

Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.

If the court decides the evidence of Dr. Perera's prior reprimand from the NC Licensing Board for failure to supervise a physician's assistant is relevant then it should be excluded on the grounds that it is unfairly prejudicial for several reasons. First, such evidence will confuse the jury into thinking Dr. Perera is on trial for failing to supervise a physician's assistant opposed to the issue in this case as to did his treatment of Ms. Gilbert violate the standard of care. Second, evidence of his prior reprimand is an attempt to provide character evidence to prove that because Dr. Perera was reprimanded he is of bad character and the jury should infer he committed malpractice in the current case, which is clearly barred under Green v. Shaw. Third, the Plaintiff does not allege in the four corners of the complaint that Dr. Perera failed to supervise a physician's assistant, therefore presentation of such evidence would be an undue delay and a waste of time.

**Evidence Violates Rule 404**

Under Rule 404(b) of the South Carolina Rules of Evidence:

Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show action in conformity therewith. It may however, be admissible to show motive, identity, the existence of a common scheme or plan, the absence of mistake or accident, or intent.

The evidence of Dr. Perera's reprimand is being introduced to establish that Dr. Perera is of the type of character of someone who commits malpractice, therefore medical malpractice should be inferred in the case at bar. Under Rule 404(b) evidence of other wrongs are not admissible to prove the character of a person. A prior action of failure to supervise a physician's assistant would constitute a prior wrong, or act. Therefore, since the evidence is of a prior act or wrong and is being introduced to show the character of Dr. Perera it must be inadmissible under Rule 404(b).

4. Any reference to circumstance surrounding Dr. Perera's resignation from CareNet.

Issue:

Should evidence involving Dr. Perera's resignation from CareNet be excluded on grounds that the evidence is irrelevant, prejudicial and in violation of Rule 404(b)?

Argument:

Under Rule 402, in the South Carolina Rules of Evidence:

All relevant evidence is admissible.... Evidence which is not relevant is not admissible.

Under Rule 401 of the South Carolina Rules of Evidence:

"Relevant evidence" means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more or less probable than it would be without the evidence.

Dr. Perera's resignation from CareNet was related in some degree to two medical malpractice cases against him. We object to this testimony being introduced on the same grounds that we object to evidence of his past medical malpractice actions being introduced.

Under Rule 404(b) of the South Carolina Rules of Evidence:

Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show action in conformity therewith. It may however, be admissible to show motive, identity, the existence of a common scheme or plan, the absence of mistake or accident, or intent.

We must first ask what is the purpose for the Plaintiff introducing evidence of Dr. Perera's departure from CareNet due to his malpractice issues? The goal is to establish that because Dr. Perera had two malpractice cases, CareNet no longer sought to employ him and he is of the type of character that would not give honest recollections of his care of Ms. Gilbert.

The only reason this evidence is attempted to be introduced is to establish that Dr. Perera is of bad character and would be an unreliable witness because of his previous issues with medical malpractice. Under Rule 404(b) evidence of other wrongs are not admissible to prove the character of a person. A prior action of malpractice and internal discussions with CareNet related to those malpractice cases would constitute a prior wrong, or act. Therefore, since the evidence is of a prior act or wrong and is being introduced to show the character of Dr. Perera it must be inadmissible under Rule 404(b).

5. Any reference to Dr. Perera's attempt to have a nurse fill a prescription for his son and his allegedly improper attempt to fill a second prescription.

**Issue:**

Should evidence involving Dr. Perera's attempt to have a nurse obtain medication for his son and an alleged improper attempt at filling a second prescription, be excluded on grounds that the evidence is irrelevant, prejudicial and in violation of Rule 404(b)?

**Argument:**

Under Rule 402, in the South Carolina Rules of Evidence:

All relevant evidence is admissible.... Evidence which is not relevant is not admissible.

Under Rule 401 of the South Carolina Rules of Evidence:

"Relevant evidence" means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more or less probable than it would be without the evidence.

The issue is whether testimony about the alleged improper attempt at filling a non-narcotic prescription for a family member is relevant to this current case. In order to be relevant such testimony must make the existence of any fact that is of consequence more probable than without them. In assessing whether evidence is relevant we must first determine the purpose it is being introduced for. Then ask does that purpose make the existence of any fact that is of consequence to the determination of the action more or less probable.

There is no issue in this case relating to an improper filling of a prescription. In this instance the Defendant seeks to introduce evidence of Dr. Perera's attempt to fill a prescription to show the lack of medical competence of Dr. Perera in assessing his testimony as it relates to the medicine involved in this case. Such evidence is irrelevant because the issue of proper prescription procedure is not at issue in this case. Filling prescriptions has nothing to do with diagnosing cancer; such testimony is therefore irrelevant. See: Green v. Shaw, 136 S.C. 56, 134 S.E. 226, 227 (1926).

**Evidence is unfairly prejudicial**

Under Rule 403 of the South Carolina Rules of Evidence:

Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.

If the court decides the evidence of Dr. Perera's alleged attempt to fill a prescription for a family member is relevant then it should be excluded on the grounds that it is unfairly

for four reasons. First, admitting such evidence will serve to confuse the jury into thinking that Dr. Perera's should be judged for his alleged misconduct in attempting to fill a prescription opposed to whether or not he violated the standard of care. Second, the alleged conduct is a criticism which reflects poorly on Dr. Perera and would damage his character with the jury, which would unfairly prejudice the jury against him, which is clearly bared under Green v. Shaw. Third, the conduct is only alleged. Dr. Perera was not subject any discipline for his actions and no evidence has been brought against him other than unsubstantiated allegations in the 30(b)(6) deposition of Dr. Barre. Fourth, Plaintiff does not contend in the four corners of the complaint that Dr. Perera violated the standard of care through prescription abuse, making presentation of this evidence a waste of time, and would unduly delay the trial.

**Evidence Violates Rule 404**

Under Rule 404(b) of the South Carolina Rules of Evidence:

Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show action in conformity therewith. It may however, be admissible to show motive, identity, the existence of a common scheme or plan, the absence of mistake or accident, or intent.

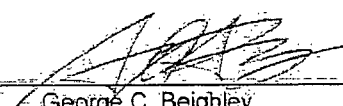
The evidence of Dr. Perera's alleged attempted improper filling of a prescription is being introduced to establish that Dr. Perera is of the type of character of someone who commits malpractice, therefore medical malpractice should be inferred in the case at bar. Under Rule 404(b) evidence of other wrongs are not admissible to prove the character of a person. A prior alleged action of attempting to improperly fill a prescription would constitute a prior wrong, or act. Therefore, since the evidence is of a prior act or wrong and is being introduced to show the character of Dr. Perera it must be inadmissible under Rule 404(b).

Based on the clear appreciation of the South Carolina Rules of Evidence, the referenced evidence and testimony should be excluded from any use or reference during the trial of this case.

[SIGNATURE PAGE TO FOLLOW]

Respectfully Submitted,

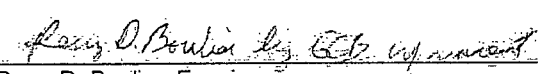
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August 18, 2015

|                                 |   |                                     |
|---------------------------------|---|-------------------------------------|
| STATE OF SOUTH CAROLINA         | ) | IN THE COURT OF COMMON PLEAS        |
|                                 | ) |                                     |
| COUNTY OF LANCASTER             | ) | Case No.: 2013-CP-29-1339           |
|                                 | ) |                                     |
| Johnnie Mae Reed, as Personal   | ) |                                     |
| Representative of the Estate of | ) |                                     |
| Sandra Gilbert,                 | ) |                                     |
|                                 | ) | <b>MEMORANDUM IN OPPOSITION TO</b>  |
|                                 | ) | <b>DEFENDANTS' MOTION IN LIMINE</b> |
| Plaintiff,                      | ) |                                     |
| vs.                             | ) |                                     |
|                                 | ) |                                     |
| CareNet, Inc. of Lancaster and  | ) |                                     |
| Nimal A. Perera, M.D.,          | ) |                                     |
|                                 | ) |                                     |
| Defendants.                     | ) |                                     |
|                                 | ) |                                     |

The Plaintiff hereby submits this memorandum in opposition to the Defendants' Motion in Limine, which seeks to exclude anticipated testimony and documents regarding the Defendants' misconduct on the grounds that such testimony and documents would be irrelevant, prejudicial, and lead to confusion of the issues in this case, and because such anticipated testimony is in violation of Rule 404, SCRE. The matters requested for exclusion include the following five topics:

1. Any reference to prior cases against Dr. Perera/CareNet by other Plaintiffs.
2. Any reference to changes made to a medical record in a prior unrelated case.
3. Any reference to Dr. Perera's reprimand by the NC medical board for failure to supervise a physician assistant.
4. Any reference to the circumstances surrounding Dr. Perera's resignation from CareNet.
5. Any reference to Dr. Perera's attempt to have a nurse fill a prescription for his son and his allegedly improper attempt to fill a second prescription.

~~Plaintiff does not intend to discuss topic 3 at the trial of this case, with regards to Dr. Perera's~~

public reprimand for failing to supervise a physician assistant in North Carolina. However, Plaintiff hereby asserts that topics 1, 2, 4, and 5, may be discussed at the trial of this case under

Rule 608(b), SCRE, because they relate to specific instances of conduct by Dr. Perera that are directly probative of his propensity for untruthfulness in the present case. Rule 404, SCRE, is cited by the Defendants in their Motion in Limine, but it is not the proper rule to use in analyzing the admissibility of testimony regarding topics 1, 2, 4, and 5. Rule 404, SCRE, only applies when a party is attempting to proffer evidence of other crimes, wrongs, or acts “to prove the character of a person in order to show action in conformity therewith.” Rule 404(b), SCRE (emphasis added). The Plaintiff is not alleging or attempting to prove that Dr. Perera falsified Sandra Gilbert’s medical records, or that he improperly prescribed Ms. Gilbert medication under false pretenses as he purportedly did with his son. Rather, the Plaintiff is asserting that it is proper to inquire about these matters of Dr. Perera at the trial of the present case because they are probative of his general character for untruthfulness, which is expressly allowed under Rule 608(b), SCRE:

*(b) Specific instances of conduct. Specific instances of the conduct of a witness, for the purpose of attacking or supporting the witness' credibility, other than conviction of crime as provided in Rule 609, may not be proved by extrinsic evidence. They may, however, in the discretion of the court, if probative of truthfulness or untruthfulness, be inquired into on cross-examination of the witness (1) concerning the witness' character for truthfulness or untruthfulness, or (2) concerning the character for truthfulness or untruthfulness of another witness as to which character the witness being cross-examined has testified.*

Rule 608(b), SCRE (emphasis added).

The South Carolina Supreme Court has interpreted Rule 608(b), SCRE, to apply to those specific instances of misconduct which are clearly probative of truthfulness or untruthfulness, such as forgery, bribery, false pretenses, and embezzlement. State v. Kelsey, 331 S.C. 50, 75, 502 S.E.2d 63, 75 (1998). In the present case, topics 1, 2, 4, and 5, relate specifically to falsifications of medical records and the drafting of misleading medical records by Dr. Perera, and the Plaintiff



believes these intentional acts of deceit were made under false pretenses towards patients or other medical personnel and are directly probative of Dr. Perera's propensity for untruthfulness. Topic 4 relates to the fact that Dr. Perera's actions, which were made under false pretenses, were so egregious that they led to his resignation from Defendant CareNet, Inc. of Lancaster. It is to be noted that CareNet did not report this incident to the South Carolina Board of Medical Examiners.

The high probative value of topics 1, 2, 4, and 5, is derived from the fact that Sandra Gilbert is deceased, allegedly from the failure of Dr. Perera to timely diagnose her developing colon cancer. Ms. Gilbert is accordingly unavailable to refute the testimony of Dr. Perera in this medical malpractice action regarding his interactions with Ms. Gilbert. Plaintiff anticipates that Dr. Perera's trial testimony regarding Ms. Gilbert will match his deposition testimony that Ms. Gilbert was rude, belligerent, and unwilling to listen to any of his medical advice regarding preventive medical care and colonoscopies. Therefore, Dr. Perera's character and propensity for untruthfulness will be a significant issue at the trial of this case when he begins testifying in front of the jury about his interactions with Ms. Gilbert.

**I. Admissibility of Dr. Perera's testimony regarding topics 1, 2, 4, and 5, under Rule 608(b), SCRE.**

With regards to topics 1 and 2 of Defendants' Motion in Limine, Dr. Perera admitted under oath in his deposition in the case of *Marsha Lackey v. Nimal A. Perera, M.D., CareNet of Lancaster, et al.* (Case No.: 2010-CP-29-561) that he altered medical records of Gary Lackey after Mr. Lackey had passed away specifically because he knew that there were 'deficits' in the medical records related to Mr. Lackey's cause of death and because he knew that attorneys

would be reviewing the medical records for Mr. Lackey:

*Q: Well, let's get right to it. Tell me, why did you go in and add something to someone's medical records?*

A: This is Gary Lackey's medical records, and –  
 Q: Yep.  
 A: -- he was seen by me on a previous occasion.  
 Q: Okay.  
 A: And that someone is use – someone is equal to Gary Lackey. **Before I faxed this to my defense lawyer then, I read the whole thing and realized that there is a deficit in my follow-up plan.**  
 Q: Okay.  
 A: **So I added that statement to complete that deficit and faxed it.**

Perera Dep. 11:5-18 (Case No.: 2010-CP-29-561) (emphasis added).

Q: Okay. Did you make these – did you make these addendums for the purpose of benefiting Gary Lackey?  
 A: No.  
 Q: Okay. What was your purpose for putting it in the record when he was already dead?  
 A: **Knowing that these records are being read by lawyers from both sides for their reviews.**  
 Q: So you made additions to the records because you knew lawyers would be looking at your records?  
 A: Well, the – there – there's a deficit in my – I told you that ideally speaking, I would have put this – put this statement on my original visit with Gary Lackey, but I don't know why I didn't do that.  
 Q: Okay.  
 A: And when I read these notes for the second time, I thought this is a deficit, so I should write it for people[, referring to attorneys,] to read it.

Perera Dep. 17:3-21 (Case No.: 2010-CP-29-561) (emphasis added).

A copy of this cited deposition testimony is attached as Exhibit 1 to this memorandum. Dr. Perera also testified in his deposition in Case No.: 2010-CP-29-561 that he had previously refused to testify under oath regarding altering Mr. Lackey's medical records alteration because he did not feel like volunteering this information when questioned under oath:

Q: Okay. But – but Mr. Brown[, the questioning attorney,] was examining you on Exhibit 1[, the original, unaltered records,] which did not have these new notes, correct?  
 A: Uh-huh. Uh-huh.  
 Q: Why – it's two years after you changed them. Why didn't you let him know there was an additional set of records that had more notes on it?  
 A: Oh, I didn't volunteer to tell him that because I was questioned on Exhibit 1.

- Q: Okay. Why didn't you volunteer it? And let me – let me preface that question: Why didn't you volunteer it? Because you just told me this morning the reason you – you – you wrote those notes on there was because attorneys were going to be looking at it. Didn't you tell me that?*
- A: (Nods head up and down)*
- Q: So here you have an attorney questioning you on this document that did not have your additional notes. So why didn't you tell Mr. Brown, "Mr. Brown, I have another set of notes with some additional – with some additional writing on it?" Why didn't you tell him that?*
- A: Because I stick with this, but I did not volunteer to tell that.*

Perera Dep. 23:16-25; 24:1-14 (Case No.: 2010-CP-29-561).

A copy of this cited deposition testimony is attached as Exhibit 2 to this memorandum. The egregiousness of the medical records alterations in Case No.: 2010-CP-29-561 can only be understood by describing the nature of the alterations. Gary Lackey passed away from intracranial issues after visiting Dr. Perera. After litigation had begun regarding Dr. Perera's treatment of Gary Lackey, Dr. Perera altered Mr. Lackey's discharge instructions from "see in 2 weeks" to "see in 2 weeks – Imaging Studies[.]" with the implication in the altered records that Dr. Perera would have run a neurological imaging test in two weeks that might have revealed the intracranial issues that led to Mr. Lackey's death if he had returned to see Dr. Perera in two weeks. This is the 'deficit' referred to in the above-cited portions of Dr. Perera's deposition in Case No.: 2010-CP-29-561. There was no indication of imaging studies or neurological tests in the original medical records, but once litigation began, Dr. Perera altered the records to make it appear like he had originally recommended imaging studies to be done on Mr. Lackey's follow-up visit. Dr. Perera elaborated in his deposition on the nature of this deficit:

- Q: Okay. Well, let's talk about this. Tell me what the deficit was.*
- A: The deficit was that in two weeks' time, if this patient did come back to me, these are the follow-up plans that I had in my mind. Of course, I did not want to write the elaborate statements because this is in a lawsuit, so I – even though I wrote 'imaging studies,' what I meant was imaging studies and maybe referring to a neurologist or maybe doing another neurological examination and see if the patient has a difference between*

*last neurological examination and the examination on the follow-up visit. And I didn't want to put all these things as an addendum, so I just wrote 'imaging studies.'*

Perera Dep. 11:19-25; 12:1-7 (Case No.: 2010-CP-29-561).

A copy of this cited deposition testimony is attached as Exhibit 3 to this memorandum. The Plaintiff in the present case hereby asserts that this improper falsification of medical records made in Case No.: 2010-CP-29-561, which was done in light of the impending production to legal counsel, is directly probative of Dr. Perera's propensity for untruthfulness and Plaintiff should be entitled to inquire into this matter during the examination of Dr. Perera under Rule 608(b). Defendant CareNet testified through its Rule 30(b)(6), SCRCF, corporate representative, Stewart Barre, M.D., that Dr. Perera resigned under pressure due to his actions in both the present case and the Lackey Case (Case No.: 2010-CP-29-561):

- Q: Why is [Dr. Perera] no longer employed?*  
*A: He resigned in January of 2014.*  
*Q: Was he – did he resign under pressure, for him to resign, by CareNet?*  
*A: Yes, sir. I believe so.*  
*Q: And what was the reason for the concern that CareNet had? What – I mean, what, specifically, factual basis?*  
*A: Specifically, the – the current lawsuit and the other lawsuit [the Lackey lawsuit] that we've already discussed, the board felt like had – or his actions, rather had put the organization at risk. And – and this the timing of this coincided with a goal that Dr. Perera had set out, probably two years before, saying that he wanted to retire when he turned 65 during the year 2013, and he had been telling the prior administrator at CareNet that he wanted to practice part-time; he wanted to cut down, and he was going to do that, no matter what, and, so, I think that the board felt like with, you know, Dr. Perera's professional goals and – and the fact that, you know, they like a lot of this stuff had sort of put the organization at risk. And they wanted to move to some permanent, you know, full-time employees; that it was time to – to part ways.*

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~~30(b)(6) of CareNet, Inc., of Lancaster (Stewart Barre) Dep. 35:4-25; 36:1-4.~~

A copy of this cited deposition testimony is attached as Exhibit 4 to this memorandum. Because Dr. Perera resigned from Defendant CareNet, Inc. of Lancaster due to his propensity for falsifying medical records, topic 4 should be open to discussion as well under Rule 608(b).

Topic 5 is similarly probative of Dr. Perera's propensity for untruthfulness because it involves attempts by Dr. Perera to circumvent South Carolina regulations under false pretenses by establishing a practitioner-patient relationship with his own son. Topic 5 seeks to exclude testimony regarding "[a]ny reference to Dr. Perera's attempt to have a nurse fill a prescription for his son and his allegedly improper attempt to fill a second prescription." Under the South Carolina Code of Regulations, a doctor may not "acquire a valid patient-practitioner relationship with himself or herself, nor with a member of his or her immediate family, due to the likelihood of the loss or vitiation of the objectivity required in making the necessary medical decisions in order to properly prescribe or dispense controlled substances." S.C. Code of Regulations R.61.4.1204. Dr. Perera expressly sought to circumvent this regulation under false pretenses by attempting to have a nurse fill a prescription for his son. Plaintiff hereby asserts that it is proper to inquire about this specific instance of conduct on the examination of Dr. Perera under Rule 608(b), SCRE, because it involves another attempt by Dr. Perera to obtain an improper medical result using false pretenses in violation of state regulations. This indicates a propensity for untruthfulness and may be inquired about during Dr. Perera's examination under Rule 608(b). Defendant's Motion in Limine should hereby be denied for topic 5.

**II. The high probative value of Dr. Perera's testimony regarding topics 1, 2, 4, and 5, outweighs the danger of any prejudice.**

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Under Rule 403, SCRE, otherwise relevant evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or

misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence. Sandra Gilbert is deceased and the present action alleges that Dr. Perera's failure to timely and properly diagnose Ms. Gilbert's developing colon cancer was a proximate cause of her death. By the time Ms. Gilbert was diagnosed with colon cancer in October 2011, by a different physician than Dr. Perera, the colon cancer had already metastasized and advanced to Stage 3B, greatly diminishing Ms. Gilbert's five-year survival rate. Because Ms. Gilbert is deceased, Plaintiff has no other option than relying on Dr. Perera's testimony for establishing the substance of his interactions and discussions with Ms. Gilbert on preventative medical recommendations. Dr. Perera's deposition testimony regarding Ms. Gilbert described her as constantly in a rush and unwilling to listen to any of his medical advice regarding a colonoscopy:

*Q: So she was 51 years old?*

*A: Fifty-one. Yeah.*

*Q: And, isn't the standard of care for a 51 year-old female African-American with weight issues, that you should run a colonoscopy or just regularly once every few years?*

*A: The answer is no. The 50 – 40 to 50-year old person, the – what preventive measures that I offered to this particular patient at 40 to 50 is breast exam mammograms and colonoscope. True. I did offer the discussion, but she did not stay with me for the discussion. After the discussion, if she would have stayed with me and listened to me, the discuss, I would have – I would have ordered not only colonoscope and even the mammogram. This is the standard protocol this American system has given to me to manage preventative health care between 40 and 50. Fifty-one, 50, not a big deal.*

*Q: She's –*

*A: I mean, I don't have to do these things on 40<sup>th</sup> birthday or 50<sup>th</sup> birthday. Fifty-one is pretty close, yeah. Certainly she need a colonoscope, mammogram, as preventive screening process. She blew it. I offered it, she didn't want to listen to me.*

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Perera Dep. 95:13-25; 96:1-16 (emphasis added).

This cited deposition testimony is attached as Exhibit 4 to this deposition. In light of the fact that the Plaintiff is asserting that Dr. Perera's failed to properly recommend a colonoscopy or other preventative medical test, Dr. Perera has a strong incentive to mold his testimony regarding his interactions to paint Ms. Gilbert in as negative a light as possible and he did so repeatedly in his deposition in the present case. Ms. Gilbert's death means there is no other individual alive who can refute the substance of these closed-door, doctor-patient meetings between Ms. Gilbert and Dr. Perera. Ms. Gilbert's death and inability to refute these accusations makes Dr. Perera's propensity for deceit and untruthfulness a central issue in this case.

The specific instances of conduct that Plaintiff intends to inquire of Dr. Perera are extremely probative of his character and propensity for untruthfulness, and such lines of questioning are expressly permitted under Rule 608(b), SCRE. Topics 1, 2, 4, and 5, relate directly to Dr. Perera's propensity for deceit and untruthfulness and there is significant probative value at issue in having the jury in this case become aware of his character and propensity for untruthfulness. Simply put, if Dr. Perera is willing to admit in a deposition, under oath, that he secretly altered a deceased's medical records immediately prior to faxing them to attorneys for their review in determining if he acted improperly, who is to say that his testimony regarding his interactions with Ms. Gilbert is not being altered as well due to her being deceased and unable to refute his testimony? The jury has the right to make this decision on whether they believe Dr. Perera's representation of Ms. Gilbert based on a full representation of Dr. Perera's past alterations of medical history. The probative value of the specific instances of conduct set forth in topics 1, 2, 4, and 5, is enormous in the present case with regards to the issue of Dr. Perera's character and propensity for untruthfulness. Plaintiff hereby asserts that she should have the right to inquire about these matters with Dr. Perera in front of the jury, under Rule 608(b), SCRE,

because his testimony regarding his closed-door meetings with Ms. Gilbert will necessarily be given unopposed in light of Ms. Gilbert's death and his propensity for truthfulness or untruthfulness is a central issue in this case.

**III. In the event that the Defendants' Motion in Limine is denied for topics 1, 2, 4, and 5, the Plaintiff is entitled to use extrinsic evidence under Rule 613(b), SCRE.**

Rule 608(b), SCRE provides that "*specific instances of the conduct of a witness, for the purpose of attacking or supporting the witness' credibility . . . may not be proved by extrinsic evidence.*" The South Carolina Supreme Court has interpreted Rule 608(b), SCRE, and held that the extrinsic evidence prohibition does not apply to statements regarding specific instances of conduct. *See State v. Fossick*, 333 S.C. 66, 508 S.E.2d 32 (1998) (holding that extrinsic evidence was admissible under Rule 613(b), SCRE, when witness denied making prior statements about a specific instance of conduct under Rule 608(b)).

In the present case, to the extent Dr. Perera admitted engaging in specific instances of conduct in prior depositions, the Plaintiff is entitled to utilize such prior deposition testimony as admissible extrinsic evidence under Rule 613(b), SCRE, if Dr. Perera denies making such statements and admissions at the trial of the present case. Id.

**CONCLUSION**

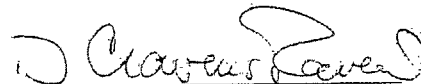
Based on the foregoing, Plaintiff hereby asserts that the Defendants' Motion in Limine should be denied for topics 1, 2, 4, and 5.

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(signature on next page)



Columbia, South Carolina  
August 17, 2015



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## EXHIBIT 1

| Page 1                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                           | Page 3                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |  |
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| State of South Carolina<br>County of Lancaster<br>Marsha Lackey, Individually<br>and as the Personal<br>Representative of the<br>Estate of Gary J. Lackey,<br>Plaintiff,<br>v.<br>Lancaster Hospital<br>Corporation d/b/a Springs<br>Memorial Hospital; South<br>Carolina EM-1 Medical<br>Services, P.C.; David Hess,<br>N.P.; Kathy Papazian, D.O.;<br>CareNet of Lancaster, M.<br>Nimal A. Perera, M.D.,<br>Defendants.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | 2010-CP-29-561<br>Video Deposition<br>of<br>M. Nimal A. Perera,<br>MD                                                                     | EXHIBITS<br>Plaintiff's Exhibit Number 1, "Patient Questionnaire and<br>Exam." 7<br>Plaintiff's Exhibit Number 2, "Defendants CareNet of<br>Lancaster and M. Nimal A. Perera, M.D.'s Answers to<br>Plaintiff's First Set of Interrogatories." 7<br>Plaintiff's Exhibit Number 3, Transcript page 60 of M.<br>Nimal A. Perera taken on 5/21/2012. 18<br>Plaintiff's Exhibit Number 4, Transcript pages 63 and<br>64 of M. Nimal A. Perera taken on 5/21/2012. 20<br>Plaintiff's Exhibit Number 5, Letter to M. Nimal Perera,<br>MD from Samuel R. McEwen. 39<br>Plaintiff's Exhibit Number 6, Letter to Julius W. McKay,<br>II, from Robert V. Phillips. 50<br>Plaintiff's Exhibit Number 7, "Iradell County - Real<br>Estate Search." 73                                                                                                                                                                                                                                                                     |  |
| Date: Tuesday, May 6, 2014.<br>Time: 10:19 a.m.<br>Location: McGowan, Hood & Felder, LLC, 1539 Health Care<br>Drive, Rock Hill, South Carolina.<br><br>Reported by<br>Susan A. Wyant                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |  |
| Page 2                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                           | Page 4                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |  |
| APPEARANCES<br>For the Plaintiff: Robert V. Phillips, Esq.<br>McGowan, Hood & Felder, LLC<br>1539 Health Care Drive<br>Rock Hill, South Carolina 29732<br>R. Kent Brown, Esq.<br>Brown, Moore & Associates, PLLC<br>330 East Boulevard<br>Charlotte, North Carolina 28203<br>For the Defendant Lancaster Hospital Corporation d/b/a<br>Springs Memorial Hospital: Weldon R. Johnson, Esq.<br>Emily C. Brown, Esq.<br>Barnes Alford Stork & Johnson, LLP<br>1613 Main Street<br>Columbia, South Carolina 29201<br>For the Defendants South Carolina EM-1 Medical Services<br>and Kathy Papazian, DO: Russell W. Harter, Jr., Esq.<br>Chapman, Harter & Harter, PA<br>14 Lavinia Avenue<br>Greenville, South Carolina 29601<br>For the Defendant David Hess, NP: Perry D. Boulter, Esq.<br>Holcombe Bomar, PA<br>100 Dunbar Street, Suite 200<br>Spartanburg, South Carolina 29306<br>For the Defendant:<br>Nimal A. Perera, MD: D. Gary Lovell, Jr., Esq.<br>Carlock, Copeland & Stair, LLP<br>40 Calhoun Street, Suite 400<br>Charleston, South Carolina 29401<br>Also Present: Jessica Oswald, Videographer<br><br>INDEX<br>Stipulations: 4<br>Examination by Mr. Phillips: 4 | 1<br>2<br>3<br>4<br>5<br>6<br>7<br>8<br>9<br>10<br>11<br>12<br>13<br>14<br>15<br>16<br>17<br>18<br>19<br>20<br>21<br>22<br>23<br>24<br>25 | STIPULATIONS<br>It is stipulated by and between counsel for<br>the respective parties that all objections are<br>reserved until the time of trial, except as to<br>the form of the questions.<br>This deposition is being taken pursuant to the<br>South Carolina Rules of Civil Procedure.<br>- - -<br>The reading and signing of this deposition is<br>reserved by the deponent and counsel for the<br>respective parties.<br>Whereupon,<br>M. Nimal A. Perera, MD, being duly sworn and<br>cautioned to speak the truth, the whole truth,<br>and nothing but the truth, testified as<br>follows:<br>EXAMINATION<br>BY MR. PHILLIPS:<br>Q Dr. Perera, my name is Robert Phillips. I -- the<br>attorney for the family of Gary Lackey. You're<br>here for a -- a special deposition that the judge<br>has allowed. You have previously been deposed in<br>this case. Do I need to explain all the rules of a<br>deposition, or are you sufficiently familiar with<br>the rules of how we take a deposition? |  |

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1 until 10:29 a.m.)  
 2 THE EXAMINATION BY MR. PHILLIPS CONTINUES.  
 3 Q Dr. Perera, looking at Exhibit 2 -- or Plaintiff's  
 4 Exhibit 2 --  
 5 MR. PHILLIPS: (To Mr. Brown) Do we have  
 6 that? There we go.  
 7 Q Looking at Plaintiff's Exhibit 2, do you see the  
 8 page -- the -- the record that says "CHC 10" at the  
 9 bottom?  
 10 A I see that.  
 11 Q Okay. And that has the "alterations" or  
 12 "additions," as your attorney is calling it. That  
 13 would be the correct document, correct?  
 14 A Correct, yeah.  
 15 Q And do you see at the very -- let's see on the last  
 16 page of the -- the attorney's documents, which is  
 17 about halfway through it, it looks like this. It's  
 18 the page before all of the medical records start.  
 19 Right there. You just passed it.  
 20 A This one?  
 21 Q That right there. Yep. Okay. That's your  
 22 attorney's signature, and without getting into the  
 23 specifics, when we sign a document as lawyers in  
 24 South Carolina, we are testifying to the best of  
 25 our knowledge that that's true and accurate,

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1 unaltered records. Do you understand that?  
 2 A Yes.  
 3 Q Okay. Now, this record, that's CHC 10 in the back  
 4 of that that was produced in response to these  
 5 requests for production, was altered, wasn't it?  
 6 A I use the word "addendum."  
 7 Q Okay. It was -- how about we use the word  
 8 "changed"?  
 9 A As long as --  
 10 Q Okay.  
 11 A -- "change" and "addendum" doesn't have that much  
 12 of a difference on this particular issue.  
 13 Q Okay. Did you tell anybody that you had made these  
 14 additions on the records?  
 15 A No.  
 16 Q You didn't tell anybody?  
 17 A No.  
 18 Q Okay. When did you -- when did you make these  
 19 changes to these records?  
 20 A I wish I remember. I know that I did this addendum  
 21 under the line just before I faxed this to my then  
 22 defense lawyer.  
 23 Q Okay. So you faxed these records to your --  
 24 A No. I gave it to my assistants, the nurses, the  
 25 front desk people, after adding that addendum

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1 namely to consider imaging studies.  
 2 Q Okay.  
 3 A And they should have faxed it to -- which day, I  
 4 don't know, sir.  
 5 Q Okay. Well, let's get right to it. Tell me, why  
 6 did you go in and add something to someone's  
 7 medical records?  
 8 A This is Gary Lackey's medical records, and --  
 9 Q Yep.  
 10 A -- he was seen by me on a previous occasion.  
 11 Q Okay.  
 12 A And that someone is use -- someone is equal to Gary  
 13 Lackey. Before I faxed this to my defense lawyer  
 14 then, I read the whole thing and realized that  
 15 there is a deficit in my follow-up plan.  
 16 Q Okay.  
 17 A So I added that statement to complete that deficit  
 18 and faxed it.  
 19 Q Okay. Well, let's talk about this. Tell me what  
 20 the deficit was.  
 21 A The deficit was that in two weeks' time, if this  
 22 patient did come back to me, these are the follow-  
 23 up plans that I had in my mind. Of course, I did  
 24 not want to write the elaborate statements because  
 25 this is in a lawsuit, so I -- even though I wrote

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1 "imaging studies," what I meant was imaging studies  
 2 and maybe referring to a neurologist or maybe doing  
 3 another neurological examination and see if the  
 4 patient has a difference between last neurological  
 5 examination and the examination on the follow-up  
 6 visit. And I didn't want to put all these things  
 7 as an addendum, so I just wrote "imaging studies."  
 8 Q Okay. So imaging studies was not in relation to  
 9 any specific type of diagnostic scan image?  
 10 A Yeah. In this particular case, because patient  
 11 initially complains of a headache, which goes with  
 12 a positive correlation, should get a CT scan of the  
 13 head.  
 14 Q I'm sorry. Say that again.  
 15 A In this particular case, with the complaint of  
 16 headache initially and if this patient did come  
 17 back in two weeks' time, what I meant was "imaging  
 18 studies" is CT scan of the head.  
 19 Q Okay. So you do agree that if he came back in two  
 20 weeks, you would have -- have done a CT scan?  
 21 A Provided there is a difference in the neurological  
 22 examination or persistent headache after two weeks.  
 23 Q Okay.  
 24 A Those are the reasons.  
 25 Q Was --

| Page 17                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Page 19                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>1 Q What was --</p> <p>2 A -- like imaging studies.</p> <p>3 Q Okay. Did you make these -- did you make these</p> <p>4 addendums for the purpose of benefiting Gary</p> <p>5 Lackey?</p> <p>6 A No.</p> <p>7 Q Okay. What was your purpose for putting it in the</p> <p>8 record when he was already dead?</p> <p>9 A Knowing that these records are being read by</p> <p>10 lawyers from both sides for their reviews.</p> <p>11 Q So you made additions to the records because you</p> <p>12 knew lawyers would be looking at your records?</p> <p>13 A Well, the -- there -- there's a deficit in my -- I</p> <p>14 told you that ideally speaking, I would have put</p> <p>15 this -- put this statement on my original visit</p> <p>16 with Gary Lackey, but I don't know why I didn't do</p> <p>17 that.</p> <p>18 Q Okay.</p> <p>19 A And when I read these notes for the second time, I</p> <p>20 thought this is a deficit, so I should write it for</p> <p>21 people to read it.</p> <p>22 Q Okay. When you -- do you remember the previous</p> <p>23 deposition we had back in 2012?</p> <p>24 A Uh-huh.</p> <p>25 Q Do you remember that? Do you remember when you</p>          | <p>1 these additions that you made on the records</p> <p>2 because you wanted the lawyers to know what was</p> <p>3 supposed to be on there?</p> <p>4 A Nobody asked that question from me.</p> <p>5 Q Okay. Well, let's look at what's marked as</p> <p>6 Plaintiff's 3. You see line 5?</p> <p>7 A Yeah.</p> <p>8 MR. LOVELL: (To Mr. Phillips) Which page of</p> <p>9 the depo are --</p> <p>10 MR. PHILLIPS: Page --</p> <p>11 MR. LOVELL: -- we on?</p> <p>12 MR. PHILLIPS: -- 60.</p> <p>13 MR. LOVELL: I don't have a copy.</p> <p>14 Q I'm going to read the -- read the question that Mr.</p> <p>15 Brown asked you. Oh -- it says, "And everything</p> <p>16 that you would've asked Mr. Lackey that you deemed</p> <p>17 important would've been written on this sheet?"</p> <p>18 Correct?</p> <p>19 A Yes.</p> <p>20 Q Okay. "And everything that you ruled out and</p> <p>21 deemed important would be on this sheet? And every</p> <p>22 medical exam that you did of him" -- and "Any and</p> <p>23 all medical exams you did for him would've been on</p> <p>24 this sheet?" Is that correct?</p> <p>25 A Yes.</p>                                                  |
| Page 18                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Page 20                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <p>1 were asked -- and let's mark this.</p> <p>2 MR. PHILLIPS: (To Mr. Brown) Ask her to mark</p> <p>3 one of those and just pass the others around.</p> <p>4 MR. JOHNSON: Page 60 of the transcript?</p> <p>5 (Sotto voce discussion between Mr.</p> <p>6 Phillips and Mr. Brown.)</p> <p>7 MR. HARTER: (To Mr. Phillips) Okay. What</p> <p>8 number is that?</p> <p>9 MR. PHILLIPS: This would be Plaintiff's 3.</p> <p>10 MR. HARTER: Three?</p> <p>11 Plaintiff's Exhibit Number 3, Transcript</p> <p>12 page 60 of M. Nimal A. Perera taken on</p> <p>13 5/21/2012.</p> <p>14 Q Okay. Now, Doctor, when you had your deposition,</p> <p>15 you were being questioned with what is marked as</p> <p>16 Plaintiff's 1, were you not?</p> <p>17 A Yes.</p> <p>18 Q Okay. And that did not include your additions, did</p> <p>19 it?</p> <p>20 A This one did not include it.</p> <p>21 Q Okay. During that deposition -- and Mr. Brown, I</p> <p>22 think, took that deposition, and you had made notes</p> <p>23 on there, and you testified earlier that you made</p> <p>24 them because you knew lawyers would be looking at</p> <p>25 them. How come you didn't tell Mr. Brown about</p> | <p>1 Q Okay. All right. Let's look at -- let's make this</p> <p>2 -- where are we at? Four.</p> <p>3 MR. PHILLIPS: (To Mr. Brown) Hand her one of</p> <p>4 those.</p> <p>5 MR. LOVELL: (To Mr. Phillips) What pages are</p> <p>6 these, Robert?</p> <p>7 MR. PHILLIPS: This would be page 63. I think</p> <p>8 that's going to be Number 4.</p> <p>9 Plaintiff's Exhibit Number 4, Transcript</p> <p>10 pages 63 and 64 of M. Nimal A. Perera</p> <p>11 taken on 5/21/2012.</p> <p>12 Q I'm going to hand you Page 63. It's an excerpt --</p> <p>13 Page 63 and 64 and we've marked as Plaintiff's</p> <p>14 Exhibit 4. You see the very last line, Page --</p> <p>15 Line 25 on the very bottom?</p> <p>16 A Uh-huh.</p> <p>17 Q And it says, "And everything of significance that</p> <p>18 you gleaned from Mr. Lackey is recorded in your</p> <p>19 notes?" What was your answer?</p> <p>20 A But in a busy setup, you know, sometimes, although</p> <p>21 I think that this has to be done, I can forget to</p> <p>22 write --</p> <p>23 Q Okay.</p> <p>24 A -- because while examining the patient, there are</p> <p>25 so many other things happening in a busy office. A</p> |

## EXHIBIT 2

| Page 1                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                       | Page 3                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
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| State of South Carolina<br>County of Lancaster<br>Marsha Lackey, Individually<br>and as the Personal<br>Representative of the<br>Estate of Gary J. Lackey,<br>Plaintiff,<br>v.<br>Lancaster Hospital<br>Corporation d/b/s Springs<br>Memorial Hospital, South<br>Carolina EM-1 Medical<br>Services, P.C.; David Hess,<br>N.P., Kathy Papazian, D.O.;<br>CareNet of Lancaster, M.<br>Nimal A. Perera, M.D.,<br>Defendants.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | 2010-CF-29-561<br>Video Deposition<br>of<br>M. Nimal A. Perera,<br>MD | <b>EXHIBITS</b><br>Plaintiff's Exhibit Number 1, "Patient Questionnaire and Exam." 7<br>Plaintiff's Exhibit Number 2, "Defendants CareNet of Lancaster and M. Nimal A. Perera, M.D.'s Answers to Plaintiff's First Set of Interrogatories." 7<br>Plaintiff's Exhibit Number 3, Transcript page 60 of M. Nimal A. Perera taken on 5/21/2012. 18<br>Plaintiff's Exhibit Number 4, Transcript pages 63 and 64 of M. Nimal A. Perera taken on 5/21/2012. 20<br>Plaintiff's Exhibit Number 5, Letter to M. Nimal Perera, MD from Samuel R. McEwen. 39<br>Plaintiff's Exhibit Number 6, Letter to Julius W. McKay, II, from Robert V. Phillips. 50<br>Plaintiff's Exhibit Number 7, "Iredell County - Real Estate Search." 73                                                                                                                                                                                                                                                                                                                                                                      |
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| Page 2                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                       | Page 4                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <b>APPEARANCES</b><br>For the Plaintiff: Robert V. Phillips, Esq.<br>McGowan, Hood & Felder, LLC<br>1539 Health Care Drive<br>Rock Hill, South Carolina 29732<br>R. Kent Brown, Esq.<br>Brown, Moore & Associates, PLLC<br>930 East Boulevard<br>Charlotte, North Carolina 28203<br>For the Defendant Lancaster Hospital Corporation d/b/s Springs Memorial Hospital: Weldon R. Johnson, Esq.<br>Emily C. Brown, Esq.<br>Barnes Alford Stork & Johnson, LLP<br>1613 Main Street<br>Columbia, South Carolina 29201<br>For the Defendants South Carolina EM-1 Medical Services and Kathy Papazian, DO: Russell W. Barter, Jr., Esq.<br>Chapman, Haxter & Harter, PA<br>14 Lavinia Avenue<br>Greenville, South Carolina 29601<br>For the Defendant David Hess, NP: Perry D. Boulter, Esq.<br>Holcombe Bonar, PA<br>100 Dunbar Street, Suite 200<br>Spartanburg, South Carolina 29306<br>For the Defendant: Nimal A. Perera, MD: D. Gary Lovell, Jr., Esq.<br>Carlock, Copeland & Stair, LLP<br>40 Calhoun Street, Suite 400<br>Charleston, South Carolina 29401 |                                                                       | <b>STIPULATIONS</b><br>1<br>2 It is stipulated by and between counsel for<br>3 the respective parties that all objections are<br>4 reserved until the time of trial, except as to<br>5 the form of the questions.<br>6 This deposition is being taken pursuant to the<br>7 South Carolina Rules of Civil Procedure.<br>8<br>9 The reading and signing of this deposition is<br>10 reserved by the deponent and counsel for the<br>11 respective parties.<br>12 Whereupon,<br>13 M. Nimal A. Perera, MD, being duly sworn and<br>14 cautioned to speak the truth, the whole truth,<br>15 and nothing but the truth, testified as<br>16 follows:<br><b>EXAMINATION</b><br>17<br>18 BY MR. PHILLIPS:<br>19 Q Dr. Perera, my name is Robert Phillips. I -- the<br>20 attorney for the family of Gary Lackey. You're<br>21 here for a -- a special deposition that the judge<br>22 has allowed. You have previously been deposed in<br>23 this case. Do I need to explain all the rules of a<br>24 deposition, or are you sufficiently familiar with<br>25 the rules of how we take a deposition? |
| Also Present: Jessica Oswald, Videographer<br><br><b>INDEX</b><br>Stipulations: 4<br>Examination by Mr. Phillips: 4                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |

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1 -- sometimes a nurse is barging through the door  
2 and they bring messages, and sometimes they bring  
3 prescription for me to sign which is not signed or  
4 forgotten. So while doing those things, I have  
5 been examining, and this must have dropped out of  
6 my mind that I should have written this on the --  
7 on the day that I examined him for the first time.  
8 Q Okay. So let's get this record straight: It was  
9 April of 2008 that you saw him and created the  
10 original record?  
11 A That's right.  
12 Q In April of -- on April 30th of 2010, you added  
13 your notes to the records, correct?  
14 A Yeah.  
15 Q Okay. This deposition was two years after you --  
16 you made additions to the records, provided them to  
17 your attorneys. Mr. Brown specifically asked you,  
18 "Was there anything that you gleaned of  
19 significance that's in this record?" What was your  
20 answer?  
21 A Ask that question again.  
22 Q Okay. Well, let's look at -- look at Exhibit 4.  
23 (Sotto voce discussion between Mr.  
24 Phillips and Mr. Brown.)  
25 Q Now, Mr. Brown was -- was questioning you on

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1 Exhibit 1, correct? And that had the unaltered  
2 changes?  
3 A This one, yeah.  
4 (Sotto voce discussion between Mr.  
5 Phillips and Mr. Brown.)  
6 Q He was questioning you on Exhibit 1 that did not  
7 have any changes, correct?  
8 A Yeah.  
9 Q Okay. And the question was -- it's on -- on  
10 Exhibit 4: "And everything of significance that  
11 you gleaned" -- not that you did, but that you  
12 gleaned -- do you understand what "gleaned" means?  
13 A No.  
14 Q You don't know what -- what "gleaned" means?  
15 A If you can explain, I'll understand it better.  
16 Q How about we get the dictionary definition of  
17 "gleaned"?  
18 A All right.  
19 Q I mean, you answered his question. You didn't ask  
20 what that word meant. Let's pull it up here.  
21 Okay. The definition of "glean" --  
22 A Uh-huh.  
23 Q -- "to extract information," okay? Do you  
24 understand what "extracting information" means?  
25 A Yeah. Right.

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1 Q Okay. So Mr. Brown asked you, "Everything of  
2 significant -- everything of significance that you  
3 extracted from Mr. Lackey is recorded in your  
4 notes?" And what was your answer? What was your  
5 answer? You can look at Exhibit 4.  
6 A "Everything of significance that you gleaned from  
7 Mr. Lackey is recorded in your notes?"  
8 Q And what did you -- what was your response?  
9 A At that -- at this point, my former lawyers did  
10 have the Exhibit 2.  
11 Q Okay. But you were being questioned about Exhibit  
12 1.  
13 A On Exhibit 1.  
14 Q Okay.  
15 A So the answer has to be yes.  
16 Q Okay. But -- but Mr. Brown was examining you on  
17 Exhibit 1, which did not have those new notes,  
18 correct?  
19 A Uh-huh. Uh-huh.  
20 Q Why -- it's two years after you changed them. Why  
21 didn't you let him know there was an additional set  
22 of records that had more notes on it?  
23 A Oh, I didn't volunteer to tell that because I was  
24 questioned on Exhibit 1.  
25 Q Okay. Why didn't you volunteer it? And let me --

Page 24

1 let me preface that question: Why didn't you  
2 volunteer it? Because you just told me this  
3 morning the reason you -- you -- you wrote those  
4 notes on there was because attorneys were going to  
5 be looking at it. Didn't you tell me that?  
6 A (Nods head up and down.)  
7 Q So here you have an attorney questioning you on  
8 this document that did not have your additional  
9 notes. So why didn't you tell Mr. Brown, "Mr.  
10 Brown, I have another set of notes with some  
11 additional -- with some additional writing on it"?  
12 Why didn't you tell him that?  
13 A Because I stick with this, but I did not volunteer  
14 to tell that.  
15 Q Okay. Why didn't you? There was your chance. You  
16 were being questioned. You have been accused of  
17 malpractice. You're being questioned by an  
18 attorney. You've got a document that you know  
19 another version of that document exists. Why  
20 didn't you tell him?  
21 A The reason I did not tell him: I thought that  
22 eventually, I will come for another deposition to  
23 do a Exhibit --  
24 Q Okay.  
25 A -- 1 or Exhibit 2.



## EXHIBIT 3

| Page 1                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                           | Page 3                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                      |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------|
| State of South Carolina<br>County of Lancaster<br>Marsha Lackey, Individually<br>and as the Personal<br>Representative of the<br>Estate of Gary J. Lackey,<br>Plaintiff,<br>v.<br>Lancaster Hospital<br>Corporation d/b/a Springs<br>Memorial Hospital; South<br>Carolina EM-1 Medical<br>Services, P.C.; David Hess,<br>R.P., Kathy Papazian, D.O.;<br>CareNet of Lancaster, M.<br>Nimal A. Perera, M.D.,<br>Defendants.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | 2010-CP-29-561<br><br>Video Deposition<br>of<br>M. Nimal A. Perera,<br>MD | EXHIBITS<br>Plaintiff's Exhibit Number 1, "Patient Questionnaire and<br>Exam."<br>Plaintiff's Exhibit Number 2, "Defendants CareNet of<br>Lancaster and M. Nimal A. Perera, M.D.'s Answers to<br>Plaintiff's First Set of Interrogatories."<br>Plaintiff's Exhibit Number 3, Transcript page 60 of M.<br>Nimal A. Perera taken on 5/21/2012.<br>Plaintiff's Exhibit Number 4, Transcript pages 63 and<br>64 of M. Nimal A. Perera taken on 5/21/2012.<br>Plaintiff's Exhibit Number 5, Letter to M. Nimal Perera,<br>MD from Samuel E. McEwen.<br>Plaintiff's Exhibit Number 6, Letter to Julius W. McKay,<br>II, from Robert V. Phillips.<br>Plaintiff's Exhibit Number 7, "Iredell County - Real<br>Estate Search."                                                                                                                                                                                                                                                                                                                                                          | 7<br>7<br>18<br>20<br>39<br>50<br>73 |
| Date: Tuesday, May 6, 2014.<br>Time: 10:19 a.m.<br>Location: McGowan, Hood & Felder, LLC, 1539 Health Care<br>Drive, Rock Hill, South Carolina.<br><br>Reported by<br>Susan A. Wyant                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                      |
| Page 2                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                           | Page 4                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                      |
| APPEARANCES<br>For the Plaintiff: Robert V. Phillips, Esq.<br>McGowan, Hood & Felder, LLC<br>1539 Health Care Drive<br>Rock Hill, South Carolina 29732<br>R. Kent Brown, Esq.<br>Brown, Moore & Associates, PLLC<br>936 East Boulevard<br>Charlotte, North Carolina 28203<br>For the Defendant Lancaster Hospital Corporation d/b/a<br>Springs Memorial Hospital: Waldon R. Johnson, Esq.<br>Emily C. Brown, Esq.<br>Barnes Alford Stork & Johnson, LLP<br>1613 Main Street<br>Columbia, South Carolina 29201<br>For the Defendants South Carolina EM-1 Medical Services<br>and Kathy Papazian, DO: Russell W. Harter, Jr., Esq.<br>Chapman, Harter & Harter, PA<br>14 Lavinia Avenue<br>Greenville, South Carolina 29601<br>For the Defendant David Hess, NP: Perry D. Boulter, Esq.<br>Holcombe Bowar, PA<br>100 Dunbar Street, Suite 200<br>Spartanburg, South Carolina 29306<br>For the Defendant:<br>Nimal A. Perera, MD: D. Gary Lovell, Jr., Esq.<br>Carlock, Copeland & Stair, LLP<br>40 Calhoun Street, Suite 400<br>Charleston, South Carolina 29401 |                                                                           | STIPULATIONS<br>1<br>2 It is stipulated by and between counsel for<br>3 the respective parties that all objections are<br>4 reserved until the time of trial, except as to<br>5 the form of the questions.<br>6 This deposition is being taken pursuant to the<br>7 South Carolina Rules of Civil Procedure.<br>8<br>9 The reading and signing of this deposition is<br>10 reserved by the deponent and counsel for the<br>11 respective parties.<br>12 Whereupon,<br>13 M. Nimal A. Perera, MD, being duly sworn and<br>14 cautioned to speak the truth, the whole truth,<br>15 and nothing but the truth, testified as<br>16 follows:<br>17<br>18 EXAMINATION<br>19 BY MR. PHILLIPS:<br>20 Q Dr. Perera, my name is Robert Phillips. I -- the<br>21 attorney for the family of Gary Lackey. You're<br>22 here for a -- a special deposition that the judge<br>23 has allowed. You have previously been deposed in<br>24 this case. Do I need to explain all the rules of a<br>25 deposition, or are you sufficiently familiar with<br>the rules of how we take a deposition? |                                      |
| Also Present: Jessica Oswald, Videographer<br><br>INDEX<br>Stipulations: 4<br>Examination by Mr. Phillips: 4                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                      |

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1 until 10:29 a.m.)  
 2 THE EXAMINATION BY MR. PHILLIPS CONTINUES.  
 3 Q Dr. Payera, looking at Exhibit 2 -- or Plaintiff's  
 4 Exhibit 2 --  
 5 MR. PHILLIPS: (To Mr. Brown) Do we have  
 6 that? There we go.  
 7 Q Looking at Plaintiff's Exhibit 2, do you see the  
 8 page -- the -- the record that says "CBC 10" at the  
 9 bottom?  
 10 A I see that.  
 11 Q Okay. And that has the "alterations" or  
 12 "additions," as your attorney is calling it. That  
 13 would be the correct document, correct?  
 14 A Correct, yeah.  
 15 Q And do you see at the very -- let's see on the last  
 16 page of the -- the attorney's documents, which is  
 17 about halfway through it, it looks like this. It's  
 18 the page before all of the medical records start.  
 19 Right there. You just passed it.  
 20 A This one?  
 21 Q That right there. Yep. Okay. That's your  
 22 attorney's signature, and without getting into the  
 23 specifics, when we sign a document as lawyers in  
 24 South Carolina, we are testifying to the best of  
 25 our knowledge that that's true and accurate.

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1 unaltered records. Do you understand that?  
 2 A Yes.  
 3 Q Okay. Now, this record, that's CBC 10 in the back  
 4 of that that was produced in response to these  
 5 requests for production, was altered, wasn't it?  
 6 A I use the word "addendum."  
 7 Q Okay. It was -- how about we use the word  
 8 "changed"?  
 9 A As long as --  
 10 Q Okay.  
 11 A -- "change" and "addendum" doesn't have that much  
 12 of a difference on this particular issue.  
 13 Q Okay. Did you tell anybody that you had made these  
 14 additions on the records?  
 15 A No.  
 16 Q You didn't tell anybody?  
 17 A No.  
 18 Q Okay. When did you -- when did you make these  
 19 changes to these records?  
 20 A I wish I remember. I know that I did this addendum  
 21 under the line just before I faxed this to my then  
 22 defense lawyer.  
 23 Q Okay. So you faxed these records to your --  
 24 A No. I gave it to my assistants, the nurses, the  
 25 front desk people, after adding that addendum

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1 namely to consider imaging studies.  
 2 Q Okay.  
 3 A And they should have faxed it to -- which day, I  
 4 don't know, sir.  
 5 Q Okay. Well, let's get right to it. Tell me, why  
 6 did you go in and add something to someone's  
 7 medical records?  
 8 A This is Gary Lackey's medical records, and --  
 9 Q Yep.  
 10 A -- he was seen by me on a previous occasion.  
 11 Q Okay.  
 12 A And that someone is use -- someone is equal to Gary  
 13 Lackey. Before I faxed this to my defense lawyer  
 14 then, I read the whole thing and realized that  
 15 there is a deficit in my follow-up plan.  
 16 Q Okay.  
 17 A So I added that statement to complete that deficit  
 18 and faxed it.  
 19 Q Okay. Well, let's talk about this. Tell me what  
 20 the deficit was.  
 21 A The deficit was that in two weeks' time, if this  
 22 patient did come back to me, these are the follow-  
 23 up plans that I had in my mind. Of course, I did  
 24 not want to write the elaborate statements because  
 25 this is in a lawsuit, so I -- even though I wrote

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1 "imaging studies," what I meant was imaging studies  
 2 and maybe referring to a neurologist or maybe doing  
 3 another neurological examination and see if the  
 4 patient has a difference between last neurological  
 5 examination and the examination on the follow-up  
 6 visit. And I didn't want to put all these things  
 7 as an addendum, so I just wrote "imaging studies."  
 8 Q Okay. So imaging studies was not in relation to  
 9 any specific type of diagnostic scan image?  
 10 A Yeah. In this particular case, because patient  
 11 initially complains of a headache, which goes with  
 12 a positive correlation, should get a CT scan of the  
 13 head.  
 14 Q I'm sorry. Say that again.  
 15 A In this particular case, with the complaint of  
 16 headache initially and if this patient did come  
 17 back in two weeks' time, what I meant was "imaging  
 18 studies" is CT scan of the head.  
 19 Q Okay. So you do agree that if he came back in two  
 20 weeks, you would have -- have done a CT scan?  
 21 A Provided there is a difference in the neurological  
 22 examination or persistent headache after two weeks.  
 23 Q Okay.  
 24 A Those are the reasons.  
 25 Q Was --

## EXHIBIT 4

| Page 1                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Page 3                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
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| <p>State of South Carolina )<br/>         County of Lancaster )<br/>         Johnnie Mae Reed, as ) 2013-CF-29-1339<br/>         Personal Representative )<br/>         of the Estate of Sandra )<br/>         Gilbert, )<br/>         Plaintiff, ) 30(b)(6) Deposition<br/>         v. ) of<br/>         CareNet, Inc., of ) CareNet, Inc., of<br/>         Lancaster and Nimal A. ) Lancaster<br/>         Perera, M.D., ) (Stewart Barre, MD)<br/>         Defendants. )</p> <p>Date: Wednesday, September 3, 2014<br/>         Time: 10:00 a.m.<br/>         Location: Richardson Plowden &amp; Robinson, PA,<br/>         1900 Barnwell Street, Columbia, South Carolina.</p> <p>Reported by<br/>         Sandra J. Ayers</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | <p>Plaintiff's Exhibit Number 6, "Employment Agreement,"<br/>         dated 01/03/12. 22<br/>         Plaintiff's Exhibit Number 7, "Medical Office Space<br/>         Lease." 24<br/>         Plaintiff's Exhibit Number 8, "Employee Handbook." 53</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| Page 2                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Page 4                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <p>APPEARANCES</p> <p>For the Plaintiff: D. Cravens Ravenel, Esq.<br/>         Baker Ravenel &amp; Bender, LLP<br/>         3710 Landmark Drive, Suite 400<br/>         Columbia, South Carolina 29204</p> <p>For the Defendant<br/>         CareNet, Inc., of Lancaster: Perry D. Boulter, Esq.<br/>         Holcombe Boser, PA<br/>         100 Dunbar Street, Suite 200<br/>         Spartanburg, South Carolina 29306</p> <p>For the Defendant<br/>         Nimal A. Perera, MD: George C. Beighley, Esq.<br/>         Richardson Plowden &amp; Robinson, PA<br/>         1900 Barnwell Street<br/>         Columbia, South Carolina 29201</p> <p>INDEX</p> <p>Stipulations: 4<br/>         Examination by Mr. Ravenel: 4<br/>         Examination by Mr. Boulter: 48<br/>         Reexamination by Mr. Ravenel: 50</p> <p>EXHIBITS</p> <p>Plaintiff's Exhibit Number 1, "Recruitment<br/>         Agreement." 18<br/>         Plaintiff's Exhibit Number 2, "Employment Agreement,"<br/>         dated 11/28/07. 20<br/>         Plaintiff's Exhibit Number 3, "Employment Agreement,"<br/>         dated 01/06/09. 20<br/>         Plaintiff's Exhibit Number 4, "Employment Agreement,"<br/>         dated 01/19/10. 21<br/>         Plaintiff's Exhibit Number 5, "Employment Agreement,"<br/>         dated 01/07/11. 21</p> | <p>STIPULATIONS</p> <p>1 It is stipulated by and between counsel for<br/>         2 the respective parties that all objections are<br/>         3 reserved until the time of trial, except as to<br/>         4 the form of the questions.<br/>         5 This deposition is being taken pursuant to the<br/>         6 South Carolina Rules of Civil Procedure.<br/>         7<br/>         8<br/>         9 The reading and signing of this deposition is<br/>         10 reserved by the deponent and counsel for the<br/>         11 respective parties.<br/>         12 Whereupon,<br/>         13 Stewart Barre, MD, being duly sworn and<br/>         14 cautioned to speak the truth, the whole truth,<br/>         15 and nothing but the truth, testified as<br/>         16 follows:<br/>         17<br/>         18 EXAMINATION<br/>         19 BY MR. RAVENEL:<br/>         20 Q Mr. Barre, my name is Cravens-Ravenel, and I<br/>         21 represent the plaintiff of the estate of Sandra<br/>         22 Gilbert in a lawsuit against CareNet of Lancaster<br/>         23 and Nimal A. Perera. I'm going to be asking you<br/>         24 some questions in your -- in connection with you as<br/>         25 a representative of CareNet of Lancaster. Does --<br/>         do you understand that?</p> |

| Page 33                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Page 35                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>1 see, the -- in Lancaster County?</p> <p>2 A Yes, sir.</p> <p>3 Q Are there any other lawsuits pending in other</p> <p>4 jurisdictions other than Lancaster County?</p> <p>5 A No, sir.</p> <p>6 Q Does CareNet have a -- a liability-insurance</p> <p>7 carrier?</p> <p>8 A Yes, sir. We do.</p> <p>9 Q And who is that?</p> <p>10 A Mag Mutual.</p> <p>11 Q And do you know what the limits are on that policy?</p> <p>12 A Yes, sir. It's a \$1-million shared-limit policy.</p> <p>13 Q Does CareNet provide guidelines to its</p> <p>14 practitioners on how they should conduct their</p> <p>15 practice, in general?</p> <p>16 A Well, like, that they practice within the standard</p> <p>17 of care.</p> <p>18 Q But those -- the specifics of the standard of the</p> <p>19 care for the particular discipline are not written</p> <p>20 out?</p> <p>21 A No, sir.</p> <p>22 Q Do you have a medical background?</p> <p>23 A I do.</p> <p>24 Q And what is the nature of your background?</p> <p>25 A I do have a -- a degree in medicine -- a doctor of</p>        | <p>1 A He's no longer employed by CareNet.</p> <p>2 Q Where is he employed?</p> <p>3 A I don't know.</p> <p>4 Q Why is he no longer employed?</p> <p>5 A He resigned in January of 2014.</p> <p>6 Q Was he -- did he resign under pressure, for him to</p> <p>7 resign, by CareNet?</p> <p>8 A Yes, sir. I believe so.</p> <p>9 Q And what was the reason for the concern that</p> <p>10 CareNet had? What -- I mean, what, specifically,</p> <p>11 factual basis?</p> <p>12 A Specifically, the -- the current lawsuit and the</p> <p>13 other lawsuit we've already discussed, the board</p> <p>14 felt like had -- or his actions, rather, had put</p> <p>15 the organization at risk. And -- and this -- the</p> <p>16 timing of this coincided with a goal that Dr.</p> <p>17 Perera had set out, probably two years before,</p> <p>18 saying that he wanted to retire when he turned 65</p> <p>19 during the year 2013, and he had been telling the</p> <p>20 prior administrator at CareNet that he wanted to</p> <p>21 practice part-time; he wanted to cut down, and he</p> <p>22 was going to do that, no matter what, and, so, I</p> <p>23 think that the board felt like with, you know, Dr.</p> <p>24 Perera's professional goals and -- and the fact</p> <p>25 that, you know, they felt like a lot of this stuff</p> |
| Page 34                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Page 36                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <p>1 medicine, from the Medical University of South</p> <p>2 Carolina.</p> <p>3 Q And have you practiced anywhere?</p> <p>4 A I have.</p> <p>5 Q And where have you practiced?</p> <p>6 A In both Lancaster and Kernshaw.</p> <p>7 Q And do you still practice now?</p> <p>8 A I do.</p> <p>9 Q All right. And what is the area of your practice?</p> <p>10 A Primary care.</p> <p>11 Q Would that be the same practice area that Dr.</p> <p>12 Perera provided --</p> <p>13 A Yes, sir.</p> <p>14 Q -- or provides?</p> <p>15 And do you -- do you currently, actively</p> <p>16 practice, or are you just doing -- not just doing,</p> <p>17 but are you doing, exclusively, work related to the</p> <p>18 operation of CareNet?</p> <p>19 A I see patients, as well.</p> <p>20 Q Okay. Do you share office space with Dr. Perera?</p> <p>21 A Not anymore.</p> <p>22 Q When did you share office space with him?</p> <p>23 A From November of 2012 to January of 2014.</p> <p>24 Q Is -- any particular reason why you -- did -- no</p> <p>25 longer share space with him?</p> | <p>1 had sort of put the organization at risk. And they</p> <p>2 wanted to move to some more permanent, you know,</p> <p>3 full-time employees; that it was time to -- to part</p> <p>4 ways.</p> <p>5 Q So, when you say his actions had put CareNet at</p> <p>6 risk, I mean, are you suggesting that his actions</p> <p>7 did not meet the standard of care?</p> <p>8 A I'm not suggesting that.</p> <p>9 Q Okay. So you're just saying that the mere fact</p> <p>10 that the claims were made was sufficient for y'all</p> <p>11 to let him go or encourage him to leave?</p> <p>12 A I think the fact that the claims were made and --</p> <p>13 and the, you know, further desire of his, to cut</p> <p>14 down anyway, were enough momentum to encourage the</p> <p>15 board to go out and find its new long-term</p> <p>16 practitioners.</p> <p>17 Q Are you aware of the allegations brought by my</p> <p>18 client's estate?</p> <p>19 A Specifically -- I mean, can you say a little bit</p> <p>20 more, if you don't mind?</p> <p>21 Q No. I -- if you don't, you know, you don't know,</p> <p>22 but, I -- I mean, I -- he -- have you read the</p> <p>23 pleadings?</p> <p>24 A Yes, sir.</p> <p>25 Q Okay. So you know what -- what the allegations</p>                                                             |

STATE OF SOUTH CAROLINA ) IN THE COURT OF COMMON PLEAS  
COUNTY OF LANCASTER ) Case No.: 2013-CP-29-1339

Johnnie Mae Reed, as Personal  
Representative of the Estate of  
Sandra Gilbert,

Plaintiff,

vs.

CareNet, Inc. of Lancaster and  
Nimal A. Perera, M.D.,

Defendants:

**PLAINTIFF'S MOTION FOR A NEW  
TRIAL**

FILED  
OFFICE OF CLERK  
OF COURT  
2015 SEP - 8 AM 11:31  
CLERK OF COURT  
LANCASTER, SC

COME NOW, the movant, Plaintiff, by and through her undersigned attorneys, and pursuant to Rule 59, SCRCP, files this Motion for a New Trial. Plaintiff is basing this Motion on the grounds that this Court improperly granted Defendants' Motion in Limine as to topics 1, 2, 4, and 5. The topics sought to be excluded in the Defendants' Motion in Limine are set forth below:

1. Any reference to prior cases against Dr. Perera/CareNet by other Plaintiffs.
2. Any reference to changes made to a medical record in a prior unrelated case.
3. Any reference to Dr. Perera's reprimand by the NC medical board for failure to supervise a physician assistant.
4. Any reference to the circumstances surrounding Dr. Perera's resignation from CareNet.
5. Any reference to Dr. Perera's attempt to have a nurse fill a prescription for his son and his allegedly improper attempt to fill a second prescription.

The Plaintiff agreed prior to trial to not contest the third topic regarding Dr. Perera's reprimand for failing to supervise a physician assistant. Plaintiff's objection to the exclusion of testimony for topics 1, 2, 4, and 5, is rooted in Rule 608(b), SCRE, which provides that specific instances of the conduct of a witness may be inquired into at trial if they are probative of the witness' character for truthfulness or untruthfulness. The Plaintiff's specific arguments for why it should

have been entitled to question the Defendants about topics 1, 2, 4, and 5, are set forth in Plaintiff's Memorandum in Opposition to the Defendants' Motion in Limine. Plaintiff hereby incorporates and refers to that memorandum in support hereof for why it is entitled to a new trial based on this Court's granting of the Defendants Motion in Limine for topics 1, 2, 4, and 5.

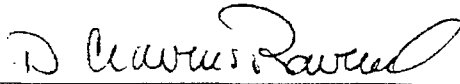
This Court initially denied the Motion in Limine for topic 4 but later granted the Motion in Limine as to topic 4 upon a renewed objection at trial after making a finding that Defendant Perera's forced resignation from Defendant CareNet was not due to a standard of care violation. The undersigned attorneys unsuccessfully argued at trial that adopting the argument proffered by the Defendants as to topic 4 would require this Court to simultaneously adopt the untenable conclusion that Defendant CareNet forced the resignation of a primary care physician over what it considered to be a frivolous lawsuit. That is the only logical conclusion to be drawn from the Defendants' argument that Defendant CareNet forced the resignation of Defendant Perera because it felt the filing of this lawsuit had put the organization at risk, but that Defendant CareNet did not believe a standard of care violation occurred. Plaintiff argues that it was for the jury to decide whether it believed that Defendant CareNet forced the resignation of Defendant Perera because of this lawsuit despite the fact that it did not believe a standard of care violation had occurred.

Based on the foregoing, Plaintiff submits that its Motion for a New Trial should be granted.

(signature on next page)



Columbia, South Carolina  
September 2<sup>nd</sup>, 2015

  
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*Attorneys for the Plaintiff*

STATE OF SOUTH CAROLINA )

COUNTY OF LANCASTER )

Johnnie Mae Reed, as Personal  
Representative of the Estate of  
Sandra Gilbert,

Plaintiff,

v. )

CareNet, Inc. of Lancaster and Nimal  
A. Perera, M.D.,

Defendant. )

IN THE COURT OF COMMON PLEAS

**DEFENDANTS' MEMORANDUM IN  
OPPOSITION TO PLAINTIFF'S  
MOTION FOR A NEW TRIAL**

C.A. Number: 2013-CP-29-1339

**BACKGROUND**

Prior to the trial of this matter, Defendants CareNet, Inc. of Lancaster and Nimal A. Perera, M.D. moved in limine to exclude anticipated testimony and documentary evidence concerning (1) prior cases against CareNet and Dr. Perera by other plaintiffs; (2) changes to a medical record in a prior, unrelated case; (3) Dr. Perera's reprimand by the North Carolina Medical Board for failure to supervise a physician assistant; (4) the circumstances surrounding Dr. Perera's resignation from CareNet; and (5) Dr. Perera's attempt to have a nurse fill a prescription for his son and his allegedly improper attempt to fill a second prescription.

Prior to the hearing on the Motion in Limine, Plaintiff's counsel agreed not to present evidence concerning topic 3. This Court subsequently granted Defendants' Motion in Limine as to topics 1, 2, 4, and 5 pursuant to Rule 403, SCRE on the grounds that the probative value of testimony and documentary evidence on those topics was substantially outweighed by the danger of unfair prejudice, confusion of the issues, and misleading the jury.

Plaintiff now moves the Court for a new trial "based on this Court's granting of the Defendants [sic] Motion in Limine for topics 1, 2, 4 and 5." (Plaintiff's Motion for a New Trial,

*JP*

p. 2). Plaintiff's Motion for a New Trial, however, must be denied because Plaintiff failed to proffer the excluded testimony during the trial and because the Court's ruling on the Motion in Limine was proper.

### ARGUMENT

**I. Plaintiff's Motion for a New Trial must be denied because Plaintiff failed to proffer the excluded testimony during the trial.**

A motion in limine is a preliminary "request that certain inadmissible evidence not be referred to or offered at trial." Black's Law Dictionary, "in limine;" "motion in limine" (10<sup>th</sup> ed. 2014). Rulings in limine are designed to prevent the presentation of prejudicial evidence to the jury. State v. Floyd, 295 S.C. 518, 520, 369 S.E.2d 842, 843 (1988). The South Carolina Supreme Court has warned the Bar, however, that such preliminary rulings are not final: "We caution Bench and Bar that these pre-trial motions are granted to prevent prejudicial matter from being revealed to the jury, but do not constitute final rulings on the admissibility of evidence." Id. at 521, 369 S.E.2d at 843. This is because trial judges "must not be held, conclusively, to preliminary rulings made without benefit of all the pertinent and relevant evidence." Id.

Because rulings in limine are merely preliminary, the Court of Appeals has stated in dicta that after testimony is excluded by the grant of a motion in limine, the proponent still must proffer the testimony during trial to preserve review by way of post-trial motion or appeal. See S.C. Dept. of Highways and Pub. Transp. v. Galbreath, 315 S.C. 82, 431 S.E.2d 625, Fn. 2 (Ct. App. 1993). See also Rule 103(a)(2), SCRE (error may not be predicated on a ruling which excludes evidence unless the party proffers both the substance of the evidence and the specific evidentiary basis supporting admission); Baber v. Greenville County, 327 S.C. 31, 41, 488 S.E.2d 314, 319 (1997) ("The excluded testimony of attorney Parham was not proffered. Absent a proffer, it is impossible for this Court to determine the effect of the excluded testimony.");

Mains v. K Mart Corp., 297 S.C. 142, 375 S.E.2d 311 (Ct. App. 1988) (“[N]o authority is required for the proposition that an attorney must, after moving that the jury be excused, proffer for the record testimony to which an objection has been sustained.”).

Plaintiff’s Motion for a New Trial expressly is predicated upon the ruling on Defendants’ Motion in Limine. As Plaintiff’s argument makes clear, Plaintiff did **not** proffer testimony or documentary evidence during trial on topics 1, 2, 4, and 5.

Plaintiff’s Motion for a New Trial demonstrates why a proffer during trial is required. Addressing the exclusion of evidence on topic 4, Plaintiff alludes to the “logical conclusion” of what the testimony would have been as opposed to citing to actual proffered testimony. (Plaintiff’s Motion for a New Trial, p. 3). By failing to proffer the substance of the evidence as it would have been presented *at trial* and the specific evidentiary basis supporting admission *at trial*, Plaintiff deprived the Court of the ability to conclusively rule in light of all the pertinent and relevant evidence, and there is no proper record for determining whether Plaintiff was prejudiced by the exclusion of evidence.

Having failed to proffer the excluded evidence at trial to clearly establish a record as to the substance and evidentiary basis supporting admission, Plaintiff may not now argue that the Court’s pre-trial ruling on Defendants’ Motion in Limine was erroneous.

**II. Notwithstanding Plaintiff’s failure to preserve her argument, this Court properly granted Defendants’ Motion in Limine.**

Even if Plaintiff had properly preserved her argument for post-trial review, she still would not be entitled to a new trial because the Court properly granted Defendants’ Motion in Limine as to topics 1, 2, 4, and 5. Defendants incorporate all arguments raised in their Memorandum in Support of Defendants’ Motion in Limine and at the hearings on the Motion.

The “exclusion of evidence is left to the sound discretion of the trial judge....” State v.



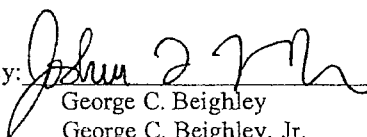
Saltz, 346 S.C. 114, 121, 551 S.E.2d 240, 244 (2001). Likewise, "A trial judge's decision regarding the comparative probative value and prejudicial effect of evidence should be reversed only in exceptional circumstances." State v. Adams, 353 S.C. 361, 378, 580 S.E.2d 785, 794 (Ct. App. 2003) (internal citation omitted). Considering the arguments presented regarding the Motion in Limine topics, this Court correctly determined that the danger of unfair prejudice, confusion of the issues, and misleading the jury substantially outweighed any probative value of potential testimony and evidence as to topics 1, 2, 4, and 5 of Defendants' Motion in Limine.

**Conclusion**

Plaintiff may not predicate error on this Court's ruling on Defendants' Motion in Limine because she failed to proffer the excluded testimony during the trial of this matter. Even if Plaintiff had properly proffered the excluded testimony, the Court properly granted Defendants' Motion in Limine. Plaintiff's Motion for a New Trial, therefore, must be denied.

Respectfully submitted,

RICHARDSON PLOWDEN & ROBINSON, P.A.

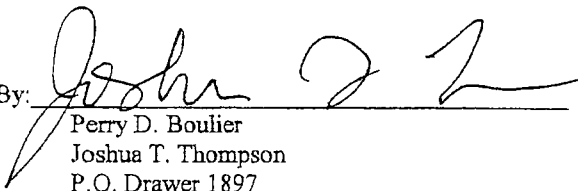
By:  w/ permission of  
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Attorney for Defendant CareNet, Inc. of Lancaster

November 25<sup>th</sup>, 2015

STATE OF SOUTH CAROLINA  
CERTIFICATION OF VITAL RECORD

DEATH CERTIFICATION

STATE FILE NUMBER: 139-14-007783

DECEDENT'S NAME: \*SANDRA WILLIAMS GILBERT\*

SEX: FEMALE

SOCIAL SECURITY NUMBER: 249-21-8764

AKA'S: NA

ARMED FORCES: YES

DATE OF BIRTH: OCTOBER 20, 1958

AGE: 55 YEARS

COUNTY OF DEATH: YORK

TYPE OF PLACE OF DEATH: HOSPICE FACILITY

NAME AND ADDRESS OF PLACE OF DEATH: WAYNE T. PATRICK HOSPICE HOUSE, ROCK HILL, SC 29731

PLACE OF DISPOSITION: HIGHLAND HEIGHTS CEMETERY

DISPOSITION LOCATION: KERSHAW, SOUTH CAROLINA

METHOD OF DISPOSITION: BURIAL

DECEDENT'S RESIDENCE: 1305 EULA STREET APT. B, LANCASTER, LANCASTER COUNTY, SC, 29720

MARITAL STATUS: DIVORCED (AND NOT REMARRIED)

PLACE OF BIRTH: SOUTH CAROLINA

SURVIVING SPOUSE'S NAME: NA

FATHER'S NAME: KING DAVID WILLIAMS SR

MOTHER'S NAME PRIOR TO FIRST MARRIAGE: OLIVIA MOORE

RELATIONSHIP: FAMILY MEMBER

INFORMANT'S NAME: JAMES WILLIAMS

MATLING ADDRESS: 1305 EULA ST APT. B, KERSHAW, SC, 29067

FUNERAL HOME: CRAWFORD FUNERAL HOME, 410 WEST MEETING STREET, LANCASTER, SC, 29720-3665

FUNERAL DIRECTOR: ADIS G CRAWFORD III

LICENSE NUMBER: 2505

EMBALMER'S NAME: ADIS G CRAWFORD III

LICENSE NUMBER: 1917

ACTUAL OR PRESUMED DATE OF DEATH: MARCH 01, 2014

MANNER OF DEATH: NATURAL

ACTUAL OR PRESUMED TIME OF DEATH: 1405

CAUSE OF DEATH - PART I

ADENOCARCINOMA OF THE COLON WITH METASTASIS

OTHER SIGNIFICANT CONDITIONS - PART II:

DIABETES, SEPTIC SHOCK

CORONER CONTACTED? NO

AUTOPSY PERFORMED? NO

AUTOPSY AVAILABLE? NA

DATE OF INJURY: NA

TIME OF INJURY: NA

INJURY AT WORK? NA

PLACE OF INJURY: NA

LOCATION OF INJURY: NA

HOW THE INJURY OCCURRED?

NA

CERTIFIER NAME AND TITLE: MD RUSSELL J. SEYMORE

LICENSE NUMBER: 13325

CERTIFIER'S ADDRESS: PO BOX 993, ROCK HILL, SC, 29731

DATE FILED: MARCH 07, 2014

DATE OF ISSUANCE: MARCH 10, 2014

SPECIAL INSTRUCTIONS:

NA

SC03485426

This is a true certification of the facts on file in the Division of Vital Records, SC Department of Health and Environmental Control.

*Catherine Templeton*

Catherine Templeton  
Director and State Registrar

This copy is not valid unless prepared on an engraved border displaying the state seal and issuing agency logo.

Revision Date: 07/16/2013



Dr. Perera

07-05-11

Pt Name: Sandra Gilbert, 204

S: Dx DM, HTN, lipidemia: Pt was recently hospitalized for pallor, Dx: bleeding peptic ulcer and anemia. Pt was transfused 4 packs, according to the Pt. This is f/u and rf visit after Pt was discharged from the hospital in May.

O: BP: 170/114, repeat 160/100 P: 72 HEENT: conjunctiva paler. Sclera non icteric. CVS RRR. Resp: clear, vesicular breathing. Abd soft, non tender. no masses. Liver/ spleen not palpable. Rectal exam spared. Neuro: intact cranial nerves with symmetrical L5/S3 modalities. Oriented x 3 and alert. Fundus clear disc margin. MHS: overall, Pt's mood is low. Extremities non-edematous, good volume pulses.

A: DM, HTN, lipidemia. Repeat BP dropped. P: Rf meds x 6mo. #2 Anemia, S/p blood transfusion. P: Request MR from GI to learn more about her endoscopic studies. Meanwhile, start Ferrous sulfate liquid, 5mL qd. #3 Preventative healthcare briefly discussed including alcohol and tobacco cessation. P: encouraged pap smear and breast exams, etc.

SW

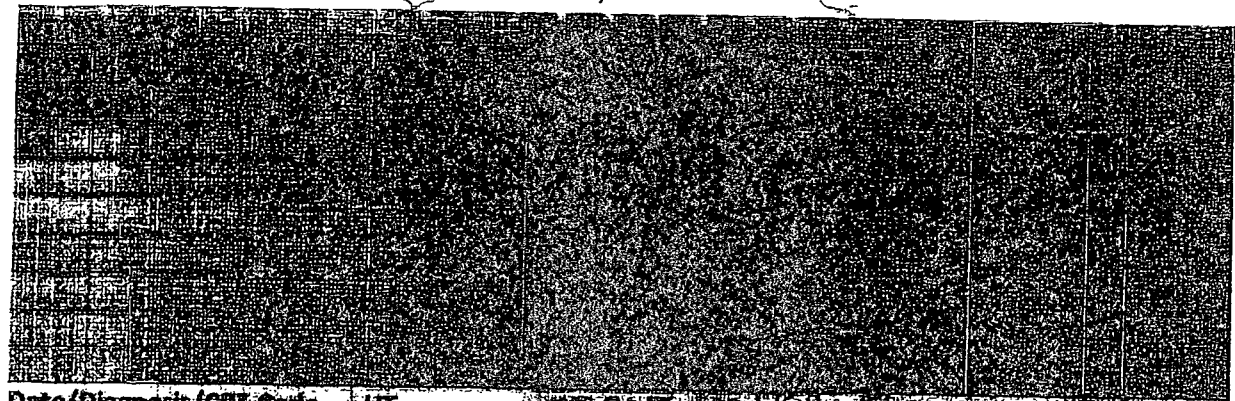
(WP)

1/12/11 / M. Perera  
Lovan Tatin  
See me again  
before Rehab (WP)

CARENET 001



7-5-11



Date/Diagnosis/CPT Code HT WT 205 BP 140/72

Checkup, Rxrefills

7/5/11

Subs A.D. Refe. ulcers in a. nose

DM 11/10/10

Recently hypoglycemia 4 times, last 10 hrs in a.m. 20. 4/10/11 blood

PE Chest

CV: A.L.A. 10 days 4/10/11 in tube, last 10 days

1/10/11  
and 1/10/11

off 2 3/10/11

Med. notes

Q Arterial to tongue

Pap. Mint  
last 10 days  
in 10 days  
Chole. 6/10/11

Q Re the  
Pte. 1/10/11

Pap. Breat

Dr. Perera

09-01-10

Pt Name: Sandra Gilbert, 204

S: Recently discharged from the hospital; Pt has a new Dx of DM in addition to HTN and lipidemia. Hospital records reviewed.

O: BP: 126/96 P: 76 HEENT: Conjunctiva pink, sclera white. Non distended neck veins. CVS RRR. Resp: clear. Extremities normal with good volume pulses and no edema. Fundus clear.

A: DM, HTN, lipidemia. Fairly stable at the moment. P: Rf all meds x 6mo. Referred for eye exam. Check HbA1C and once the value is checked, will consider referral to DEC. #2 Preventative healthcare. P: since Pt is not in any mood to listen to brief talks, we will postpone preventative healthcare discussion until the next appt. RTC 6mo.  
SS

4/5/11 30 day Rx NP  
Comp and S.E. test  
before Refills

|          |  |         |
|----------|--|---------|
| Glucodol |  | 20 days |
| Met      |  |         |
| Diovan   |  |         |
| Lamictal |  |         |

Nexph came ad 12/22/11

6/22/11 see in OSAP  
before Refills

CARENET 003

## Progress Notes

Name Sandra Gilbert

**Stop**

## Wet Prep

**HCG**

UA

BS

**Date/Diagnosis/CPT Code**

HT

WT 213

BP

96

P 70

1

Hospital Flu

57

Necessary discharge - in Hosp

Now pl tan also I of 3m visible to

Mr. Copley

[illegible]

~~1954~~ By John Piccilli Wounded at Sea

(Ques) RAN (R) Class.

Expt. 2. All pulses good & the no change.  
fides clear.

14. ABC

~~Volund to DEC~~  
~~12.11.11~~

ap MIN 3a 4.0a

all sand w/ R<sub>h</sub> x 6m.

re/ed eye doctor

with Rachel URAIC

and Canada being the

34

七

7th December 1966



~~CARENET-004~~

|                                                                                                                                                                                                                                |  |                                            |  |         |  |                             |  |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|--------------------------------------------|--|---------|--|-----------------------------|--|
| CC: Refill meds                                                                                                                                                                                                                |  | SPO <sub>2</sub>                           |  | ECG     |  | Sirep:                      |  |
| HPI: Pt here to refill med. Ran out of bp med 3 days ago. no HA, dizziness, stopped Zovastatin "months ago", but still obs at home. no LE edema. no other complaints. no polyuria or polydipsia. Last fasting glucose was 123. |  | HCG:                                       |  | UA:     |  | PMHx: HTN<br>Hyperlipidemia |  |
| All: ? antibiotic                                                                                                                                                                                                              |  | Surg Hx:                                   |  | Soc Hx: |  | Fam Hx:                     |  |
| Meds: Zimprim 20/HCT 25g qd [stopped Zovastatin]                                                                                                                                                                               |  |                                            |  |         |  |                             |  |
| Gen: NAD                                                                                                                                                                                                                       |  | Neuro: No focal deficits<br>CN 2-12 intact |  |         |  |                             |  |
| HEENT: NK/AT; PERRL; EOML; throat clear & no stridor                                                                                                                                                                           |  | Ext: No CACIE                              |  |         |  |                             |  |
| Lymph Nodes: No                                                                                                                                                                                                                |  | GU/Rect:                                   |  |         |  |                             |  |
| Heart: RR                                                                                                                                                                                                                      |  | Musc-Skel: No swelling or redness          |  |         |  |                             |  |
| Lungs: CTA BL                                                                                                                                                                                                                  |  | Skin: No rashes                            |  |         |  |                             |  |
| Abd: Soft NT NDDBS, obese                                                                                                                                                                                                      |  | Psych: normal mood & affect;               |  |         |  |                             |  |
| A/P: ① HTN - rt med as above; med compliance stressed;                                                                                                                                                                         |  |                                            |  |         |  |                             |  |
| ② Hyperlipidemia - pt to restart Zovastatin once (FTS reviewed) (CMP) (Lipids)                                                                                                                                                 |  |                                            |  |         |  |                             |  |
| ③ Hx Pe. Diabetes - repeat FBS & Hctc                                                                                                                                                                                          |  |                                            |  |         |  |                             |  |
| F/U 3 months or PRN.                                                                                                                                                                                                           |  |                                            |  |         |  |                             |  |

4/22/2010 Medo wrist & foot swelling from Zovastatin/HCT 25g qd that she picked up in or phoned; change to Diamio 600 + HCT 12.5 & ARENEP 100g qd

Dr. Perera  
10-29-09, missed out dictation.

Pt Name: Sandra Gilbert, 204

S: Established diagnosis of HTN and lipidemia. Pt is here for meds rf. Briefly c/o instantaneous swelling, itching SX within 24hrs of eating certain food items. She considerably aware of the food items which bring on this problem. ROS: no chest pain, SOB weight gain, LE weakness, speech issues, etc.

O: BP: 146/98 P: 72 HEENT: non inflammatory, non distended neck veins. CVS RRR. All peripheral pulses felt with good volume. No extremity edema. Neuro: Intact cranial nerves, symmetrical L5/S3 modalities.

A: HTN and lipidemia, stable at the moment. P: rf Lisinopril, Lovastatin x 6mo. #2 food allergies. Pt knows which foods to avoid from now. P: Methylprednisolone 2 packs issued for whenever SX come with the wrong food.

SS

(NP)

CARENET 006

Progress Notes

Name

STINE

Wet Prep

HCG

UA

BS

Date/Diagnosis/CPT Code

HT

WT 219 BP 144/88 P 72 T

Rx RF Lisinopril/HCTZ 20-25

5A

Certain foods bloating pt. & reactions

BP and all

10/28/15

Hydrex now refilled

Barbara discussed her reaction to the hydrex

about 24 hrs of eating calcium chloride

she is aware of the food items, & carbohydrate

PE UREENTV

10/1

10/1

10/1

10/1 Hins

10/1 Hydrex

10/1 10/1 6m

10/1 10/1 6m

10/1 food allergy

Many food foods (10/1)

6m used at night

10/1

CARENET 007

Dr. Perera

11-7-08

Pt Name: Sandra Gilbert, 204

S: HTN and lipidemia. Meds rf. Pt has no acute SX but a very high BP. Denies chest pain, SOB, headaches.

O: BP: 205/117 P: 77 HEENT: on distended neck veins. CVS RRR. No S<sub>3</sub> or S<sub>4</sub>. extremities: no swelling noted, normal circ volume, intact skin. Resp: no rales/rhonchi.

A: HTN with elevated BP at time of exam. P: Clopidine 0.2 stat dose given, within 20 minutes, BP was 171/100. Rf Lisinopril/HCTZ 20/25 x 6mo. #2 lipidemia, stable. P: rf Lovastatin 40mg qd x 6 mo. #3 excess weight, obesity P: pt was referred to weight reduction advisory clinic.

SS

dlp

CARENET 008

Progress Notes

11-1-00

Name: Sandra Gilbert

Address

Occupation/Employer:

Medications

Date/Diagnosis/CPT Code

HT

WT

BMI

BP

Check up & refills - Ran Out

11/1/00  
Clausen 0.2 tablet

↑ BP no signs of HTN

Clausen 0.2 taken.

PE same 1 ch distended

HTN

Wt: 165 lbs

Med refilled / placed

box

Diet change

ref: DEC

AP

CARENET 009



Progress Notes

Name: Sandra Gilbert

Date/Diagnosis/CPT Code

HT

W 68

BMI

BP 126

T 97.8

Need B/P meds refilled -

Regard med. 1/1/08 as B/P med

8/4

Today she missed med x 1 wk

1 wk abnorm. low T (C/d data)

At re exam HTA. - 000

CVS RRR

NI clear

finds NO Papilledema

patet felt

A/P HTN.

refilled 2 / lisonopril 90 days

#90

star Lovastatin 20

#90

see 3M

Hyperglycemia

fasting next time

Dr. Perera

8-4-08

Pt. Name: Sandra Gilbert, 204

S: HTN and Lipidemia, fairly high BP at moment, asymptomatic except for headache. No chest pain, SOB. O: BP 198/126 P: 67 T 97. HEENT: non distended neck veins normal carotid pulse. Fundus clear disc margin, no papilledema. Neuro intact cranial nerves with symmetrical distribution of motor sensory modalities. CVS RRR. No cardiomegaly or S<sub>4</sub>. abd soft non tender no masses, no ascitis. Neck: normal thyroid.

A: HTN P: rf Lisonopril 90 days supply. After 2 Clonidine pill, 0.1 mg each, brought 164/115. #2 lipidemia. P: by blood test start Lovastatin 20mg, 90 days #3 Hyperglycemia by blood test P: fasting blood test next time.

SS

CARENET 010





| MEDICAL HISTORY                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | ADDITIONAL NOTE                                                                                                                                                                                                                                                                                                                                                                                                                               |  |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| <p style="margin: 0;">Sandra Gilbert</p> <p style="margin: 0;">Vital Signs: HT 5'11" WT 225 BMI 38.4 BP SUPINE 130/80 BP SITTING 130/80 PULSE 78 RESP RATE 18 TEMP 97.6</p>                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                               |  |
| <p><b>PHYSICAL EXAM</b></p> <p><b>POSITIVE OR ABNORMAL FINDINGS</b></p> <p><b>NEGATIVE OR NORMAL FINDINGS</b></p>                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                               |  |
| <p>Head/Scalp: *</p> <p>Eyes/Mucous: *</p> <p>Ears: *</p> <p>Nose/Sinus: *</p> <p>Throat/Tongue: *</p> <p>Pharynx: *</p> <p>Thyroid: *</p> <p>Neck/Glands: *</p> <p>Cardio/Breast: *</p> <p>Chest/Lungs: *</p> <p>Heart/Auscultation: *</p> <p>Heart Sound: *</p> <p>Murmurs/Thrills: *</p> <p>Breasts/Nipples: *</p> <p>Axillary Nodes: *</p> <p>Abdominal/Masses: *</p> <p>Abdominal/Tend: *</p> <p>Liver/Spleen: *</p> <p>Abdominal/Pain: *</p> | <p>Genital/Rings: *</p> <p>Inguinal Nodes: *</p> <p>Perianal: *</p> <p>Rectal: *</p> <p>Dorsalis Pedis: *</p> <p>Venous: *</p> <p>Edema: *</p> <p>Clubbing: *</p> <p>Wounds/Venous: *</p> <p>Varicose: *</p> <p>Cervix: *</p> <p>Uterus: *</p> <p>Ovary/Baculum: *</p> <p>Pap Test (Cone): *</p> <p>Gonorrhea (male): *</p> <p>Prostate: *</p> <p>Anal/Rectal: *</p> <p>Sigmoidoscopy: *</p> <p>Skin/Scabs: *</p> <p>Nail Bed: *</p> <p>Fingers: *</p> <p>Toes: *</p> | <p>Neck: *</p> <p>Shoulders: *</p> <p>Elbows: *</p> <p>Wrists: *</p> <p>Fingers: *</p> <p>Back: *</p> <p>Hips: *</p> <p>Knees: *</p> <p>Ankles/Feet: *</p> <p>Plantar: *</p> <p>Muscle Atrophy: *</p> <p>Paralysis: *</p> <p>Stroke: *</p> <p>Head/Neck: *</p> <p>Spinal Cord: *</p> <p>Reflexes: *</p> <p>Sensation: *</p> <p>Motor: *</p> <p>Coordination: *</p> <p>Posture: *</p> <p>Balance: *</p> <p>Strength: *</p> <p>Endurance: *</p> |  |
| <p><b>LAB TESTS</b></p> <p>URINALYSIS - COLOR S.G.R PH PROT KETO BILI BLOOD NITRITE UR08 MICRO -</p> <p>Hgb</p> <p>CHOLEST HDL-CHOL LDL-CHOL</p> <p>STOOL PAP TEST MAMMO-GRAM</p> <p>O.B.</p>                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                               |  |
| <p>Other Tests / Comments</p> <p>UA</p> <p>Hx</p> <p>BMP</p>                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                               |  |
| <p>Abnormalities Elaborate</p>                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                               |  |

CARENET 013



# REVIEW OF SYMPTOMS

## CARE HEALTH CTR

| SYS/PSY  | ENT      | EYES      | LYMPH   | RESP   | CV      | GI       | GU      | SKIN      | ENDO     | NEURO   | PSYCH        | INFECT:    |
|----------|----------|-----------|---------|--------|---------|----------|---------|-----------|----------|---------|--------------|------------|
| FATIGUE  | DISC/EAR | DISC/EYE  | MASSSES | COUGH  | CAD     | CONSTIP: | H       | URIA      | LUMPS    | THYP    | HA           | SHINGLES   |
| LETHARG  | DISC/N   | PNK/EYE   | INFEC:  | BLOOD  | HTN     | MASSSES  | STONES  | NODULES   | DM       | PARLSIS | HEP:         |            |
| WEIGHT/L | BLEED/N  | VISION/AE | OPS:    | DYSP   | BYPASS  | OPS      | INFECT: | CANCER    | CUSHING: | EXTREM  | W            | HIV        |
| CONSTIP: | POLYPS   | GLAUC:    | LEUK:   | PN     | ANGIO-P | JAUND:   | TUMORS  | PSORIA:   | WT/PR    | CONFUSE | TB           |            |
| LACKS/E  | ALLERGY  | ALLERGY   | TB      | COPD   | ART-OPS | GBD      | CANCERS | CH-SKIN-I | OPS/BR   | INCONT: | MALARIA      |            |
| CONC/L   | STUFFY   | OPS       | HIV     | CANCER | VEN-OPS | GERD     | OPS     | ULCERS    | THIRST/E | VIS/PR  | ZOONOSSES    |            |
| CANCER   | LUMPS    | LUMPS     | CANCER  | ASTHMA |         | HERNIA   | INCONT: | BULLOUS   |          | BACK/P  | INFEC;       | FOREIGN TR |
| BACK/P   | OPS      | CATARAC   |         |        |         | INCONT:  |         |           |          | GAIT/P  | HOSPITALISED |            |
| MOOD     | STUFFY   |           |         |        |         | MELANA   |         |           |          | DEPRES; | QUARANTEENED |            |
| VOICES   | FREQ ST  |           |         |        |         | RECT/PR  |         |           |          |         | STD/OTHER    |            |
| HALLUC:  |          |           |         |        |         |          |         |           |          |         |              |            |

EXCEPT CIRCLED, ALL OTHERS ARE -VE

Sandra Gilbert  
+ 444 0400

CARENET 015

**PHONE**

sandra gilbert

280

RUN DATE: 05/20/11  
RUN TIME: 0605

SPRINGFIELD HOSPITAL, INC

PAGE 1

800 W. Meeting St.

LANCASTER, SC 29720

Telephone: (803) 286-1680

Fax: (803) 286-1371

Doctor Report on Discharged Patient

PHYSICIAN

Perera, Nimal A. MD

PATIENT: GILBERT, SANDRA ACCT #: D006240804 LOC: SNS U #: M000477504  
Wristband: 38680 DOB: 10/20/58 AGE/SEX: 52/F ROOM: 506 REG: 05/16/11  
REG DR: Badalamenti, Vito MD STATUS: DIS IN BED: 1 DIS: 05/19/11

Specimen: 0518:PC00119R COMP Submit Dr: Badalamenti, Vito MD  
Collected: 05/18/11-2007 Verified: 05/19/11-0456

Specimen: 0519:C00007R COMP Submit Dr: Badalamenti, Vito MD  
Collected: 05/19/11-0225 Verified: 05/19/11-0408

|                  |     |   |                |
|------------------|-----|---|----------------|
| > SODIUM         | 141 |   | 135-145 mmol/L |
| > CHLORIDE       |     | H | 101-111 mmol/L |
| > BUN            | 12  |   | 7-18 mg/dL     |
| > CREATININE     | 0.7 |   | 0.5-1.2 mg/dL  |
| > ANION GAP      | 8.3 |   | 8-16 mmol/L    |
| > TP             |     | L | 6.7-8.2 gm/dL  |
| > ALB/GLOB RATIO | 1.2 |   | 1.0-           |
| > AST/SGOT       | 22  |   | 10-42 IU/L     |

Specimen: 0519:H00011R COMP Submit Dr: Badalamenti, Vito MD  
Collected: 05/19/11-0225 Verified: 05/19/11-0613

|       |      |   |                |
|-------|------|---|----------------|
| PBC   |      |   |                |
| > RBC | 3.95 |   | 3.70-5.2 M/mm3 |
| > HCT |      | L | 33.0-47.0 %    |

\*\* CONTINUED ON NEXT PAGE \*\*

CARENET 017



RUN DATE: 05/20/11  
RUN TIME: 0605

SPRINGFIELD MEMORIAL HOSPITAL, INC  
800 W. Meeting St.  
Lancaster, SC 29730  
Telephone: (803) 286-1480 Fax: (803) 286-1371  
Doctor Report on Discharged Patient

PAGE 2

PHYSICIAN  
Perera, Nimal A. MD 0613

PATIENT: GILBERT, SANDRA ACCT #: D006240804 LOC: 5NS U #: M000477504  
Wristband: 38680 DOB: 10/20/58 AGE/SX: 52/F ROOM: 506 REG: 05/16/11  
REG DR: Badalamenti, Vito MD STATUS: DIS IN BED: 1 DIS: 05/19/11

|   |                |          |   |               |
|---|----------------|----------|---|---------------|
| > | MCHC           |          | L | 32-36 gm/DL   |
| > | PLT            | 355      |   | 130-420 K/mm3 |
| > | LYMPH %        | 37.7     |   | 13-53 %       |
| > | NEUT %         | 49.3     |   | 35-81 %       |
| > | BAZO %         | 0.6      |   | 0-1.5 %       |
| > | ***MAN DIFF*** | -----    |   |               |
| > | LYMPH          | 39       |   | 20-51 %       |
| > | EOS            | 3        |   | 0-10 %        |
| > | RBC MORPHOLOGY | ABNORMAL |   | N             |
| > | MICRO          |          | H | NORMAL        |
| > | OVALOCYTES     |          | H | NONE          |

Specimen: 0519:PC00029R COMP Submit Dr: Badalamenti, Vito MD  
Collected: 05/19/11-0648 Verified: 05/19/11-0723

Specimen: 0519:PC00045R COMP Submit Dr: Badalamenti, Vito MD  
Collected: 05/19/11-1046 Verified: 05/19/11-1114

\*\* END OF REPORT \*\*

CARENET 018

RUN DATE: 09/02/10  
RUN TIME: 0900

SPRINGS MEMORIAL HOSPITAL, INC  
800 W. Meeting St.  
Lancaster, SC 29720

PAGE 1

Telephone: (803) 286-1490 Fax: (803) 286-1371  
OP/OPS REPORTS

PHYSICIAN  
Perera, Nimal A. MD 1524

PATIENT: GILBERT, SANDRA ACCT #: D006189544 LOC: LAB U #: M000477504  
Wristband: DOB: 10/20/58 AGE/SEX: 51/F ROOM: REG: 09/01/10  
REG DR: Perera, Nimal A. MD STATUS: REG CLI BED: DIS:

Specimen: 0901:C00197R COMP Submit Dr: Perera, Nimal A. MD  
Collected: 09/01/10-1610 Verified: 09/01/10-1800

> HEMOGLOBIN A1C

11.6 H 0-6 %  
Hemoglobin A1C degree of glucose control

- > 8 % Action Suggested
- 7 - 8 % Good Control
- < 7 % Goal
- 6 - 7 % Near Normal Glycemia
- < 6 % Non-diabetic range

Med MAXed out  
Time has come to stop Dec  
before thinking of insulin

\*\* END OF REPORT \*\*

CARENET 019

RUN DATE: 05/27/10  
RUN TIME: 0903

SPRINGFIELD HOSPITAL, INC  
800 W. Main St.  
Lancaster, SC 29720  
Telephone: (803) 286-1480 Fax: (803) 286-1371  
OP/OPS REPORTS

PAGE 1

PHYSICIAN  
Silva, Rosanna D. DO 1340

PATIENT: GILBERT, SANDRA ACCT #: D006170034 LOC: LAB U #: M000477504  
Wristband: DOB: 10/20/58 AGE/SEX: 51/F ROOM: REG: 05/27/10  
REG DR: Silva, Rosanna D. DO STATUS: REG CLI BED: DIS:

Specimen: 0527.C00063R COMP Submit Dr: Silva, Rosanna D. DO  
Collected: 05/27/10-0754 Verified: 05/27/10-0836

| CMP               |      |     |   |                |
|-------------------|------|-----|---|----------------|
| > SODIUM          | 142  |     |   | 135-145 mmol/L |
| > POTASSIUM       | 4.5  |     |   | 3.6-5.0 mmol/L |
| > CHLORIDE        | 107  |     |   | 101-111 mmol/L |
| > CARBON DIOXIDE  | 27   |     |   | 21-31 mmol/L   |
| > BUN             | 15   |     |   | 7-18 mg/dL     |
| > GLUCOSE, RANDOM |      | 183 | H | 70-110 mg/dL   |
| > CREATININE      | 0.8  |     |   | 0.5-1.2 mg/dL  |
| > CALCIUM         | 9.5  |     |   | 8.4-10.2 mg/dL |
| > ANION GAP       | 12.5 |     |   | 8-16 mmol/L    |
| > BILI, TOTAL     | 0.6  |     |   | 0.2-1.0 mg/dL  |
| > TP              | 7.4  |     |   | 6.7-8.2 gm/dL  |
| > ALB             | 4.0  |     |   | 3.2-5.5 gm/dL  |
| > ALB/GLOB RATIO  | 1.2  |     |   |                |
| > ALKALINE PHOS   | 82   |     |   | 42-121 IU/L    |
| > AST/SGOT        | 19   |     |   | 10-42 IU/L     |
| LIPID PRO         |      |     |   |                |
| > CHOLESTEROL     | 202  | ✓   |   | 140-225 mg/dL  |
| > TRIGLYCERIDES   | 144  |     |   | 35-175 mg/dL   |
| > HDL             | 45.4 |     |   | 39-96 mg/dL    |
| > ALT/SGPT        | 21   |     |   | 10-60 IU/L     |
| > LDL CHOLESTEROL | 134  |     |   | 91-200 mg/dL   |
| > CHOL/HDL RATIO  | 4.4  |     |   |                |
| > LDL/HDL RATIO   | 3.0  |     |   |                |

REFERENCE TABLE

NIH Consensus Conference on Cholesterol  
(Values in mg/dL)

| Age (yrs) | IDEAL<br>(low risk) | 75th %ILE<br>(moderate risk) | 90th %ILE<br>(high risk) |
|-----------|---------------------|------------------------------|--------------------------|
| 2 - 19    | <80                 | >170                         | >200                     |
| 20 - 29   | <180                | >200                         | >220                     |
| 30 - 39   | <200                | >220                         | >240                     |
| 40+       | <200                | >240                         | >260                     |

Relative Risk of Coronary Disease by Various Test  
Combinations for Males and Females

\*\* CONTINUED ON NEXT PAGE \*\*

5/27/10 1500 — Pt notified — Don

CARENET 020

RUN DATE: 05/27/10  
RUN TIME: 0903

SPRINGS MEMORIAL HOSPITAL, INC  
800 W. Meeting St.  
Lancaster, SC 29720  
Telephone: (803) 286-1480 Fax: (803) 286-1371  
OP/OPS REPORTS

PAGE 2

PHYSICIAN  
Silva, Rosanna D. DO 0836

PATIENT: GILBERT, SANDRA ACCT #: D006170034 LOC: LAB U #: M000477504  
Wristband: DOB: 10/20/58 AGE/SX: 51/F ROOM: REG: 05/27/10  
REG DR: Silva, Rosanna D. DO STATUS: REG CLI BED: DIS:

| Test | Result   | Flag        | Reference          |
|------|----------|-------------|--------------------|
|      | Rel Risk | HDL (mg/dL) | T-Chol/HDL LDL/HDL |
|      |          | M F         | M F M F            |
|      | 1/2      | 60 70       | 3.4 3.3 1.0 1.5    |
|      | Average  | 45 55       | 5.0 4.4 3.5 3.2    |
|      | 2X       | 25 35       | 10.0 7.0 6.3 5.0   |
|      | 3X       | -- --       | 24.0 11.0 8.0 6.1  |

Specimen: 0527:C00064R COMP Submit Dr: Silva, Rosanna D. DO  
Collected: 05/27/10-0754 Verified: 05/27/10-0829

| Test             | Result                                   | Flag | Reference |
|------------------|------------------------------------------|------|-----------|
| > HEMOGLOBIN A1C | 6.0                                      |      | 0-6 %     |
|                  | Hemoglobin A1C degree of glucose control |      |           |
|                  | > 8 % Action Suggested                   |      |           |
|                  | 7 - 8 % Good Control                     |      |           |
|                  | < 7 % Goal                               |      |           |
|                  | 6 - 7 % Near Normal Glycemia             |      |           |
|                  | < 6 % Non-diabetic Level                 |      |           |

\*\* END OF REPORT \*\*

*Borderline  
diabetic  
"7.6 is diabetic"  
Must lose weight  
↓ carbs ↓ fats/sugars  
Repeat blood 3-6 mos*

CARENET 021

# o **Care Health Center**

o West Meeting St, Medical Arts V, Suite E, Lancaster SC 29720.  
Tel 803 285 2273 Fax 803 285 6360.

DATE/TIME

## **LAB REPORT FORM**

### **URINALYSIS**

Color .....

Clarity .....

Sp Gr .....

Blood .....

pH .....

Protein .....

Urobilinogen .....

Nitrite .....

Leuk .....

| <b>STREPT</b>    | <b>POS</b>      | <b>NEG</b> |
|------------------|-----------------|------------|
| <b>H PYLORI</b>  | POS             | NEG        |
| <b>STOOLS-OC</b> | POS             | NEG        |
| <b>PREG:</b>     | POS             | NEG        |
| <b>MONO</b>      | POS             | NEG        |
| <b>INFLU-A</b>   | POS             | NEG        |
| <b>INFLU-B</b>   | POS             | NEG        |
| <b>B-GLUC</b>    | 116 mg/dl [70-9 |            |
| <b>HGBA1C</b>    | .....[4.4       |            |

**SED RATE** .....[0-20]  
.....[0-30]

### **Microscopic**

Epithelial .....

RBC .....

WBC .....

Bacteria .....

Crystals .....

Other .....

### **LIPID PANEL**

TRG[<150] TC[<200] \*all mg

.....

HDL[>40] LDL[<130]

.....

TC/HDL.....[4-5or less]

### **Wetprep/KOH [Vaginal]**

Trichomonas .....

Yeast .....

WBC .....

RBC .....

Clue Cells .....

Other .....

**ALT** .....[10-40u/l]

**AST** .....[10-40u/l]

**OTHER**.....

NAME

Sandra Gilbert

C#

204

MD/TECH

CARENET 022

204  
TEST DATE: 02/02/08  
RUN TIME: 0900

SPRINGER HOSPITAL, INC

PAGE 1

800 W. Meeting St.

Lancaster, SC 29720

Telephone: (803) 286-1400 Fax: (803) 286-1371

OP/OPS REPORTS

PHYSICIAN

Perera, Nimal A. MD

Name: GILBERT, SANDRA

DOB/Sex: 10/20/58

Location: LAB

Acct#: D006009025 Unit#: H000477504

AGE/SEX: 49/F

Ref Doctor: Perera, Nimal A. MD

Reg: 02/01/08 Disch:

Status: REG CLI

Wristband:

Specimen: 0201:000074R

COMP

Collected: 02/01/08-0840

Received: 02/01/08-0844

| Test              | Result | Flag | Reference       |
|-------------------|--------|------|-----------------|
| BMP               |        |      |                 |
| > SODIUM          | 139    |      | 135-145 mmol/L  |
| > POTASSIUM       | 4.6    |      | 3.6-5.0 mmol/L  |
| > CHLORIDE        | 104    |      | 101-111 mmol/L  |
| > CARBON DIOXIDE  | 29     |      | 21-31 mmol/L    |
| > BUN             | 13     |      | 7-18 mg/dL      |
| > GLUCOSE, RANDOM |        | 123  | H 70-110 mg/dL  |
| > CREATININE      | 0.9    |      | 0.5-1.2 mg/dL   |
| > CALCIUM         | 10.2   |      | 8.4-10.2 mg/dL  |
| LIPID PRO         |        |      |                 |
| > CHOLESTEROL     |        | 306  | H 140-225 mg/dL |
| > TRIGLYCERIDES   | 137    |      | 35-175 mg/dL    |
| > HDL             | 57.0   |      | 39-96 mg/dL     |
| > LDL CHOLESTEROL |        | 227  | H 91-200 mg/dL  |
| > CHOL/HDL RATIO  | 5.4    |      |                 |
| > LDL/HDL RATIO   | 4.0    |      |                 |

REFERENCE TABLE

NIH Consensus Conference on Cholesterol  
(Values in mg/dL)

| Age (yrs) | IDEAL<br>(low risk) | 75th XILE<br>(moderate risk) | 90th XILE<br>(high risk) |
|-----------|---------------------|------------------------------|--------------------------|
| 2 - 19    | <80                 | >170                         | >200                     |
| 20 - 29   | <180                | >200                         | >220                     |
| 30 - 39   | <200                | >220                         | >240                     |
| 40+       | <200                | >240                         | >260                     |

Relative Risk of Coronary Disease by Various Test  
Combinations for Males and Females

| Rel Risk | HDL (mg/dL) |    | T-Chol/HDL |      | LDL/HDL |     |
|----------|-------------|----|------------|------|---------|-----|
|          | M           | F  | M          | F    | M       | F   |
| 1/2      | 60          | 70 | 3.4        | 3.3  | 1.0     | 1.5 |
| Average  | 45          | 55 | 5.0        | 4.4  | 3.5     | 3.2 |
| 2X       | 25          | 35 | 10.0       | 7.0  | 6.3     | 5.0 |
| 3X       | —           | —  | 24.0       | 11.0 | 8.0     | 6.1 |

\*\* CONTINUED ON NEXT PAGE \*\*

CARENET 023

201  
RIN DATE: 02/02/08  
RIN TIME: 0900

SPRINGS HOSPITAL, INC

PAGE 2

800 W. Meeting St.  
Leicester, SC 29720

Telephone: (803) 286-1480 Fax: (803) 286-1371  
OP/OPS REPORTS

PHYSICIAN

Perera, Nimal A. MD

Name: GILBERT, SANDRA Age/Sex: 49/F Attend Dr: Perera, Nimal A. MD  
Acct#: D006009025 Unit#: M000477504 Status: NEG CLI Location: LAB  
Reg: 02/01/08 Disch:

Specimen: 0201:U00009R COMP Collected: 02/01/08-0850 Received: 02/01/08-0851

| Test                                                                                                                                                                                                                               | Result | Flag  | Reference      |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------|-------|----------------|
| UA                                                                                                                                                                                                                                 |        |       |                |
| > UR. APPEARANCE                                                                                                                                                                                                                   | CLEAR  |       | CL             |
| > URINE COLOR                                                                                                                                                                                                                      | YELLOW |       | YELLOW         |
| > UR SPEC GRAV                                                                                                                                                                                                                     | 1.025  |       | 1.005-1.030    |
| > URINE PH                                                                                                                                                                                                                         | 5.0    |       | 5.0-8.5        |
| > URINE PROTEIN                                                                                                                                                                                                                    |        | 25    | H NEG mg/dl    |
| > URINE GLUCOSE                                                                                                                                                                                                                    | NORM   |       | NEG mg/dl      |
| > URINE KETONE                                                                                                                                                                                                                     | NEG    |       | NEG mg/dl      |
| > UR UROBILINOGEN                                                                                                                                                                                                                  | NORMAL |       | NORMAL mg/dl   |
| > URINE BILIRUBIN                                                                                                                                                                                                                  | NEG    |       | NEG mg/dl      |
| > URINE BLOOD                                                                                                                                                                                                                      | NEG    |       | NEG ul         |
| > UR LEUK ESTER                                                                                                                                                                                                                    | NEG    |       | NEG /ul        |
| > URINE NITRITE                                                                                                                                                                                                                    | NEG    |       | NEG            |
| On Feb. 28, 2007, we changed our method of doing urine dipsticks from the Bayer Multistix to the Roche Chemstrip. You will notice some difference in the reporting terminology. If you have any questions, please contact the lab. |        |       |                |
| UR MICROSCOPIC                                                                                                                                                                                                                     |        |       |                |
| > URINE RBC                                                                                                                                                                                                                        | 0-5    |       | 0-5 rbc/hpf    |
| > URINE WBC                                                                                                                                                                                                                        | 0-5    |       | 0-5 wbc/hpf    |
| > UR EPITH CELLS                                                                                                                                                                                                                   |        | 10-15 | H 0-10 EPI/hpf |
| > URINE BACTERIA                                                                                                                                                                                                                   |        | 2+    | H NONE SEEN    |
| > URINE MUCUS                                                                                                                                                                                                                      | TRACE  |       | NEG            |

NP.

\*\* END OF REPORT \*\*

CARENET 024

Victor Amato MD

From: Victor Amato MD

5-18-11 1:46pm p. 1 of 2

Springs Memorial Hospital  
800 West Meeting Street  
Lancaster, SC 29720  
803 286 1858

### ESOPHAGOGASTRODUODENOSCOPY

Name: GILBERT, SANDRA

|               |            |         |     |      |            |
|---------------|------------|---------|-----|------|------------|
| MRN:          | M000477504 | Room #: | 505 | DOB: | 10/20/1958 |
| Account #:    | D003240804 | Bed #:  | 1   | Age: | 52 Y       |
| Service Code: | IN         |         |     | Sex: | F          |
| ADM DATE:     | 05/18/2011 |         |     | DOS: | 05/18/2011 |

Dictated By: VICTOR M AMATO, MD  
Attending Physician: Vito Badalamenti  
Primary Care Physician:

PROCEDURE: Esophagogastroduodenoscopy.

BRIEF HISTORY: The patient is a 52-year-old African American female who presented with GI blood loss, anemia, and gastrointestinal bleeding.

INDICATION: To assess for gastric or duodenal ulceration.

#### PHYSICAL EXAMINATION:

General: Well-developed, well-nourished female in no acute distress.

Vital Signs: Stable. Afebrile.

Lungs: Clear.

Heart: Regular rate and rhythm. No gallop rhythm.

Abdomen: Soft, nondistended, nontender. Bowel sounds normal and active.

DESCRIPTION: Informed consent was obtained from the patient. With the patient in the left lateral decubitus position, incremental doses of IV Demoral 50 mg and Versed 4 mg were given to achieve conscious sedation as tolerated. Throughout the procedure, the patient's vital signs were monitored, and they were unremarkable throughout.

An Olympus GIF-140 video gastroscope was inserted under direct visualization via the cricopharyngeus muscle into the esophagus. Esophageal mucosa was normal throughout. The squamocolumnar junction was regular without any Barrett's changes. No Mallory-Weiss tear was seen. The scope entered the stomach. The gastric mucosa showed evidence of erosive gastritis, which was prominent in the gastric antrum. There was no active bleeding. No blood at all was seen within the stomach. The gastric rugae were normal. Retroflexion to view of the gastric cardia and proximal fundus showed no AVMs, masses, or ulcerations. The pylorus was patent. With gentle pressure, the scope entered the duodenal bulb and descending duodenum, both of which appeared normal. The scope then was withdrawn into the stomach, and after air was deflated from it, the scope was taken out. The patient tolerated it well and went to recovery area with stable vital signs.

DIAGNOSIS: Erosive gastritis.

PRELIMINARY Report undi



To: Victor Amato MD

From: Victor M Amato MD

5-18-11 1:48pm p. 2 of 2

### ESOPHAGOGASTRODUODENOSCOPY

Name: GILBERT, SANDRA

MRN: M000477504

DOB: 10/20/1958

Account #: D006240804

ADM DATE: 05/16/2011

PLAN: H2 blocker or proton pump inhibitor. Monitor hemoglobin and hematocrit. Advance to 1800 calorie ADA diet, and follow up in office for outpatient colonoscopy.

Victor M Amato, MD

Print CC:

Fax CC: Vito Badalamenti, MD

D Date / Time: 05/18/2011 08:40 AM ET

T Date / Time: 05/18/2011 02:44 PM ET

S Job #: SMH45762474

D Job #: 8030473

MT: 788421

PRELIMINARY Report with authentication.

Page 2 of 2

CARENET 026

**Springs Memorial Hospital**  
800 West Meeting Street  
Lancaster, SC 29720  
803 288 1658

**CONSULTATION****Name: GILBERT, SANDRA**

|               |            |         |     |      |            |
|---------------|------------|---------|-----|------|------------|
| MRN:          | M000477504 | Room #: | 506 | DOB: | 10/20/1958 |
| Account #:    | D006240804 | Bed #:  | 1   | Age: | 52 Y       |
| Service Code: | IN         |         |     | Sex: | F          |
| ADM DATE:     | 05/16/2011 |         |     | DOS: | 05/16/2011 |

Dictated By: VICTOR M AMATO, MD  
Attending Physician: Vito Badalamenti  
Primary Care Physician:

**REQUESTING PHYSICIAN:** Dr. Badalamenti.**REASON FOR REQUEST:** GI bleeding.

**HISTORY OF PRESENT ILLNESS:** The patient is a 52-year-old, African American female, who presented with frequent urination, weight loss and blurred vision. The patient apparently has had decreased appetite and has lost over 20 pounds in the last several months. The patient also describes having some dark emesis and stools have been dark recently as well. Her previous known hemoglobin was 11.7, on this admission it was down to 5.8.

**PAST MEDICAL HISTORY:** Significant for hypertension.**HOME MEDICATIONS:**

1. Diovan 80 mg daily.
2. Hydrochlorothiazide 12.5 mg daily.

**ALLERGIES:** NO KNOWN DRUG ALLERGIES.**PAST SURGICAL HISTORY:**

1. Tubal ligation.
2. Hysterectomy.

**SOCIAL HISTORY:** Negative for tobacco or alcohol use.**REVIEW OF SYSTEMS:** 10 system review negative or as in history of present illness.**PHYSICAL EXAMINATION:****General:** This is an obese female in no acute distress.**Vital Signs:** Stable. Afebrile.**HEENT:** Pupils equal, round, reactive to light. Conjunctivae pale. Sclerae anicteric. Throat shows dry mucous membranes.**Neck:** Supple. No JVD or thyromegaly.**Lungs:** Clear to percussion and auscultation.**Heart:** Regular rate and rhythm. No gallop rhythm.**Abdomen:** Soft, nondistended, nontender. No masses. No organomegaly.**Extremities:** Without cyanosis, clubbing, or edema.**PRELIMINARY Report until authenticated.**

To: Victor Amato, MD

From: Victor M Amato MD

5-17-11 12:29pm p. 2 of 2

### CONSULTATION

Name: GILBERT, SANDRA

MRN: M000477504  
Account #: D006240804

DOB: 10/20/1958  
ADM DATE: 05/16/2011

Neurologic: Grossly intact.

LABORATORY: Shows a white count of 8.8 with hemoglobin 6.6, hematocrit 18.8. Chemistries within normal limits. BUN 14, creatinine 0.8. LFTs within normal limits. Stool for blood positive.

IMPRESSION: The patient is a 52-year-old female with significant profound anemia, gastrointestinal bleeding and ketoacidosis.

PLAN: Transfuse packed RBCs to maintain hemoglobin greater than 8 g/dL and empiric proton pump inhibitor. Will need upper endoscopy when stabilized.

I would like to thank Dr. Badalamenti for allowing me to participate in the patient's care.

Victor M Amato, MD

Print CC:  
Fax CC: Vito Badalamenti, MD

D Date / Time: 05/16/2011 05:53 PM ET  
T Date / Time: 05/17/2011 01:25 AM ET  
S Job #: SMH45710106  
D Job #: 6030221  
MT: 938201

**PRELIMINARY Report until authenticated.**

Page 2 of 2

CARENET 028

**Springs Memorial Hospital**  
800 West Meeting Street  
Lancaster, SC 29720  
803 288 1658

**DISCHARGE SUMMARY**

---

**Name: GILBERT, SANDRA**

|               |            |         |     |           |            |
|---------------|------------|---------|-----|-----------|------------|
| MRN:          | M000477504 | Room #: | 506 | DOB:      | 10/20/1958 |
| Account #:    | D006240804 | Bed #:  | 1   | Age:      | 52 Y       |
| Service Code: | IN         |         |     | Sex:      | F          |
| ADM DATE:     | 05/16/2011 |         |     | DIS DATE: | 05/19/2011 |

Dictated By: PRAVEEN N MEHA, MD  
Attending Physician: Vito Badalamenti  
Primary Care Physician:

---

**PRIMARY CARE PHYSICIAN:** Dr. Perera.**LIST OF DIAGNOSES:**

1. Gastrointestinal bleed with gastritis.
2. Diabetes mellitus type 2.
3. Anemia with acute blood loss.

**LIST OF CONSULTATIONS:** GI.**LIST OF PROCEDURES:**

1. Upper GI endoscopy.
2. Blood transfusions.

**REASON FOR HOSPITALIZATION AND HOSPITAL COURSE:** Please refer to detailed history and physical done on May 16, 2011. In short, this is a 52-year-old white female with diabetes mellitus, came in complaining of worsening weakness. Further evaluation in the ER was suggestive of significant anemia. She was also noted to have significant blood loss. She was admitted to service and transfused 2 units packed red cells. She had a hemoglobin of around 5.5. GI was consulted. She had an upper GI endoscopy because of consistent gastritis/erosive gastritis. She has been advised PPI for now. As the patient continued to show progressive improvement, she has been discharged home in fairly baseline condition. H and H are stable. She is to follow up with GI as an outpatient.

**FINAL EXAMINATION:**

**General:** This is a thin, white female, looks her stated age.

**Vital Signs:** Stable.

**HEENT:** Normocephalic, atraumatic. No pharyngeal erythema/oral thrush. Eyes: Pupils equal, round, reactive.

**Neck:** Supple with no thyromegaly.

**Lymph Nodes:** No supraclavicular or cervical lymphadenopathy.

**Chest:** Shows bibasilar scattered crackles.

**Abdomen:** Nontender, nondistended. Bowel sounds present.

**Extremities:** There are no new skin breakdown, ulcers, cyanosis.

**DIET:** 2000 ADA.

**ACTIVITY:** As tolerated.

**PRELIMINARY Report until authenticated.**

# DISCHARGE SUMMARY

Name: GILBERT, SANDRA

|            |            |      |            |           |            |
|------------|------------|------|------------|-----------|------------|
| MRN:       | M000477504 | DOB: | 10/20/1958 | ADM DATE: | 05/18/2011 |
| Account #: | D006240804 |      |            | DIS DATE: | 05/19/2011 |

## FOLLOWUP:

1. Dr. Amato in 1 week.
2. Dr. Perera in 1 week.
3. Compliance with medication and diet stressed with the patient.

## LIST OF MEDICATIONS ON DISCHARGE: Please refer to detailed reconciliation list.

1. Hgh 325 p.o. b.i.d.
2. Omeprazole 20 mg p.o. b.i.d.
3. Flagyl 500 p.o. t.i.d. for 5 days.
4. Glucotrol 10 mg p.o. daily.
5. Lovastatin 40 mg p.o. daily.
6. Metformin 1000 mg p.o. b.i.d.
7. Diovan 80 mg p.o. daily.

COORDINATION OF DISCHARGE: More than 30 minutes.

Praveen N Meka, MD

Print CC:

Fax CC:

D Date / Time: 05/19/2011 03:41 PM ET  
T Date / Time: 05/20/2011 04:55 AM ET  
S Job #: SMH45823401  
D Job #: 6030737  
MT: 82739

PRELIMINARY Report until authenticated.

204

**Springs Memorial Hospital**  
800 West Meeting Street  
Lancaster, SC 29720  
803 286 1658

**HISTORY AND PHYSICAL**

**Name: GILBERT, SANDRA**

|               |            |         |     |      |            |
|---------------|------------|---------|-----|------|------------|
| MRN:          | M000477504 | Room #: | 506 | DOB: | 10/20/1958 |
| Account #:    | D006240804 | Bed #:  | 1   | Age: | 52 Y       |
| Service Code: | IN         |         |     | Sex: | F          |
| ADM DATE:     | 05/16/2011 |         |     |      |            |

Dictated By: VITO BADALAMENTI, MD  
Attending Physician: Vito Badalamenti  
Primary Care Physician:

**SUBJECTIVE:** The patient is referred dementia the patient

**CHIEF COMPLAINT:** Weakness, shortness of breath, rectal bleeding.

**HISTORY OF PRESENT ILLNESS:** This is a 52-year-old white female, known to myself. She was hospitalized approximately a year ago. Newly diagnosed diabetes mellitus, doing fairly well at home. Over the past 5 days, she noticed that she began feeling weak and dizzy whenever she would exert she exerts herself. Approximately a week ago she felt that, 5 days ago she noticed 1 late evening a large amount of bleeding. It was painless, rectal bleeding. Since that time, she has had several bowel movements associated with blood with her BM's. She had no pain, no abdominal distention, no nausea, vomiting. She has continued to eat with minimal difficulty and no fever and no chills, no sweats. Today, she became more short of breath, weak whenever she was at work, and began having some diaphoresis and therefore she came into the emergency room. In the ER, she was worked up. Hemodynamically she was reportedly stable, but she was Hemocult positive and laboratory studies demonstrated a marked anemia of 5.6 g and hematocrit 18. It was microcytic in nature, and now referred for admission. The patient states that she has never had any previous colon cancer screening in the past. Has never had any rectal bleeding in the past. No history of hemorrhoids. Denies any vaginal bleeding. States that she has had a "hysterectomy" well over 20 years ago. No history of peptic ulcer disease in the past.

**PAST MEDICAL HISTORY:** Noted for diabetes mellitus, hypertension, dyslipidemia.

**ALLERGIES:** NONE.

**PAST SURGICAL HISTORY:** Tubal ligation, hysterectomy.

**SOCIAL HISTORY:** No tobacco, no alcohol abuse.

**FAMILY HISTORY:** Brother and mother with abdominal aortic aneurysm.

**REVIEW OF SYSTEMS:** Over 10 systems reviewed in full, found to be negative other than in HPI.

**PHYSICAL EXAMINATION:**

**General:** She is a 52-year-old African-American female awake, alert, oriented x3. Currently in no cardiopulmonary distress. She is coherent. Blood pressure 128/76, pulse is in the 80s, respirations 18. Pupils are equal, round, and reactive to light. No scleral icterus. Pasty oral mucosa. Dentition in good repair. No oral lesions.

**PRELIMINARY Report until authenticated.**

## HISTORY AND PHYSICAL

Name: GILBERT, SANDRA

MRN: M000477504  
Account #: D006240804

DOB: 10/20/1958  
ADM DATE: 05/16/2011

Neck: Supple. No JV distention. No thyromegaly. No cervical adenopathy.  
Chest: Good expansion.  
Lungs: Clear to auscultation and percussion. No wheezes or crackles.  
Cardiac: Regular rate and rhythm without without murmurs, rubs, gallops. No S3. No S4.  
Abdomen: Soft, minimally distended, nontender. Bowel sounds are present.  
Extremities: No clubbing, cyanosis, or edema. Pedal pulses are 2+, symmetrical. No focal neurological deficits.  
Rectal: Not repeated. Performed in the ER, which was occult positive.

LABORATORY STUDIES: Blood sugars 185. UA shows no blood, no RBCs. WBC is 8.8, hemoglobin 5.6, hematocrit 18 and platelets at 394, MCV is 59. INR is 1.0. Chest x-ray shows cardiomegaly. Sodium 140, potassium 4.3, carbon dioxide 23, BUN is 14, creatinine is 0.8, glucose 105, albumin is 4.2. Liver enzymes are normal. Normal troponin 0.01. Lipase is 47. Stool for occult blood is positive.

### ASSESSMENT:

1. 82-year-old, African-American female presented with hemorrhagic shock and anemia of blood loss most likely secondary to rectal bleeding from suspected either ischemic colitis, which would be a painless rectal bleeding, less likely diverticular disease.
2. Anemia of blood loss.
3. Diabetes mellitus type 2.
4. Hypertension.
5. Cardiomegaly.

PLAN: Admit to telemetry floor in stable, but guarded condition with IV fluids. We will type and cross and transfuse 3 units of packed red cells now. She will be on sugar free, clear liquids. She will have sliding scale insulin coverage. We will hold her p.o. medications. Start on IV Protonix. We will obtain blood cultures x2. We will use SCD's for DVT prophylaxis. She was started on IV antibiotics for colitis. We will consult GI Services to help with workup of possible diagnostic cystoscopy. ?

Vito Badalamenti, MD

Print CC:

Fax CC: Nimal Perera, MD

D Date / Time: 05/16/2011 02:35 PM ET  
T Date / Time: 05/16/2011 08:14 PM ET  
S Job #: SMH45698804  
D Job #: 6030195  
MT: 800344

PRELIMINARY Report until authenticated.

# Care Health Center

## AUTHORIZATION TO RELEASE HEALTHCARE INFORMATION

I hereby authorize the use or disclosure of my identifiable health information as described below. I understand that if the organization authorized to receive the information is not an insurance company or health care provider, the released information may no longer be protected by federal privacy regulations.

☒ Referring Physician ☐ Copy of Record ☐ Legal or Insurance Review ☐ Other

The facility/practice/individual listed below is authorized to release the requested health information

Facility/Practice Name: Catawba Gastro Telephone #: \_\_\_\_\_

Facility/Practice Address: \_\_\_\_\_ Fax: 283-6330

The facility/practice/individual listed above is authorized to release the requested health information for the following date(s) of service, range of time or event(s)

From: (MM/DD/YY) \_\_\_\_\_ TO: (MM/DD/YY) \_\_\_\_\_

### PATIENT INFORMATION

Patient First Name: Dan Middle: W. Last: Gilbert

Patients Address: 1305-B E. 1st St. Lancaster, S.C. 29720  
(Street Address/PO Box, City, State, Zip)

SS#: 249-21-8746 Date of Birth: 10-20-58 Chart #: \_\_\_\_\_

This information may be released to and used by the following individuals/organizations. A separate authorization must be completed in the information being released or the purpose differs between the individuals/organizations listed below:

| Name:              | Address                                                               | Telephone     | Fax#          |
|--------------------|-----------------------------------------------------------------------|---------------|---------------|
| Care Health Center | 838 West Meeting St<br>Medical Arts V, Suite H<br>Lancaster, SC 29720 | (803)285-2273 | (803)283-6360 |

### SCOPE OF INFORMATION REQUESTED

☒ All Records & Details ☐ Progress Notes  
☐ Other \_\_\_\_\_ ☐ History & Physical

I understand that the information in my medical record may include information relating to treatment of drug abuse, psychological or psychiatric impairments, sexually transmitted disease, acquired immunodeficiency syndrome (AIDS) AIDS related complex (ARC) and/or human immunodeficiency virus (HIV)

Patient Signature: Dan W. Gilbert Date Signed: 7-5-11

### PATIENT INFORMATION

I understand that I have a right to revoke this authorization at any time by notifying the Medical Record Department of the above organization in writing. (I understand that revocation will not apply to information that has already been released in response to this authorization. I understand that revocation will not apply to insurance company when the law provides my insurer with the right to contest a claim under my policy.)

I understand that authorizing the disclosure of this private health information is voluntary and I can refuse to sign this authorization. I understand that I may request to obtain a copy of the information to be used or disclosed per Care Health Centers Notice of Privacy Practices Policy.

This authorization will expire when the information from the event/purpose noted above is released to the recipient named in this document. If the patient is a minor or is clinically unable to sign, an authorized representative may sign this authorization.

PRINT NAME of Patient/Authorized Representative: Dan W. Gilbert

SIGNATURE: Dan W. Gilbert DATE: 7-5-11  
If Authorized Representative, please indicate relationship to patient: ☐ Spouse ☐ Parent

☐ Guardian  
CARENET 033



Date & Time  
Model Name  
Machine Serial Number

JUN-10-2013 08:52AM MON  
SCX-472x Series  
Z6M2BJDD1000V0A

935 2836330

06-10 08:51AM 00'17" ECM

001/001 OK

**Care Health Center**  
**AUTHORIZATION TO RELEASE HEALTHCARE INFORMATION**

I hereby authorize the use or disclosure of my identifiable health information as described below. I understand that if the organization authorized to release this information is not an insurance company or health care provider, the released information may no longer be protected by federal privacy regulations.

☐ Referring Physician ☐ Copy of Record ☐ Legal or Insurance Review ☐ Other

The facility/practice/individual listed below is authorized to release the requested health information:

Facility/Practice Name: Catawba Gastro Telephone #: 803-283-6360  
Facility/Practice Address: \_\_\_\_\_ Fax: 803-283-6360

The facility/practice/individual listed above is authorized to release the requested health information for the following date(s) of service, range of time or event(s): \_\_\_\_\_ TO: 06/05/2013  
From: 06/05/2013

Patients First Name: Sanjiv Middle: W. Last: Gilbert  
Patients Address: 1355-A E. Main St. Lancaster, S.C. 29720  
(Street Address/PO Box, City, State, Zip)  
Age: 24 Date of Birth: 10-20-1988 Client #: \_\_\_\_\_

This information may be released to and used by the following individual(s)/organization(s). A separate authorization must be completed in the information being released or the purpose differs between the individuals/organizations listed below:

| Name:              | Address                                                                | Telephone     | Fax           |
|--------------------|------------------------------------------------------------------------|---------------|---------------|
| Care Health Center | 838 West Meeting St.<br>Medical Arts V, Suite H<br>Lancaster, SC 29720 | (803)283-2273 | (803)283-6360 |

☒ All Records & Details ☐ Progress Notes  
☐ Other ☐ History & Physical

I understand that the information in my medical record may include information relating to treatment of drug abuse, psychological or psychiatric impairments, sexually transmitted diseases, acquired immunodeficiency syndrome (AIDS), AIDS related complex (ARC), and/or human immunodeficiency virus (HIV).

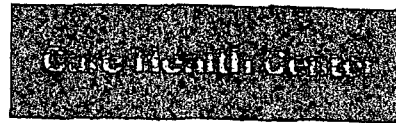
Patient Signature: Sanjiv W. Gilbert Date Signed: 7-5-11

I understand that I have a right to revoke this authorization at any time by notifying the Medical Record Department of the above organization in writing. I understand that revocation will not apply to information that has already been released in response to this authorization. I understand that revocation will not apply to insurance companies when the law provides my insurer with the right to contact a claim under my policy. I understand that authorizing the disclosure of this personal health information is voluntary and I can refuse to sign this authorization. I understand that I may request to obtain a copy of the information to be used or disclosed per Care Health Center's Notice of Privacy Practices Policy. This authorization will expire when the information from the event/purpose stated above is released to the recipient named in this document. If the patient is a minor or is officially unable to sign, an authorized representative may sign this authorization.

PRINT NAME of Patient/Authorized Representative: Sanjiv W. Gilbert  
SIGNATURE: Sanjiv W. Gilbert DATE: 7-5-11  
If Authorized Representative, please indicate relationship to patient: ☐ Spouse ☐ Parent ☐ Guardian

CARENET 034

838 West Meeting St  
 Medical Arts 5, Suite H  
 Lancaster, SC 29720  
 Phone: (803) 285-2273  
 Fax: (803) 283-6360



# Fax

|                                                                                                                                                                                           |                |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|
| To: Baker Ravenal Bender                                                                                                                                                                  | From: Larissa  |
| Fax: 803-779-3423                                                                                                                                                                         | Pages:         |
| Phone:                                                                                                                                                                                    | Date: 08/13/12 |
| Re:                                                                                                                                                                                       | cc:            |
| <input type="checkbox"/> Urgent <input type="checkbox"/> For Review <input type="checkbox"/> Please Comment <input type="checkbox"/> Please Reply <input type="checkbox"/> Please Recycle |                |
| • Comments:                                                                                                                                                                               |                |

/13/2012 10:48

P.001

| *****<br>*** TX REPORT ***<br>***** |      |         |                    |             |      |        |       |
|-------------------------------------|------|---------|--------------------|-------------|------|--------|-------|
| JB NO.                              | MODE | NO.     | DESTINATION TEL/ID | START TIME  | PAGE | RESULT |       |
| 8009                                | TX   | ECM 001 | 18037793423        | 08/13 10:44 | 004  | OK     | 01'41 |

CARENET 035

838 West Meeting St  
Medical Arts 5, Suite H  
Lancaster, SC 29720  
Phone: (803) 285-2273  
Fax: (803) 283-6360



# Fax

|               |                      |               |          |
|---------------|----------------------|---------------|----------|
| <b>To:</b>    | Baker Ravenel Bender | <b>From:</b>  | Larissa  |
| <b>Fax:</b>   | 803-779-3423         | <b>Pages:</b> |          |
| <b>Phone:</b> |                      | <b>Date:</b>  | 08/13/12 |
| <b>Re:</b>    |                      | <b>cc:</b>    |          |

☐ **Urgent**    ☐ **For Review**    ☐ **Please Comment**    ☐ **Please Reply**    ☐ **Please Recycle**

• **Comments:**

This transmission may contain information that is protected from disclosure by federal and/or state law, or is other-wise privileged or confidential. This communication is intended only for the use of the individual or entity to whom it is addressed. If you are not the intended recipient or the employee or agent responsible for delivering this message to the recipient, you are hereby notified that any discrimination, distribution, or copying of this communication is strictly prohibited and violations of applicable federal and/or state law may subject you to civil and/or criminal penalties. If you have received this communication in error, please notify the sender immediately by telephone and return this communication by mail to the address shown above.

CARENET 036

BAKER, RAVENEL & BENDER, L.L.P.

(803) 798-8091  
3710 LANDMARK DRIVE, SUITE 400  
COLUMBIA, SC 29204  
ID 67-0375158

 CAPITAL BANK  
COLUMBIA, SC

63747

NUMBER

63-1174670

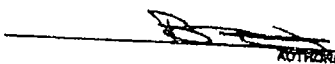
Thirty-three and eighty-five/100 Dollars

DATE  
08/13/2012

AMOUNT  
\$33.85

BY THE ORDER  
Care Health Center  
838 West Meeting Street  
Suite H  
Lancaster, SC 29720

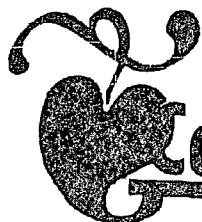
BAKER, RAVENEL & BENDER, L.L.P.  
GENERAL ACCOUNT

  
AUTHORIZED SIGNATURE

⑈063747⑈ ⑆067066760⑆ 003507⑈

mailed records  
8/17/12

CARENET 037



# Care Health Center

c/o Baker Laurel Bender

Account# 204

Date 8/13/12

Subject: Medical Records Request

To whom it may concern:

We have received your request for medical records for our patient Sandra Gilbert.  
Care Health Center charges a \$15 processing fee for medical records, \$0.65 per page for the first 30 pages and \$0.50 per page for all other pages.

Please see the attachment (s) for requested information.

SC Code Ann. 44-115-80—A charge of sixty-five cents for the first thirty pages and fifty cents per page for all other pages and a clerical fee for searching and handling not to exceed fifteen dollars plus actual postage.

Total charge for records is \$33.85. Please make checks payable to Care Health Center.  
(29 pages)

If you have any questions regarding this bill, please contact our office at 803-285-2273.

Larissa Johnson

Signature

CARENET 038

838 West Meeting Street @ Medical Arts V, Suite H @ Lancaster SC 29791

**BAKER RAVENEL BENDER**

ATTORNEYS AT LAW

August 8, 2012

D. CRAVENS RAVENEL  
\*JAY BENDER  
S. MARKEY STUBBS  
THARINE GARBEE GRIFFIN  
\*\*WILLIAM PEARCE DAVIS  
BRADLEY L. LANFORD  
SAMUEL M. MOKEBA  
SUSAN DRAKE DUBOSE  
ROBERT L. BROWN  
JENNY A. DRAFFIN  
MARIEL D. NORTON  
\*\*\*PATRICK D. QUINN

CHARLES E. BAKER  
(1935-2010)

Carenet, Inc.  
ATTN: Records Custodian  
838 W. Meeting Street, Bldg 5, Suite H  
Lancaster, South Carolina 29720

Re: Sandra W. Gilbert  
DOB: 10/20/1958  
Our File No.: 10758.0

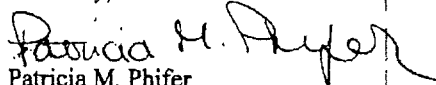
Dear Records Custodian:

Enclosed herewith, please find an Authorization for the Release of Information in connection with the above-referenced matter. Please forward copies of all records concerning the treatment, care and/or evaluation of **Sandra W. Gilbert (DOB: 10/20/1958)** from January 1, 2001 through the present date to the attention of Tricia Phifer, paralegal at Baker, Ravenel & Bender, L.L.P., Post Office Box 8057, Columbia, South Carolina 29202-8057. Please include each and every document related to your treatment, care and/or evaluation of Ms. Gilbert including, but not limited to, all physician's notes, nurse's notes, physical therapists' notes, occupational therapists' notes, laboratory tests and their results, radiology films and their reports, billing records, invoices and any correspondence to/from Ms. Gilbert or any person or entity on her behalf.

Upon receipt of your invoice, we will be happy to reimburse you the actual costs involved in complying with this request. If it appears the costs of copying and forwarding the requested documents will exceed Fifty and No One-hundredths Dollars (\$50.00), please telephone me in advance for authorization to proceed.

Thank you for your cooperation in this matter. Should you have any questions, please do not hesitate to call.

Sincerely,

  
Patricia M. Phifer  
Paralegal to D. Cravens Ravenel  
/pmp  
Enclosure

cc w/ Encl.: Sandra W. Gilbert

BAKER, RAVENEL & BENDER, L.L.P.

mail. PO BOX 8057 | COLUMBIA, SC 29202 CARENET 039  
shipping. 3710 LANDMARK DRIVE, suite 400 | COLUMBIA, SC 29204

### Authorization for Release of Information

Patient: Sandra W. Gilbert  
Address: 1305-B Eula Street, Lancaster, SC 29720  
Phone: \_\_\_\_\_  
Date of Birth: 10/20/1958 Social Security Number: 249-21-8764

TO: **RECORDS CUSTODIAN**  
**Menerigamage Perera, M.D.**  
**Carenet, Inc.**  
**838 W. Meeting Street, Bldg S, Suite H**  
**Lancaster, South Carolina 29720**

I, **Sandra W. Gilbert**, hereby authorize the above-named medical care provider and/or facility to discuss and/or release any and all information concerning my care and/or treatment from **January 1, 2001 until the present date** to the Law Offices of Baker, Ravenel & Bender, LLP, or any employee thereof. This information should include, but should not be limited to all physician's notes, nurse's notes, physical therapists' notes, occupational therapists' notes, laboratory tests and their results, radiology films and their reports, bills, invoices, and correspondence to/from me or any person or entity on my behalf. This release should also cover the release of information of any other providers on file with your office or facility. I understand that if the records requested to be released include information relating to **sexually transmitted diseases, AIDS or HIV, alcohol or drug use, or mental health information**, this information may be released pursuant to this authorization.

The purpose of the requested access and/or release is for legal investigation, discovery, mediation, and/or for use at trial. The provider may not condition treatment, payment, enrollment or eligibility for benefits on signing this authorization.

This authorization will expire one (1) year from the date on which it is signed or upon settlement or judgment in the matter necessitating this release, unless a shorter time period is specified. (Expiration date: N/A). I understand that I may revoke this authorization at any time by giving written notice to the provider and/or facility. A revocation of this authorization will not apply to records already released in reliance upon this authorization. A photocopy of this authorization will constitute a valid authorization.

The healthcare provider and/or facility, its employees and attending physicians are released from legal responsibility or liability for the release of the above information to the extent indicated and authorized herein.

I understand that once the above information is disclosed, it may be re-disclosed by the designated recipient and the information may no longer be protected by federal privacy laws and regulations.

Signature of Patient or Legal Representative: \_\_\_\_\_  
Authority of Legal Representative: \_\_\_\_\_

(Patient's parent, guardian, administrator or estate of deceased, attorney of record appointed with power of attorney, or health care proxy)

BRB file number: 10758.0

CARENET 040

04  
**CARENET, INC.**

123 S. MAIN ST.  
LANCASTER, SC 29720  
PHONE#: 803-285-2273 FAX#: 803-285-8690

January 17, 2012

NIMAL PERERA  
838 W MEETING ST SUITE H  
LANCASTER, SC 29720  
(P) 803-285-2273 (F) 803-283-6360

DEA: BP5741839

The patient identified below is requesting a refill for the prescription indicated; however, there are no authorized refills remaining. If you would like to authorize additional refills, please complete this form and fax it back to 803-285-8690, or you may contact the pharmacist by calling 803-285-2273.

Sincerely,

G, S / CL

---

**Refill Authorization Request**

|                |                                    |                 |              |
|----------------|------------------------------------|-----------------|--------------|
| Patient:       | GILBERT, SANDRA                    | Date of Birth:  | 10/20/1958   |
| Address:       | 1305 B EULA ST<br>LANCASTER,       | Daytime Phone:  | 803-285-0934 |
| Prescription#: | 6047669                            | Date Written:   | 07/05/2011   |
| Product:       | LOVASTATIN 40 MG TABLET            | Last Dispensed: | 12/15/2011   |
| Quantity:      | 30 TAB                             | Price Plan:     | U&C          |
| Directions:    | TAKE ONE TABLET BY MOUTH EVERY DAY |                 |              |

☒ I authorize this refill plus 0 additional refills.

☐ Do not refill.

☒ Have patient contact my office. *ASAP last seen - 7/11*

*LMDW  
1-17-12*  
  
\_\_\_\_\_  
Authorized By

\_\_\_\_\_  
Date

CARENET 041



Request sent to:

CARE HEALTH CENTER

RE: SANDRA GILBERT  
Ref No: L70577**RETURN RECORDS BY FAX TO SCDDS AT (866) 868-7952****PAYMENT INSTRUCTIONS (For Records/Reports only)**  
complete the information below. We do not accept personalized invoices.**AUTHORIZATION - RETURN FOR PAYMENT**  
Please complete identifying information below. TO ENSURE PAYMENT,  
THIS FORM MUST BE PLACED ON TOP OF THE MEDICAL  
EVIDENCE.We pay \$15.00 for a copy of treatment records or a narrative report. Out of  
state physicians are paid according to the fee schedule in that state.

Payee Name and Address:

CARE NET HEALTH CTR

838 W. MEETING ST

MEDICAL ARTS & BUTTE H  
LINCOLN SC 28720FAX 803 283 8360  
PHONE 803 288 2273

Amount: \$15.00

Authorized Signature (Required)

IF RETURNING BY MAIL, FOLLOW DIRECTIONS BELOW:

SSA  
S87 SC DDS GREENVILLE  
P.O. BOX 8706  
LONDON, KY 40742-8706

MAIL INSTRUCTIONS

P.001

2/05/2011 15:20

\*\*\*\*\*  
\*\*\* TX REPORT \*\*\*  
\*\*\*\*\*

| JOB NO. | MODE | NO.     | DESTINATION TEL/ID | START TIME  | PAGE | RESULT   |
|---------|------|---------|--------------------|-------------|------|----------|
| 6317    | TX   | ECM 001 | 18668687952        | 12/05 15:18 | 010  | OK 04'32 |

CARENET 042

12.11 10:18:46 SOCIAL SECURITY NUMBER

204

Request sent to: CARE HEALTH CENTER

RE: SANDRA GILBERT  
Ref No: L70577

**RETURN RECORDS BY FAX TO SCDDS AT (866) 868-7952**

**PAYMENT INSTRUCTIONS (For Records/Reports only)**  
Complete the information below. We do not accept personalized invoices.

**AUTHORIZATION - RETURN FOR PAYMENT**

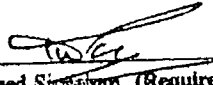
Please complete identifying information below. TO ENSURE PAYMENT,  
**THIS FORM MUST BE PLACED ON TOP OF THE MEDICAL EVIDENCE.**

- We pay \$15.00 for a copy of treatment records or a narrative report. Out of state physicians are paid according to the fee schedule in that state.

- Payee Name and Address:

CARE NET HEALTH CTR  
838 W. MEETING ST  
MEDICAL ARTS 5 SUITE H  
LANCASTER SC 29720  
FAX 803 283 6300  
PHONE 803 288 2273

Amount: \$15.00

  
Authorized Signature (Required)

IF RETURNING BY MAIL, FOLLOW DIRECTIONS BELOW:

**MAIL INSTRUCTIONS**

Insert this page into the window envelope with the address showing. **THIS PAGE MUST BE ON TOP OF YOUR REPORT.**

- Mail report to address in box at right.
- If you are sending reports on more than one person in the same envelope, place this page for each individual on top of his/her records.

SSA  
S87 SC DDS GREENVILLE  
P.O. BOX 8706  
LONDON, KY 40742-8706

- We cannot honor a bill presented more than 45 days after the close of our fiscal year which ends September 30.

**THIS PAGE MUST BE ON TOP OF YOUR REPORT.**



RQID:0073506846L70577 SITE:S87 DR:S  
SSN:\*\*\*\*\* DOCTYPE:0001 RF:D CS:b90b

DCC/483  
Claim No.: L70577  
FAXD (9/09)  
DATE: V

Invoice No: 0073506846  
SCEIS No: 7000108701

CARENET 043

2.11 10:20:00

204



**DISABILITY DETERMINATION SERVICES**  
**SOUTH CAROLINA VOCATIONAL REHABILITATION DEPARTMENT**

*Providing quality disability determination services to South Carolinians in a responsive, timely and cost-effective manner.*  
*Barbara G. Beale, Commissioner*

Columbia Regional Office • P.O. Box 3990 • Columbia, SC 29902 • (803) 253-4000  
Toll-free: (800) 865-1838 • Medical Information Fax: (803) 253-7733

December 05, 2011

CARE HEALTH CENTER  
838 W MEETING STREET #H  
LANCASTER SC 29720

RE: SANDRA GILBERT  
AKA:  
ADD: 1305 EULA STREET  
APT B  
LANCASTER SC 29720  
Ref. No: L70577  
DOB: 10/20/58

Attention: Medical Records

Your patient has applied for disability benefits under the Social Security Act. We need the following information:

**Treatment Records:** 10/01/10 TO PRESENT

**PLEASE SEND US COPIES OF YOUR RECORDS OR A NARRATIVE** describing the HISTORY, OBJECTIVE FINDINGS, SEVERITY, ONSET, AND DURATION of impairment. For adults note the individual's ability to perform work-related physical and mental activities. For children note the child's functional abilities in learning, motor functioning, communicating and socializing, performing self-care activities, and attending and completing tasks, and include the cumulative effects of treatment and therapy.

We pay S.C. physicians \$15.00 for a copy of treatment records or for a narrative submitted through our teledictation system or prepared in a physician's office. Out of state physicians are paid according to the fee schedule effective in that state. Do not complete payment instructions unless records/reports are sent with this request.

Is your patient capable of handling monthly benefits in his/her own best interest? ☒ YES ☐ NO

Physician's Signature \_\_\_\_\_

If a consultative examination is necessary, are you willing to perform the examination (including history, examination, and written report)? Yes ☐ No ☒

See the attached page for instructions on returning your report to the DDS. If you request payment for your records/reports, please sign on the line for "Provider's Signature" on the attached page and include that page as the TOP document with your report, with this letter underneath. You may fax your records using the 2D Bar Code Coversheet to our toll free medical fax number.

Sincerely,

*David C. Cato*

David C. Cato, Disability Examiner

**PLEASE INCLUDE THIS LETTER AS PAGE 2 OF YOUR REPORT**

ENC: Release  
DCC/483

Claim No: L70577  
LI (2/07)DMA: Y



IDN: 0073506846

CARENET 044

DEC-01-2011 16:24

WHOSE Records to be Disclosed

NAME of Person(s) Last

BANDRA GIBERT

BSN 248 - 21 - 8764

Signature Date 10/20/68

**THE SOCIAL SECURITY ADMINISTRATION 1969**  
- PLEASE READ THE ENTIRE FORM, BOTH PAGES, BEFORE SIGNING BELOW -

I voluntarily authorize and request disclosure (including paper, oral, and electronic interchange):  
**OF WHAT** All my recorded records, also education records and other information related to my ability to  
 participate in the community to release;

- for which substantive evidence is required. Substantive evidence is defined as:
- perform better. This includes genetic information to indicate:
1. All persons and other individuals ingesting any treatment, manipulation, and subsequent care for any HIV/AIDS condition, and the following:
- Psychological, personality or other mental impairment(s) (including "psychotherapy notes" as defined in 45 CFR 164.501)
  - Drug abuse, alcoholism, or other substance abuse
  - Stable cell counts
  - Results which may indicate the presence of a comorbid or a noncommunicable disease; and tests for or records of HIV/AIDS
  - Gene-related impairments (including genetic test results)
2. Information that have any impairment(s) affects any ability to complete tasks and activities of daily living, and affects any ability to work.
3. Copies of additional tests or evaluations, including biological, behavioral, psychological, physical, neurological, psychological and speech evaluations, and any other records that can help establish functional and/or technical characteristics and evaluations.
4. Information created within 12 months after the date this authorization is signed, as well as past information.

**FROM WILLOW**

- All medical sources (hospitals, clinics, labs, physicians, psychologists, etc.) including mental health, correctional, addiction treatment, and VA health care facilities
- All educational sources (schools, teachers, records administrators, counselors, etc.)
- Social welfare agencies, counselors, etc.
- Confidential directories used by SSA
- Employers, insurance companies, workers' compensation programs
- Citizens who may know about any operations (clubs, restaurants, friends, public officials)

THIS BOOK HAS BEEN CONFISCATED BY SEIZURE (and destroyed) A FOREIGN INSTRUMENT TO WHICH  
 IT IS SUBJECT IN A OTHER PROCESS USED. THE SPECIFIC OPTION, OR THE MATERIAL TO BE DISCLOSED:

CASE HEALTH CENTER  
658 N. MOUNTAIN STREET  
LANCASTER, CA 93720

PLEASE SEND RECORDS AND TEST REPORTS TO HELF MAKE  
A SWIFT DECISION.

From 10/01/10 to present

TO WHOM

The Special Security Administration said in the House report that it is possible any case (usually called "Mystery") (intelligence service), including cabinet spy services, and others as well as professional associations during the process. (Plan, for international security, to the U.S. Department of State Foreign Service Post).

Development, its capability for security, including looking at the membership of all of its impairments (intelligence service), and other and international (intelligence service) such benefits.

**PURPOSE**

☐ Determining whether I am eligible for receiving benefits from U.S. (check only if not applied)

**EXPIRES WHEN**

This authorization is good for 12 months from the date signed (below my signature).

- EXPIRE WHEN:** This authorization is valid for the period of time indicated above.
- ☐ Excluding the use of a copy (including electronic copies) of this form for the purpose of reproduction described above.
  - ☐ I understand that there are some circumstances in which this information may be reutilized in other periods (see page 2 for details).
  - ☐ I pay with a \$50 and my source to receive the authorization of my time (see page 2 for details).
  - ☐ \$50 will give me a copy of this form if I wish. I may ask the source to allow me to be copied to get a copy of material to be destroyed.
  - ☐ I have read both pages of this form and agree to the conditions above from the terms of persons listed.

PLEASE SIGN USING BLUE OR BLACK INK ONLY

**INDIVIDUAL** authorizing disclosure

**SIGN**

17/01/2011

1305 EULA STREET APT B

Phone Number (page 2 of 2) 103-237-3000 508-625-3429

LANCASTER

85

29/20

**WITNESSES:**

I know the person signing this form or am attested of this person's identity.

**SIGN-5a**

UNITED STATES DEPARTMENT OF JUSTICE

104 106 5

[illegible]

Page 1 of 2

TOTAL P.006

CARENET 045

# Explanation of Form SSA-827,

## "Authorization to Disclose Information to the Social Security Administration (SSA)"

We need your written authorization to help get the information required to process your claim, and to determine your capability of managing benefits. Laws and regulations require that sources of personal information have a signed authorization before releasing it to us. Also, laws require specific authorization for the release of information about certain conditions and from educational sources.

You can provide this authorization by signing a form SSA-827. Federal law permits sources with information about you to release that information if you sign a single authorization to release all your information from all your possible sources. We will make copies of it for each source. A covered entity (that is, a source of medical information about you) may not condition treatment, payment, enrollment, or eligibility for benefits on whether you sign this authorization form. A few States, and some individual sources of information, require that the authorization specifically name the source that you authorize to release personal information. In those cases, we may ask you to sign one authorization for each source and we may contact you again if we need you to sign more authorizations.

You have the right to revoke this authorization at any time, except to the extent a source of information has already relied on it to take an action. To revoke, send a written statement to any Social Security Office. If you do, also send a copy directly to any of your sources that you no longer wish to disclose information about you; SSA can tell you if we identified any sources you didn't tell us about. SSA may use information disclosed prior to revocation to decide your claim.

It is SSA's policy to provide service to people with limited English proficiency in their native language or preferred mode of communication consistent with Executive Order 13166 (August 11, 2000) and the Individuals with Disabilities Education Act. SSA makes every reasonable effort to ensure that the information in the SSA-827 is provided to you in your native or preferred language.

## IMPORTANT INFORMATION, INCLUDING NOTICE REQUIRED BY THE PRIVACY ACT

All personal information collected by SSA is protected by the Privacy Act of 1974. Once medical information is disclosed to SSA, it is no longer protected by the health information privacy provisions of 45 CFR part 164 (mandated by the Health Insurance Portability and Accountability Act (HIPAA)). SSA retains personal information in strict adherence to the retention schedules established and maintained in conjunction with the National Archives and Records Administration. At the end of a record's useful life cycle, it is destroyed in accordance with the privacy provisions, as specified in 36 CFR part 1228.

SSA is authorized to collect the information on form SSA-827 by sections 205(a), 223(d)(5)(A), 1614(a)(3)(E)(i), 1631(d)(1) and 1631 (g)(1)(A) of the Social Security Act. We use the information obtained with this form to determine your eligibility, or continuing eligibility, for benefits, and your ability to manage any benefits received. This use usually includes review of the information by the State agency processing your case and quality control people in SSA. In some cases, your information may also be reviewed by SSA personnel that process your appeal of a decision, or by investigators to resolve allegations of fraud or abuse, and may be used in any related administrative, civil, or criminal proceedings.

Signing this form is voluntary, but failing to sign it, or revoking it before we receive necessary information, could prevent an accurate or timely decision on your claim, and could result in denial or loss of benefits. Although the information we obtain with this form is almost never used for any purpose other than those stated above, the information may be disclosed by SSA without your consent if authorized by Federal laws such as the Privacy Act and the Social Security Act. For example, SSA may disclose information:

1. To enable a third party (e.g., consulting physician) or other governmental agency to assist SSA in establishing rights in Social Security benefits and/or coverage;
2. Pursuant to law authorizing the release of information from Social Security records (e.g., to the Inspector General, to Federal or State benefit agencies or auditors, or to the Department of Veterans Affairs (VA));
3. For statistical research and audit activities necessary to ensure the integrity and improvement of the Social Security programs (e.g., to the Bureau of the Census and private contractors under contract with SSA).

SSA will not redisclose without proper prior written consent information: (1) relating to alcohol and/or drug abuse as covered in 42 CFR part 2, or (2) from educational records for a minor obtained under 34 CFR part 99 (Family Educational Rights and Privacy Act (FERPA)), or (3) regarding mental health, developmental disability, AIDS or HIV.

We may also use the information you give us when we match records by computer. Matching programs compare our records with those of other Federal, State, or local government agencies. Many agencies may use matching programs to find or prove that a person qualifies for benefits paid by the Federal government. The law allows us to do this even if you do not agree to it.

Explanations about possible reasons why information you provide us may be used or given out are available upon request from any Social Security Office.

## PAPERWORK REDUCTION ACT

This information collection meets the requirements of 44 U.S.C. § 3507, as amended by Section 2 of the Paperwork Reduction Act of 1995. You do not need to answer these questions unless we display a valid Office of Management and Budget control number. We estimate that it will take about 10 minutes to read the instructions, gather the facts, and answer the questions. **SEND OR BRING IN THE COMPLETED FORM TO YOUR LOCAL SOCIAL SECURITY OFFICE.** This office is listed under U. S. Government agencies in your telephone directory or you may call Social Security at 1-800-772-1213. You may send comments on our time estimate above to: SSA, 6401 Security Blvd., Baltimore, MD 21235-6401. Send only comments relating to our time estimate to this address, not the completed form.

Page 2 of 2

Form SSA-827 (1-2006) of (01-2006)

CARENET 046

**CARENET, INC.**

123 S. MAIN ST.  
LANCASTER, SC 29720  
PHONE#: 803-285-2273 FAX#: 803-285-8690

June 22, 2011

NIMAL PERERA  
838 W MEETING ST SUITE H  
LANCASTER, SC 29720  
(P) 803-285-2273 (F) 803-283-6360

The patient identified below is requesting a refill for the prescription indicated; however, there are no authorized refills remaining. If you would like to authorize additional refills, please complete this form and fax it back to 803-285-8690, or you may contact the pharmacist by calling 803-285-2273.

Sincerely,

G, S / CL

**Refill Authorization Request**

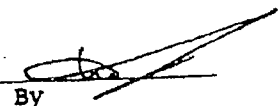
|                |                                    |                 |              |
|----------------|------------------------------------|-----------------|--------------|
| Patient:       | GILBERT, SANDRA                    | Date of Birth:  | 10/20/1958   |
| Address:       | 1305 B EULA ST<br>LANCASTER,       | Daytime Phone:  | 803-285-0934 |
|                |                                    | Date Written:   | 05/31/2011   |
|                |                                    | Last Dispensed: | 05/31/2011   |
|                |                                    | Price Plan:     | U&C          |
| Prescription#: | 6045944                            |                 |              |
| Product:       | GLUCOTROL XL 10 MG TABLET          |                 |              |
| Quantity:      | 30 TAB                             |                 |              |
| Directions:    | TAKE ONE TABLET BY MOUTH EVERY DAY |                 |              |

I authorize this refill plus \_\_\_ additional refills.

☒ No not refill.

☒ Have patient contact my office.

*NSP*  
*allan 7/10*

Authorized By 

Date 6/22/11

CARENET 047

**CARENET, INC.**

123 S. MAIN ST.  
LANCASTER, SC 29720  
PHONE#: 803-285-2273 FAX#: 803-285-8690

June 22, 2011

NIMAL PERERA  
838 W MEETING ST SUITE H  
LANCASTER, SC 29720  
(P) 803-285-2273 (F) 803-283-6360

The patient identified below is requesting a refill for the prescription indicated; however, there are no authorized refills remaining. If you would like to authorize additional refills, please complete this form and fax it back to 803-285-8690, or you may contact the pharmacist by calling 803-285-2273.

Sincerely,

G, S / CL

**Refill Authorization Request**

|                |                                        |                 |              |
|----------------|----------------------------------------|-----------------|--------------|
| Patient:       | GILBERT, SANDRA                        | Date of Birth:  | 10/20/1958   |
| Address:       | 1305 B KULA ST<br>LANCASTER,           | Daytime Phone:  | 803-285-0934 |
|                |                                        | Date Written:   | 05/31/2011   |
|                |                                        | Last Dispensed: | 05/31/2011   |
|                |                                        | Price Plan:     | U&C          |
| Prescription#: | 6045946                                |                 |              |
| Product:       | METFORMIN HCL 1,000 MG TA              |                 |              |
| Quantity:      | 60 TAB                                 |                 |              |
| Directions:    | TAKE ONE TABLET BY MOUTH 2 TIMES A DAY |                 |              |

- ☐ I authorize this refill plus \_\_\_ additional refills.  
☒ Do not refill.  
☒ Have patient contact my office. *as per last seen on 7/10*

  
Authorized By

*6/22/11*  
Date

CARENET 048

**CARENET, INC.**

123 S. MAIN ST.  
LANCASTER, SC 29720  
PHONE#: 803-285-2273 FAX#: 803-285-8690

June 22, 2011

NIMAL PERERA  
838 W MEETING ST SUITE H  
LANCASTER, SC 29720  
(P) 803-285-2273 (F) 803-283-6360

The patient identified below is requesting a refill for the prescription indicated; however, there are no authorized refills remaining. If you would like to authorize additional refills, please complete this form and fax it back to 803-285-8690, or you may contact the pharmacist by calling 803-285-2273.

Sincerely,

G, S / CL

**Refill Authorization Request**

|                |                                    |                 |              |
|----------------|------------------------------------|-----------------|--------------|
| Patient:       | GILBERT, SANDRA                    | Date of Birth:  | 10/20/1958   |
| Address:       | 1305 B EULA ST<br>LANCASTER,       | Daytime Phone:  | 803-285-0934 |
|                |                                    | Date Written:   | 05/31/2011   |
|                |                                    | Last Dispensed: | 05/31/2011   |
|                |                                    | Price Plan:     | U&C          |
| Prescription#: | 6045947                            |                 |              |
| Product:       | DIOVAN 80 MG TABLET                |                 |              |
| Quantity:      | 30 TAB                             |                 |              |
| Directions:    | TAKE ONE TABLET BY MOUTH EVERY DAY |                 |              |

☐ I authorize this refill plus ☐ additional refills.

☒ Do not refill.

☒ Have patient contact my office. *Dr. S. Perera 9/10*

  
Authorized By

*6/22/11*  
Date

CARENET 049



CARENET, INC.

123 S. MAIN ST.  
LANCASTER, SC 29720  
PHONE#: 803-285-2273 FAX#: 803-285-8690

June 22, 2011

NIMAL PERRERA  
838 W MEETING ST SUITE H  
LANCASTER, SC 29720  
(P) 803-285-2273 (F) 803-283-6360

The patient identified below is requesting a refill for the prescription indicated; however, there are no authorized refills remaining. If you would like to authorize additional refills, please complete this form and fax it back to 803-285-8690, or you may contact the pharmacist by calling 803-285-2273.

Sincerely,

G, S / CL

## Refill Authorization Request

|                |                                    |                 |              |
|----------------|------------------------------------|-----------------|--------------|
| Patient:       | GILBERT, SANDRA                    | Date of Birth:  | 10/20/1958   |
| Address:       | 1305 B EULA ST<br>LANCASTER,       | Daytime Phone:  | 803-285-0934 |
|                |                                    | Date Written:   | 05/31/2011   |
|                |                                    | Last Dispensed: | 05/31/2011   |
|                |                                    | Price Plan:     | U&C          |
| Prescription#: | 6045949                            |                 |              |
| Product:       | LOVASTATIN 40 MG TABLET            |                 |              |
| Quantity:      | 30 TAB                             |                 |              |
| Directions:    | TAKE ONE TABLET BY MOUTH EVERY DAY |                 |              |

☐ I authorize this refill plus ☐ additional refills.

☒ Do not refill.

☒ Have patient contact my office.

*Not a valid  
date 9/10*

  
Authorized By

6/22/11  
Date

CARENET 050

# CARENET, INC.

123 S. MAIN ST.  
LANCASTER, SC 29720  
PHONE#: 803-285-2273 FAX#: 803-285-8690

May 31, 2011

NIMAL PERERA  
838 W MEETING ST SUITE H  
LANCASTER, SC 29720  
(P) 803-285-2273 (F) 803-283-6360

The patient identified below is requesting a refill for the prescription indicated; however, there are no authorized refills remaining. If you would like to authorize additional refills, please complete this form and fax it back to 803-285-8690, or you may contact the pharmacist by calling 803-285-2273.

Sincerely,

G, S / JG

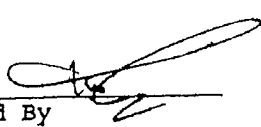
## Refill Authorization Request

|                |                                    |                 |              |
|----------------|------------------------------------|-----------------|--------------|
| Patient:       | GILBERT, SANDRA                    | Date of Birth:  | 10/20/1958   |
| Address:       | 1305 B EULA ST<br>LANCASTER,       | Daytime Phone:  | 803-285-0934 |
|                |                                    | Date Written:   | 04/05/2011   |
|                |                                    | Last Dispensed: | 04/06/2011   |
|                |                                    | Price Plan:     | U&C          |
| Prescription#: | 6043331                            |                 |              |
| Product:       | GLUCOTROL XL 10 MG TABLET          |                 |              |
| Quantity:      | 30 TAB                             |                 |              |
| Directions:    | TAKE ONE TABLET BY MOUTH EVERY DAY |                 |              |

☒ I authorize this refill plus 0 additional refills.

☐ Do not refill.

☒ Have patient contact my office. *for App before next Refill*

Authorized By 

Date 5/31/11

CARENET 051

# CARENET, INC.

123 S. MAIN ST.  
LANCASTER, SC 29720  
PHONE#: 803-285-2273 FAX#: 803-285-8690

May 31, 2011

NIMAL PERERA  
838 W MEETING ST SUITE H  
LANCASTER, SC 29720  
(P) 803-285-2273 (F) 803-283-6360

The patient identified below is requesting a refill for the prescription indicated; however, there are no authorized refills remaining. If you would like to authorize additional refills, please complete this form and fax it back to 803-285-8690, or you may contact the pharmacist by calling 803-285-2273.

Sincerely,

G, S / JG

## Refill Authorization Request

|                |                                        |                 |              |
|----------------|----------------------------------------|-----------------|--------------|
| Patient:       | GILBERT, SANDRA                        | Date of Birth:  | 10/20/1958   |
| Address:       | 1305 B KULA ST<br>LANCASTER,           | Daytime Phone:  | 803-285-0934 |
|                |                                        | Date Written:   | 09/02/2010   |
|                |                                        | Last Dispensed: | 04/05/2011   |
|                |                                        | Price Plan:     | GENERIC      |
| Prescription#: | 6031863                                |                 |              |
| Product:       | METFORMIN HCL 1,000 MG TA              |                 |              |
| Quantity:      | 60 TAB                                 |                 |              |
| Directions:    | TAKE ONE TABLET BY MOUTH 2 TIMES A DAY |                 |              |

☒ I authorize this refill plus 0 additional refills.

☐ Do not refill.

☒ Have patient contact my office. *before next app: Refill*

Authorized By 

Date 5/31/11

CARENET 052

## CARENET, INC.

123 S. MAIN ST.  
LANCASTER, SC 29720  
PHONE#: 803-285-2273 FAX#: 803-285-8690

May 31, 2011

NIMAL PERERA  
838 W MEETING ST SUITE H  
LANCASTER, SC 29720  
(P) 803-285-2273 (F) 803-283-6360

The patient identified below is requesting a refill for the prescription indicated; however, there are no authorized refills remaining. If you would like to authorize additional refills, please complete this form and fax it back to 803-285-8690, or you may contact the pharmacist by calling 803-285-2273.

Sincerely,

G, S / JG

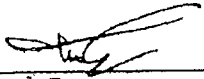
### Refill Authorization Request

|                |                                    |                 |              |
|----------------|------------------------------------|-----------------|--------------|
| Patient:       | GILBERT, SANDRA                    | Date of Birth:  | 10/20/1958   |
| Address:       | 1305 B EULA ST<br>LANCASTER,       | Daytime Phone:  | 803-285-0934 |
|                |                                    | Date Written:   | 04/05/2011   |
|                |                                    | Last Dispensed: | 04/06/2011   |
|                |                                    | Price Plan:     | U&C          |
| Prescription#: | 6043332                            |                 |              |
| Product:       | DIOVAN 80 MG TABLET                |                 |              |
| Quantity:      | 30 TAB                             |                 |              |
| Directions:    | TAKE ONE TABLET BY MOUTH EVERY DAY |                 |              |

☒ I authorize this refill plus 0 additional refills.

☐ Do not refill.

☒ Have patient contact my office. *1a App before next Refill*

  
Authorized By

7/31/11  
Date

CARENET 053

## CARENET, INC.

123 S. MAIN ST.  
LANCASTER, SC 29720  
PHONE#: 803-285-2273 FAX#: 803-285-8690

May 31, 2011

NIMAL PERERA  
838 W MEETING ST SUITE H  
LANCASTER, SC 29720  
(P) 803-285-2273 (F) 803-283-6360

The patient identified below is requesting a refill for the prescription indicated; however, there are no authorized refills remaining. If you would like to authorize additional refills, please complete this form and fax it back to 803-285-8690, or you may contact the pharmacist by calling 803-285-2273.

Sincerely,

G, S / JG

### Refill Authorization Request

|                |                                    |                 |              |
|----------------|------------------------------------|-----------------|--------------|
| Patient:       | GILBERT, SANDRA                    | Date of Birth:  | 10/20/1958   |
| Address:       | 1305 B EULA ST<br>LANCASTER,       | Daytime Phone:  | 803-285-0934 |
|                |                                    | Date Written:   | 04/05/2011   |
|                |                                    | Last Dispensed: | 04/06/2011   |
|                |                                    | Price Plan:     | U&C          |
| Prescription#: | 6043330                            |                 |              |
| Product:       | LOVASTATIN 40 MG TABLET            |                 |              |
| Quantity:      | 30 TAB                             |                 |              |
| Directions:    | TAKE ONE TABLET BY MOUTH EVERY DAY |                 |              |

☒ I authorize this refill plus 0 additional refills.

☐ Do not refill.

☒ Have patient contact my office. *for app before next Rx due*

  
Authorized By

5/31/11  
Date

CARENET 054

14  
**CARENET, INC.**

123 S. MAIN ST.  
LANCASTER, SC 29720  
PHONE#: 803-285-2273 FAX#: 803-285-8690

April 05, 2011

NIMAL PERERA  
838 W MEETING ST SUITE H  
LANCASTER, SC 29720  
(P) 803-285-2273 (F) 803-283-6360

The patient identified below is requesting a refill for the prescription indicated; however, there are no authorized refills remaining. If you would like to authorize additional refills, please complete this form and fax it back to 803-285-8690, or you may contact the pharmacist by calling 803-285-2273.

Sincerely,

G, S / CR

---

## Refill Authorization Request

|                |                                    |                 |              |
|----------------|------------------------------------|-----------------|--------------|
| Patient:       | GILBERT, SANDRA                    | Date of Birth:  | 10/20/1958   |
| Address:       | 1305 B EULA ST<br>LANCASTER,       | Daytime Phone:  | 803-285-0934 |
|                |                                    | Date Written:   | 09/02/2010   |
|                |                                    | Last Dispensed: | 03/02/2011   |
|                |                                    | Price Plan:     | GENERIC      |
| Prescription#: | 6031862                            |                 |              |
| Product:       | LOVASTATIN 40 MG TABLET            |                 |              |
| Quantity:      | 30 TAB                             |                 |              |
| Directions:    | TAKA ONE TABLET BY MOUTH EVERY DAY |                 |              |

☒ I authorize this refill plus 0 additional refills.

☐ Do not refill.

☒ Have patient contact my office *La Voz de la BOP.*

11-11  
*[Signature]*  
Authorized By

4/5/11  
Date

CARENET 055

**CARENET, INC.**

123 S. MAIN ST.  
LANCASTER, SC 29720  
PHONE#: 803-285-2273 FAX#: 803-285-8690

April 05, 2011

NIMAL PERERA  
838 W MEETING ST SUITE H  
LANCASTER, SC 29720  
(P) 803-285-2273 (F) 803-283-6360

The patient identified below is requesting a refill for the prescription indicated; however, there are no authorized refills remaining. If you would like to authorize additional refills, please complete this form and fax it back to 803-285-8690, or you may contact the pharmacist by calling 803-285-2273.

Sincerely,

G, S / CR

**Refill Authorization Request**

|                |                                    |                 |              |
|----------------|------------------------------------|-----------------|--------------|
| Patient:       | GILBERT, SANDRA                    | Date of Birth:  | 10/20/1958   |
| Address:       | 1305 B EULA ST<br>LANCASTER,       | Daytime Phone:  | 803-285-0934 |
|                |                                    | Date Written:   | 09/02/2010   |
|                |                                    | Last Dispensed: | 03/02/2011   |
|                |                                    | Price Plan:     | GENERIC      |
| Prescription#: | 6031861                            |                 |              |
| Product:       | DIOVAN 80 MG TABLET                |                 |              |
| Quantity:      | 30 TAB                             |                 |              |
| Directions:    | TAKE ONE TABLET BY MOUTH EVERY DAY |                 |              |

☒ I authorize this refill plus 6 additional refills.

☐ Do not refill.

☐ Have patient contact my office. *for app: 1600*

*[Signature]*  
Authorized By

4/5/11  
Date

CARENET 056

# CARENET, INC.

123 S. MAIN ST.  
LANCASTER, SC 29720  
PHONE#: 803-285-2273 FAX#: 803-285-8690

April 05, 2011

NIMAL PERERA  
838 W MEETING ST SUITE H  
LANCASTER, SC 29720  
(P) 803-285-2273 (F) 803-283-6360

The patient identified below is requesting a refill for the prescription indicated; however, there are no authorized refills remaining. If you would like to authorize additional refills, please complete this form and fax it back to 803-285-8690, or you may contact the pharmacist by calling 803-285-2273.

Sincerely,

G, S / CR

## Refill Authorization Request

|                |                                    |                 |                         |
|----------------|------------------------------------|-----------------|-------------------------|
| Patient:       | GILBERT, SANDRA                    | Date of Birth:  | 10/20/1958              |
| Address:       | 1305 B EULA ST<br>LANCASTER,       | Daytime Phone:  | 803-285-0934            |
|                |                                    | Date Written:   | 09/02/2010              |
|                |                                    | Last Dispensed: | 03/02/2011              |
| Prescription#: | 6031860                            | Price Plan:     | GENERIC                 |
| Product:       | GLIPIZIDE ER 10MG TABS             | For:            | GLUCOTROL XL 10 MG TABL |
| Quantity:      | 30 TAB                             |                 |                         |
| Directions:    | TAKE ONE TABLET BY MOUTH EVERY DAY |                 |                         |

☒ I authorize this refill plus 0 additional refills.

☐ Do not refill.

☐ Have patient contact my office. *For ASAP Newh app.*

11  
4  
Authorized By 

Date 4/5/11

CARENET 057



204



HEALTH SERVICES

Date: November 8, 2010

Dear Dr. Perera,

RE: Sandra Gilbert (10/20/58)

We would like to update you on the progress that Ms. Gilbert has made since attending The Diabetes Education Clinic. She has completed the following classes in diabetes education:

- ☒ Blood glucose monitoring skills/training
- ☐ Overview of the diabetes process
- ☒ Nutrition Basic
- ☐ Nutrition Intermediate
- ☐ Nutrition Advanced
- ☐ Acute complications / Medications
- ☐ Physical Activity and Exercise
- ☐ Psychosocial and Goal Setting
- ☐ Chronic Complications

Ms. Gilbert has not returned since September 29, 2010.

The Diabetes Education Clinic appreciates your support. We would like to continue to work with Ms. Gilbert in completing the program. Please do not hesitate to call or contact us if you have any questions or suggestions.

Thank you,

  
Tammy Franklin, RN, BSN  
Patient Educator





HEALTH SERVICES

Date: September 20, 2010

Dear Dr. Perera,

RE: Sandra Gilbert (10/20/58)

On September 20, 2010, Ms. Gilbert was evaluated in our office and found to have the following educational needs:

- ☒ Physiology of diabetes
- ☒ Symptoms of acute complications and appropriate actions
- ☒ Nutritional approach for managing diabetes
- ☒ Food selection, meal planning and preparation
- ☒ Medications
- ☒ Psychosocial adjustment/Goal setting
- ☒ Chronic complications
- ☒ Blood glucose monitoring skills
- ☒ Physical activity/exercise

Ms. Gilbert identified the following goals for herself care:

- 1) "Lose weight"
- 2) "get my diabetes under control"

The Diabetes Education Clinic appreciates your support. We look forward to educating your patient to take an active role in self-management of her diabetes. We will keep you informed of your patient's progress.

Thank you,

A handwritten signature in cursive script that reads "Tammy Franklin RN BSN".

Tammy Franklin RN, BSN  
Patient Educator

Handwritten initials "AP" inside a large, hand-drawn circle.



# Care Health Center

838 West Meeting Street  
Medical Arts 5, Suite H  
Lancaster SC 2970

Telephone: 803-285-2273  
Fax: 803-283-6360

Dr. Nimal Perera, MD

Dr. Rosanna D. Silva, DO

## Referral Form

Patients Name:

*Sandra Gilbert*

Referring Physician:

*Sandra Gilbert, Nimal Perera MD*

Referred to DR.:

*Ophthalmology, Senior*

*DR. Nest Eye & Laser*

Reason For Referral:

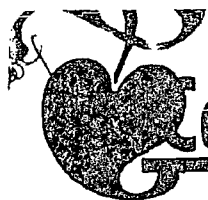
*For diabetic screening eye exam. Please*

Please be reminder to take all insurance information and current medications with you when going for your appointment. If you cannot keep this appointment or have any questions concerning this appointment, please call \_\_\_\_\_

Appointment Date: *Sept 24, 2010*

Appointment Time: *8:45 a.m.*

838 West Meeting Street, Medical Arts V, Suite H, Lancaster SC 29703  
Phone: 803-285-2273 or Fax: 803-283-6360 or [referrals@carehealthcenter.net](mailto:referrals@carehealthcenter.net)



# Care Health Center

NAME Sandra Gilbert

SEEN ON 9/1/2010

FROM 9-1-2010 UNTIL 9/5/2010

RETURN TO SCHOOL/WORK/OTHER ON 9-6-2010

CARE HEALTH CENTER  
MEDICAL CLINIC, SUITE 11  
LANCASTER, SC 29720  
PHONE 803-285-2273 FAX 803-283-6360  
Date 9-1-2010 9e

J. Campbell

838 West Meeting Street @ Medical Arts V, Suite H @ Lancaster SC 29720  
Phone: 803-285-2273 @ Fax: 803-283-6360 @ [carenet@comporium.net](mailto:carenet@comporium.net)  
CARENET 061



USC Lancaster Health Services  
The Diabetes Education Program  
PO Box 889 Lancaster, SC 29721  
Phone 803-313-7450 Fax 803-313-7438

Patient Name SANDRA GILBERT DOB 10.20.58  
Patient Address 1305 EULA APTB CANON, SC 29720  
Patient Phone 803 285 0924  
Referring Provider NIMAL P

Diagnosis: Type 1 Type 2 Gestational Pre-diabetes

#### Diabetes Education Referral

- ☐ New onset diabetes  
☐ Change in clinical status or management of diabetes  
☐ Change in treatment regimen:  
    ☐ Addition or change in oral medications  
    ☐ Addition or change in insulin therapy  
☐ High risk for complications based on:  
    ☒ Glycemic control: hyper or hypoglycemia  
    ☒ Feet: neuropathy, foot ulcers, deformities or amputation  
    ☒ Eyes: pre or proliferative retinopathy  
    ☒ Kidneys: nephropathy, albuminuria or elevated creatinine

#### Current Diabetes Management

☐ Diet and exercise only  
☐ Insulin: type and dose

Oral medications: Metformin 1000 bid Glyburide 10 qd

Last date of A1c 8/1/10 Results 11.6

Blood glucose ranges: (circle) 100-200 200-300 300+ other

#### Other Diabetes Training Needs

- ☐ Insulin instructions  
☐ Blood glucose meter training  
☐ Insulin pump training referral  
☐ Continuous Glucose Monitoring System (CGMS) referral

Impaired Glucose Tolerance Impaired Fasting Glucose

Management Plan of Care: Less than 10 hrs may be ordered\*

#### Comprehensive Management Skills Classes (10hrs)\* includes:

- ☐ Assessment (mandatory)  
☐ Overview of diabetes and pathophysiology  
☐ Nutrition: ☐ Basic ☐ Intermediate ☐ Advanced  
☒ Monitoring, Medications and Acute Complications  
☒ Physical Activity  
☒ Psychosocial Adjustment and Goal Setting  
☐ Chronic Complications  
☐ Follow-up class

#### Management of Diabetes during Pregnancy (10hrs)\* includes:

- ☐ Assessment (mandatory)  
☐ Gestational Overview, Labor and Delivery, Postpartum  
☐ Nutrition: ☐ Basic ☐ Intermediate ☐ Advanced  
☐ Monitoring and Acute Complications  
☐ Physical Activity  
☐ Insulin Therapy  
☐ Psychosocial Adjustment and Goal Setting  
☐ Follow-up class

\*Please check appropriate boxes if less than 10 hrs are ordered.

Annual Review Class (2 hrs): Pts who have completed the program

Individualized education classes are necessary for the following:

☐ Vision ☐ Hearing ☐ Language ☐ Physical ☐ Other cf  
Appropriate for Group Sessions deduction  
< 200

I certify that the services ordered are medically necessary.

Provider Signature [Signature]

Date 9/2/10

204



HEALTH SERVICES  
DIABETES EDUCATION

Date: December 9, 2008

Dear Dr. Perera,

RE: Sandra Gilbert (10-20-58)

On November 7, 2008, The Diabetes Education Clinic received a referral from your office on Mrs. Gilbert. She was contacted by telephone and an appointment was made for December 3, 2008. She did not keep the appointment as scheduled. We have attempted to contact her several times by telephone without success. A letter has been mailed today with details about our program.

The Diabetes Education Clinic appreciates your support and wants to keep you informed of your patient's progress. We look forward to meeting Mrs. Gilbert and educating her about taking an active role in the nutritional-management. Please do not hesitate to call or contact us if you have any questions or concerns.

Thank you,

*Tammy Franklin RN BSN* *MP*

Tammy Franklin RN, BSN  
Patient Educator

204

**Springs Memorial Hospital**  
800 West Meeting Street  
Lancaster, SC 29720  
803 288 1858

**HISTORY AND PHYSICAL**

Name: **GILBERT, SANDRA**

|               |            |         |     |      |            |
|---------------|------------|---------|-----|------|------------|
| MRN:          | M000477504 | Room #: | 629 | DOB: | 10/20/1958 |
| Account #:    | D006188590 | Bed #:  | 1   | Age: | 51 Y       |
| Service Code: | IN         |         |     | Sex: | F          |
| ADM DATE:     | 08/28/2010 |         |     |      |            |

Dictated By: **VITO BADALAMENTI, MD**  
Attending Physician: **Vito Badalamenti**  
Primary Care Physician:

**CHIEF COMPLAINT:** Blurred vision, dry mouth, urinating, weight loss.

**HISTORY OF PRESENT ILLNESS:** This is a 51-year-old, African-American female patient of Dr. Silva and Dr. Perera. He has been visiting the clinic for high blood pressure. Has been on what looks like Diovan for a number of months now. She states that over the past several weeks she has been extremely thirsty, unable to drink enough and having difficulty even drinking water at times. He states that water makes her more thirsty. She has been urinating quite frequently, utilizing bathroom up at night also been having problems with a change in her vision. She experienced a blurry type of vision that is intermittent. She denies any paresthesias or numbness to extremities. She states that she "feels weak all over". Nauseated and appetite is markedly diminished and she states that she has lost possibly 25 pounds in the past several months. States that ordinarily she is 220 pounds and she weighed here in the hospital and discovered to be 203 pounds. In the ER she was worked up with laboratory studies. She had a pH is 7.50, pCO2 of 31, pO2 of 111. Urinalysis showed glucose and ketones are positive, serum acetone is positive. She had a hemoglobin of 11, hematocrit 34, platelets of 349 and a glucose of 474. Potassium is 2.6, BUN is 11, creatinine 0.9, bicarbonate level 22, normal liver enzymes. In light of her hyperglycemia and new onset diabetes and dehydration, she was referred for admission by the ER physician, as he was concerned that the patient may "go into DKA".

**PAST MEDICAL HISTORY:** Hypertension.

**PAST SURGICAL HISTORY:** Tubal ligation and hysterectomy.

**ALLERGIES:** NONE LISTED.

**MEDICATIONS:** At home are:

1. Diovan 80 mg daily.
2. Hydrochlorothiazide 12.5 mg daily.

**SOCIAL HISTORY:** No tobacco or alcohol abuse.

**FAMILY HISTORY:** Noted for 13 siblings. She is unaware of who has what type of disease process.

**REVIEW OF SYSTEMS:** Over 10 systems reviewed in full, found to be negative other than in HPI.

**PHYSICAL EXAMINATION:**

**General/Vital Signs:** She is a 51-year-old, African-American female. She is heavy set, 208 pounds, pulse

**PRELIMINARY Report until authenticated.**



## HISTORY AND PHYSICAL

Name: GILBERT, SANDRA

MRN: M000477504  
Account #: D006188580

DOB: 10/20/1958  
ADM DATE: 08/28/2010

is 95. Vital signs are stable. She is alert oriented x3, slightly anxious, but in no acute distress.  
HEENT: Pupils equal, round, reactive to light. No nystagmus. No facial asymmetry. She had extremely  
pasty, dry oral mucosa. Dentition in fair repair. No oral lesions. No oral thrush.  
Neck: Supple. No JV distention. No thyromegaly. No appreciable carotid bruits.  
Chest: Good expansion.  
Lungs: Clear to auscultation.  
Cardiac: Regular rate and rhythm.  
Abdomen: Soft, protuberant, nondistended, nontender. No organomegaly. Normoactive bowel sounds.  
Extremities: Without cyanosis or edema. Pedal pulses are 2+, symmetrical.  
Neurologically: Alert and oriented x3. Cranial nerves II through XII grossly intact with no focal neuro  
deficits were appreciated.

LABORATORY STUDIES: UA again showed positive glucose, positive ketones. Sodium 138,  
potassium 2.6, carbon dioxide 22, BUN is 11, creatinine is 0.8, glucose is 474. Liver enzymes are  
normal. Albumin is 3.6. WBC is 7, hemoglobin 11, hematocrit 34, platelets of 349. She does have a  
low MCV in the 74 range.

### ASSESSMENT:

1. Nonketotic osmolar hyperglycemia secondary to new onset diabetes mellitus.
2. Hypokalemia.
3. Hypertension.
4. Microcytosis.

PLAN: Admit to medical floor with IV fluids. Give normal saline, 20 KCL at 125 an hour and was started  
on metformin 500 mg p.o. daily. We will also start glipizide 5 mg in the morning, 2.5 mg in the evening.  
She will be on a standard sliding scale insulin coverage. Will follow up blood sugars q.a.c. and h.s. Will  
check hemoglobin A1c. Thyroid function studies, fasting lipids in the morning. Will check electrolytes in  
the morning as well. We will have the diabetic educator evaluate her and begin diabetic teaching with the  
use of glucometer tester and referral to the diabetic education center at the USCL and will discontinue  
hydrochlorothiazide. Nutrition consult for new onset diabetes mellitus and potential discharge in the next  
1 to 2 days.

Vito Badalamenti, MD

Print CC:  
Fax CC: Nimal Perera, MD

D Date / Time: 08/29/2010 01:54 PM ET  
T Date / Time: 08/29/2010 03:10 PM ET  
S Job #: SMH37914271  
D Job #: 5039972  
MT: 551088

**PRELIMINARY Report until authenticated.**

To: Vito Badalamenti MD

From: Vito Badalamenti MD

8-29-10 2:16pm p. 3 of 3

### HISTORY AND PHYSICAL

Name: GILBERT, SANDRA

MRN: M000477504  
Account #: D008188580

DOB: 10/20/1958  
ADM DATE: 08/29/2010

PRELIMINARY Report until authenticated.

Page 3 of 3

  
CARENET 067

USC Lancaster Health Services  
 The Diabetes Education Program  
 PO Box 889 Lancaster, SC 29721  
 Phone 803-313-7450 Fax 803-313-7438

Patient Name GILBERT SA  
 Patient Address 404 Phil Tru  
 Patient Phone 803 285  
 Referring Provider \_\_\_\_\_

Diagnosis: Type 1 Type 2 Gestational Pre-diabetes Impaired Glucose

**Diabetes Education Referral**

- ☐ New onset diabetes
- ☐ Change in clinical status or management of diabetes
- ☐ Change in treatment regimen:
  - ☐ Addition or change in oral medications
  - ☐ Addition or change in insulin therapy
- ☐ High risk for complications based on:
  - ☐ Glycemic control: hyper or hypoglycemia
  - ☐ Feet: neuropathy, foot ulcers, deformities or amputation
  - ☐ Eyes: pre or proliferative retinopathy
  - ☐ Kidneys: nephropathy, albuminuria or elevated creatinine

**Current Diabetes Management**

Diet and exercise only \_\_\_\_\_  
 Insulin: type and dose \_\_\_\_\_  
 Oral medications: \_\_\_\_\_  
 Last date of A1c \_\_\_\_\_ Results \_\_\_\_\_  
 Blood glucose ranges: (circle) 100-200 200-300 300+ other \_\_\_\_\_

**Other Diabetes Training Needs**

- ☐ Insulin instructions
- ☐ Blood glucose meter training
- ☐ Insulin pump training referral
- ☐ Continuous Glucose Monitoring System (CGMS) referral

I certify that the services ordered are medically necessary.

Provider Signature \_\_\_\_\_

**Impaired Glucose Management Plan**

**Comprehensive**

- ☐ Assess
- ☐ Overv
- ☐ Nutrit
- ☐ Monit
- ☒ Physi
- ☐ Psych
- ☐ Chron
- ☐ Follo

**Management**

- ☐ Assess
- ☐ Gest
- ☐ Nutr
- ☐ Mor
- ☐ Physi
- ☐ Insu
- ☐ Psy
- ☐ Foll

\*Please check

Annual Review

Individualized

Appropriate

11/07/2008 17:24 803 2836380

\*\*\*\*\* TX REPORT \*\*\*\*\*

| JOB NO. | MODE | NO. | DESTINATION TEL/ID | START TIME  | PAGE | RESULT   |
|---------|------|-----|--------------------|-------------|------|----------|
| 2867    | TX   | 001 | 3137438            | 11/07 17:23 | 001  | OK 00:37 |

CARENET 068

USC Lancaster Health Services  
The Diabetes Education Program  
PO Box 889 Lancaster, SC 29721  
Phone 803-313-7450 Fax 803-313-7438

Patient Name GILBERT SANDRA DOB 10.20.55  
Patient Address 1404 Phil Thuman  
Patient Phone 803 285 0934 (H) 803 283 2001 (W)  
Referring Provider NIMAL PERERA

Diagnosis: Type 1 Type 2 Gestational Pre-diabetes

Impaired Glucose Tolerance Impaired Fasting Glucose

#### Diabetes Education Referral

- ☐ New onset diabetes  
☐ Change in clinical status or management of diabetes  
☐ Change in treatment regimen:  
    ☐ Addition or change in oral medications  
    ☐ Addition or change in insulin therapy  
☐ High risk for complications based on:  
    ☐ Glycemic control: hyper or hypoglycemia  
    ☐ Feet: neuropathy, foot ulcers, deformities or amputation  
    ☐ Eyes: pre or proliferative retinopathy  
    ☐ Kidneys: nephropathy, albuminuria or elevated creatinine

#### Current Diabetes Management

- ☐ Diet and exercise only  
☐ Insulin: type and dose No Diabetes  
☐ Oral medications: \_\_\_\_\_  
Last date of A1c \_\_\_\_\_ Results \_\_\_\_\_  
Blood glucose ranges: (circle) 100-200 200-300 300+ other \_\_\_\_\_

#### Other Diabetes Training Needs

- ☐ Insulin instructions  
☐ Blood glucose meter training  
☐ Insulin pump training referral  
☐ Continuous Glucose Monitoring System (CGMS) referral

#### Management Plan of Care: Less than 10 hrs may be ordered\*

##### Comprehensive Management Skills Classes (10hrs)\* includes:

- ☐ Assessment (mandatory)  
☐ Overview of diabetes and pathophysiology  
☐ Nutrition: ☐ Basic ☐ Intermediate ☐ Advanced  
☒ Monitoring, Medications and Acute Complications  
☒ Physical Activity  
☐ Psychosocial Adjustment and Goal Setting  
☐ Chronic Complications  
☐ Follow-up class

##### Management of Diabetes during Pregnancy (10hrs)\* includes:

- ☐ Assessment (mandatory)  
☐ Gestational Overview, Labor and Delivery, Postpartum  
☐ Nutrition: ☐ Basic ☐ Intermediate ☐ Advanced  
☐ Monitoring and Acute Complications  
☒ Physical Activity  
☐ Insulin Therapy  
☐ Psychosocial Adjustment and Goal Setting  
☐ Follow-up class

\*Please check appropriate boxes if less than 10 hrs are ordered.

#### Annual Review Class (2 hrs): Pts who have completed the program

#### Individualized education classes are necessary for the following:

- ☐ Vision ☐ Hearing ☐ Language ☐ Physical ☐ Other Weyll  
☐ Appropriate for Group Sessions Adults

I certify that the services ordered are medically necessary.

Provider Signature \_\_\_\_\_

Date 11/7/08

# Care Health Center

## Patient Registration Form

Date: 7-5-11

Last Name: Gilbert First Name: Jendra MI: MI Date of Birth: 10-20-58

Street Address: 1305-B Eula St. City: Lancaster State: S.C. Zip: 29724

P.O.Box:                      City:                      State:                      Zip:                     

Home Telephone: (803) 283-1831 Cell: 83-235-3029

Social Security Number: 249-21-8764 Marital Status: Single Sex: Female Race: blk.

Employer: Clinton Elem. Phone: 285-5831

Do you receive the following?

Unemployment YES NO

Food Stamps YES NO

Disability YES NO

How many members are in your household? 2

Who referred you to us? Heard About

Uninsured, please bring ONE of the following to your next visit or you will be charged \$50.00 for your next visit.

1-Proof of Income for the household

2-Unemployment Verification

3-Food Stamp print out from the Food Stamp office (No EBT cards accepted)

4-Letter from your employer if you cannot provide a check stub

During your visit, if our physician orders an X-RAY or ultrasound, you will be responsible for the radiology reading that you will receive the bill for in the mail.

What is your household income? Please circle one:

0-10,000    10,000-20,000    20,000-30,000    30,000-40,000  
40,000-60,000    60,000-100,000    100,000-140,000    140,000-200,000  
200,000 & over

How many people are in your household?

### Emergency Contact:

Name: Mrs. Achenie Mae Reed Phone Number: 475-5024

Relationship: Sister

### Responsible Party/Guardian

(It is the policy of this office that the parent accompanying the child for treatment will be held responsible for all bills.)

Last Name:                      First Name:                      Date of Birth:                     

Address:                      City:                      State:                      Zip:                     

Home Phone:                      Employer:                      Work Phone:                     

Social Security Number:                      Relationship to Patient:                     

CARENET 070

## Care Health Center Confidential Communications of Protected Health Information

It is frequently necessary for us to communicate lab results, radiology results, instructions, information about treatment, and other items of Protected Health Information with our patients.

In the event that our staff is not able to speak with you (the patient), please give us instructions about communicating with you. If this information changes, please notify us immediately.

1. Messages may be left at my:

Home Number/Answering Machine: 49 283-1831

Cell Number/Voice Mail: 235-3029

Alternate Number/Voice Mail: \_\_\_\_\_

The answering machines/voice mail listed above does not identify me by name, but it is appropriate to leave messages for me there. Circle one: ☒ yes ☐ no

Other persons that can take messages on your behalf:

Name: MRS. Johannie Reed

Number: 475-5024

Name: MRS. Jennifer Jones

Number: 475-8003

I hereby release, discharge and agree to hold harmless all parties to whom this consent is given from any liability that may arise from the release of information authorized above. I understand that I may revoke this consent in writing at any time. This consent is valid for one year from the date of signature unless otherwise revoked in writing.

Dandrea W. Hiebert

Signature of Patient or Parent/Guardian

7-5-11

Date

Patient Name(Print)

**For Care Health Center Use Only**

CARENET 071

**ACKNOWLEDGEMENT FORM**

Patient's Name: \_\_\_\_\_ Date of Birth \_\_\_\_\_  
Day Month Year

We are required by law to provide you with our Notice of Privacy Practice which explains how we use and disclose your health information. We are also required to obtain your signature acknowledging that this notice has been made available to you.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Relationship to Patient: Self \_\_\_\_\_ Spouse \_\_\_\_\_ Other \_\_\_\_\_

Reason Patient Unable/Unwilling to Sign:

\_\_\_\_\_  
\_\_\_\_\_

CARENET 072

# Care Health Center

## AUTHORIZATION TO RELEASE HEALTHCARE INFORMATION

I hereby authorize the use or disclose of my identifiable health information as described below. I understand that if the organization authorized to receive the information is not an insurance company or health care provider, the released information may no longer be protected by federal privacy regulations

**PERMISSION TO RELEASE** ☐ Referring Physician ☐ Copy of Record ☐ Legal or Insurance Review ☐ Other

**RELEASE FROM** The facility/practice/individual listed below is authorized to release the requested health information

Facility/Practice Name: \_\_\_\_\_ Telephone #: \_\_\_\_\_

Facility/Practice Address: \_\_\_\_\_ Fax: \_\_\_\_\_

The facility/practice/individual listed above is authorized to release the requested health information for the following date(s) of service, range of time or event(s)

From: (MM/DD/YY) \_\_\_\_\_ TO: (MM/DD/YY) \_\_\_\_\_

### NAME OF PATIENT / AUTHORIZED INFORMATION TO BE RELEASED

Patient First Name: Sandra W. Gilbert  
First Middle Last  
 Patients Address: 1305-B Ewing St. Lancaster, S.C. 29720  
(Street Address/PO Box, City, State, Zip)  
 SS# 244-21-8204 Date of Birth 10-20-58 Chart #: \_\_\_\_\_

**RELEASE TO** This information may be released to and used by the following individuals/organizations. A separate authorization must be completed in the information being released or the purpose differs between the individuals/organizations listed below:

| Name:              | Address                                                               | Telephone     | Fax#          |
|--------------------|-----------------------------------------------------------------------|---------------|---------------|
| Care Health Center | 838 West Meeting St<br>Medical Arts V, Suite H<br>Lancaster, SC 29720 | (803)285-2273 | (803)283-6360 |

### CHECK THE TYPE OF INFORMATION TO BE RELEASED

☒ All Records & Details ☐ Progress Notes  
☐ Other \_\_\_\_\_ ☐ History & Physical

I understand that the information in my medical record may include information relating to treatment of drug abuse, psychological or psychiatric impairments, sexually transmitted disease, acquired immunodeficiency syndrome (AIDS) AIDS related complex (ARC) and/or human immunodeficiency virus (HIV)

Patient Signature: Sandra W. Gilbert Date Signed: 7-5-11

### PATIENT'S RIGHT AND SIGNATURE

I understand that I have a right to revoke this authorization at any time by notifying the Medical Record Department of the above organization in writing. (I understand that revocation will not apply to information that has already been released in response to this authorization. I understand that revocation will not apply to insurance company when the law provides my insurer with the right to contest a claim under my policy.)

I understand that authorizing the disclosure of this private health information is voluntary and I can refuse to sign this authorization. I understand that I may request to obtain a copy of the information to be used or disclosed per Care Health Centers Notice of Privacy Practices Policy.

This authorization will expire when the information from the event/purpose noted above is released to the recipient named in this document. If the patient is a minor or is clinically unable to sign, an authorized representative may sign this authorization.

PRINT NAME of Patient/Authorized Representative: Sandra W. Gilbert

SIGNATURE: Sandra W. Gilbert DATE: 7-5-11

If Authorized Representative, please indicate relationship to patient: ☐ Spouse ☐ Parent ☐ Guardian

CARENET 073



204

DSS

Serving Children and Families

Dr. Kathleen M. Hayes, STATE DIRECTOR

Client's Name: Sandra Gilbert

To: (Agency- Name): Caret

Client receives a monthly AFDC check in the amount of \$ 0

Client receives \$ 196 Food Stamps per month.

Client receives \$ 0 per month for Child Support.

Other income not listed above: SSA - Disability Brandon L. Gilbert  
Endy - SSA only

Number of people in household: 1

Kathleen Sack  
Signed

6-28-70  
Date

**Insurance Verification/Call Backs** verify every 3mo

|                                                                                                                                | 1        | 2        | 3        | 4        | 5        |
|--------------------------------------------------------------------------------------------------------------------------------|----------|----------|----------|----------|----------|
| Type of Insurance                                                                                                              |          |          |          |          |          |
| Date verified                                                                                                                  |          |          |          |          |          |
| Co-Pay                                                                                                                         |          |          |          |          |          |
| Deductible Met?                                                                                                                |          |          |          |          | No       |
| Balance? If there is a balance notify Susan by a note on her payment plan is worked out; the full balance upfront before seen. |          |          |          |          | / No     |
| Address/ Phone Change?<br>If there is a change, put in Allscripts.                                                             | Yes / No | Yes / No | Yes / No | Yes / No | Yes / No |

**Un-Insured Verification** verify once a year.

|                                                                                         | Yes / No   | Yes / No      | Yes / No   | Yes / No   | Yes / No |
|-----------------------------------------------------------------------------------------|------------|---------------|------------|------------|----------|
| Proof of Income:                                                                        | Yes / No   | Yes / No      | Yes / No   | Yes / No   | Yes / No |
| What Type:                                                                              | Check Stub | FS / UPT stub | Disability | Tax Return | Other    |
| Balance: If there is a balance owed, make Pt aware and/or make payment plans with Susan | Yes / No   | Yes / No      | Yes / No   | Yes / No   | Yes / No |
| Address/ Phone Change?<br>If there is a change, put in Allscripts.                      | Yes / No   | Yes / No      | Yes / No   | Yes / No   | Yes / No |

New Patients- Make them aware of Payment at time of service, Labs, Meds, etc.

Verification completed by:

|           |  |  |             |
|-----------|--|--|-------------|
| 6/22/2020 |  |  | CARENET 075 |
|-----------|--|--|-------------|

10-20-58 CARENET - 1-20-04  
 Date Case Opened  
 Name Gilbert Landra 287-1954  
 Last First Phone #  
 Address 1404 Phil Thurmond SC  
 Street City State  
 Samples \_\_\_\_\_ Pharm. \_\_\_\_\_ X-Ray/Lab \_\_\_\_\_  
 Date Approved \_\_\_\_\_ Recertification Date \_\_\_\_\_  
 Assigned Physician Mackay  
 SS # 249-21-8764  
 Income # \_\_\_\_\_ Signature: Dandra L. Gilbert

CARENET 076

7-6-04 appt at Clinic @ 7-8-04  
10-8-04 Rx 1st. #11.75  
8-19-04 appt w/ Dr. Sullivan on 9-14-04  
@ 9:30  
9-30-04 Rx asst. #11.75  
11-18-04 Rx asst. #11.75  
2-3-05 Clinic #68.50

CARENET 077

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM LANCASTER COUNTY  
Court of Common Pleas

Daniel D. Hall, Circuit Court Judge

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Case No. 2013-CP-29-1339

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**RECEIVED**  
JUN 17 2016  
SC Court of Appeals

Johnnie Mae Reed, as the Personal Representative of the Estate of Sandra Gilbert,  
Appellant

vs.

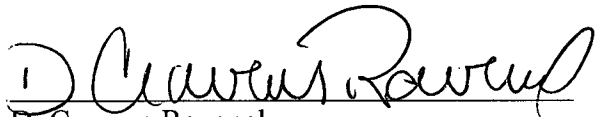
CareNet, Inc. of Lancaster and Nimal A. Perera, M.D., Respondents

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**CERTIFICATE OF COUNSEL**

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Pursuant to Rule 210(g), SCACR the undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and does not contain any other material.



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cravenel@brblegal.com; File No.: 10758.0  
*Attorney for the Appellant*

June 17, 2016  
Columbia, South Carolina