

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
In the Court of Common Pleas for the Ninth Circuit

J.C. Nicholson, Jr., Circuit Court Judge

Appellate Case No. 2016-002326

Shon Turner, as Personal Representative of the Estate of Charles
Mikell, Deceased.....Appellant/Respondent

v.

The Medical University of South Carolina.....Respondent/Appellant

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1 A. Yes, sir.

2 Q. One of the things that these policies and
3 procedures require is that every time you go to provide
4 anesthesia to a patient, you are required to check out
5 the system before you get started; isn't that right?

6 A. Yes, sir.

7 Q. So, I've got page four of six, document
8 control number 2563 on the overhead. This is from
9 Plaintiff's Exhibit 8. And it says, "Prior to
10 administering anesthesia, the practitioner
11 administering anesthesia" -- and in Mr. Mikell's case,
12 there were two of you, right? Yourself and Dr. Nelson?

13 A. Yes, sir.

14 Q. Okay. So, "Prior to administering anesthesia,
15 the practitioners administering anesthesia will check
16 and document the readiness, availability, cleanliness,
17 sterility, where indicated, working condition, and the
18 alarm systems of all equipment to be used"; am I
19 reading that correctly?

20 A. Yes, sir, absolutely.

21 Q. Would that -- I mean, you would agree with me
22 that that would include all of the electronic equipment
23 that you are using; right?

24 A. In general, but there was a time when we were
25 paper charting non contemporaneously, or every five

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1 minutes, or every 15 minutes. So we make an effort,
2 but it does not always cooperate.

3 Q. Okay. So it's pretty obvious before you get
4 started, you're supposed to check all the equipment and
5 make sure that it's in working condition. And if the
6 PICIS system is not accurately recording the oxygen
7 saturation values --

8 A. Yes, sir.

9 Q. -- this would be an example of the equipment
10 not working properly?

11 A. No. The equipment working properly would be
12 me seeing an appropriate oxygen sat. Once I've got
13 Mr. Mikell on monitors, nasal cannula oxygen is in, and
14 I have an appropriate O2 sat that is working versus
15 changing it to another finger, or an ear, or a nose
16 where it can pick up a little bit better. So that's
17 the focus in number one.

18 Q. Do we need to go back to where we started this
19 morning, where you agreed that it was after you had
20 made the first phone call to the technician, but before
21 you had the problem solved, that you gave Mr. Mikell
22 the Propofol? Do you remember that? That was just
23 like an hour ago?

24 A. I do. I do.

25 Q. Okay. So we can agree then that you didn't

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1 comply with this policy, you didn't make sure that the
2 equipment was working properly, you put your patient to
3 sleep while you had a problem?

4 A. No. I did not have a problem, but the
5 computer charting was not communicating with what I was
6 seeing on the monitors.

7 Q. And you were sending text messages and making
8 phone calls to try to solve that problem while your
9 patient was under anesthesia?

10 A. None of that affected Mr. Mikell's care, no.

11 Q. Okay. The other thing that Plaintiff's
12 Exhibit 8 requires is checking the machine to make sure
13 it's working properly before you started isn't enough,
14 it says all accurate -- it says "all information is to
15 be accurately recorded on the anesthesia record?"

16 A. Yes.

17 Q. "This shall at least" -- meaning at a minimum
18 -- "include monitoring data"?

19 A. Absolutely.

20 Q. So as we've seen, the anesthesia machine is
21 not accurately recording all of the vital signs
22 information in the chart, and that's why all of those
23 boxes are empty? And you knew that before you gave
24 Mr. Mikell the Propofol; right?

25 A. No, sir. I put a call -- I put a call into

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1 Annette, and then started the Propofol, and the
2 procedure started.

3 Q. That's right.

4 A. And it was my hopes that -- it was my hope
5 that PICIS, the PICIS IT helper could repopulate what I
6 was seeing on the monitor.

7 Q. And Mr. Cooke had asked Dr. Kofke yesterday,
8 you weren't here, but he had asked Dr. Kofke repeatedly
9 about this part of the chart right here?

10 A. Yes, sir.

11 Q. That would indicate quite clearly apparently,
12 if this record is to be believed, that the Propofol was
13 started at 7:41 -- all right -- now, I'm referring to
14 page 3 of 99. Do you see that?

15 A. Yes, sir.

16 Q. Okay. Now, your first text message that you
17 sent, relative to this software problem, that was at
18 7:39?

19 A. Okay.

20 Q. And the last text message which reads, "hey,
21 can you call me back" was at 7:46?

22 A. All right, sir.

23 Q. So, once again, that fairly clearly
24 demonstrates that while you are in the process of
25 trying to solve this problem, you are giving Mr. Mikell

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1 the anesthetic?

2 A. No, sir. I paged Annette at 7:39, before
3 Propofol was administered or the procedure started, to
4 get her to call me and transfer my chart. Because I
5 could not do it. And I recognized that before I
6 started the Propofol or the procedure started, so.

7 Q. Right. Well, that's my point, is that you
8 realized that there was a problem at 7:39?

9 A. After, uh-huh, yes.

10 Q. You didn't get the problem solved until
11 sometime after that last text message at 7:46. And in
12 the middle of all that, you're giving the Propofol to
13 your patient?

14 A. Yes, sir. I started the infusion, I did.

15 Q. And when I asked you at your deposition, why
16 it was that you had proceeded in that fashion, do you
17 remember what you told me?

18 A. No, sir.

19 Q. You said it was because you were busy and in a
20 hurry? Do you remember that?

21 MR. COOKE: What page are you referring to?

22 MR. RANSOM: This is page 32.

23 BY MR. RANSOM:

24 Q. This is on page 32 of your -- I think this is
25 your February 2016 deposition. I asked you, "So you

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1 hadn't checked to make sure that part of the system was
2 working correctly?" Now, that's a reference to the
3 data recorder. And you said, "Nope". And I asked you,
4 "Why not?" And you said, "Well, I pulled it up. It
5 booted up", meaning the screen had come up.

6 A. Right.

7 Q. The anesthesia software screen had come up.
8 There was no problems like early in the morning,
9 meaning before Mr. Mikell had been brought in.

10 A. When I checked the room.

11 Q. "So when I roll in and I'm busy, you know,
12 getting Mr. Mikell in position, oxygen on, monitors on,
13 everything good, you know, kind of busy there, the
14 charting is kind of the last thing that I do".

15 A. Always. Patient first, and the chart I can
16 repopulate, catch up, or whatever. I mean, you know,
17 the computer charting is a fairly new thing. We used
18 to have to write everything non contemporaneously. So
19 it's -- it's not a critical part of the patient's care.
20 It's an -- it's an adjunct, so I'm not focused on that
21 as much as I'm focused on Mr. Mikell's care.

22 Q. Well, and I -- isn't that the answer because
23 Mr. Mikell --

24 A. I mean it totally is.

25 Q. Mr. Mikell isn't going to desaturation and go

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1 into cardiac arrest because data is not filling those
2 boxes, he's going to go -- he's going to desaturate and
3 go into cardiac arrest because you're on the phone
4 sending text messages when that starts to happen?

5 A. No, sir. No, sir.

6 Q. And so whatever may be going on with the
7 anesthesia system recording function, you're absolutely
8 right, it is secondary to what's taking place with your
9 patient?

10 A. Absolutely.

11 Q. And if, in fact, instead of taking -- taking
12 care of your patient, you've got your back to him at a
13 keyboard, sending text messages, and over here on the
14 phone with a technician --

15 A. No, sir.

16 Q. -- that's malpractice; isn't it?

17 A. No, sir. The computer is here. The machine
18 is here. And Mr. Mikell is here. His head is right
19 here for a colonoscopy, so everything is like within
20 my -- within my suite -- my visual field. So, I did
21 not have my back to him at any -- at any time during
22 that procedure that I recall.

23 Q. Is this the way that the suite was set up as
24 is depicted here?

25 A. It is the way that the suite is set up. And

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1 then once you have your patient with -- where the
2 pillow is -- is appropriate for a colonoscopy, once you
3 have the head of the bed, you're standing right around
4 where the chair is. This is your PICIS. You have to
5 make sure that you -- obviously have the -- the doors
6 open before the stretcher rolls in, because the
7 stretcher railing will impede your opening it. So you
8 open that.

9 Get him snuggled up to the machine. Get the
10 machine angled so that you can angle your computer
11 screen and see everything in a sweep, kind of this way
12 kind (indicating) -- kind of in a panoramic fashion.
13 So, yes, that looks exactly like Room D.

14 Q. If we were to just pretend for a moment that
15 this courtroom were set up somewhat similarly to the
16 way it's depicted in the picture, that computer screen
17 that's there on the right?

18 A. Yes.

19 Q. That's the PICIS anesthesia monitor and the
20 keyboard; correct?

21 A. Correct, yes.

22 Q. And that's the keyboard that you're using to
23 type these text messages?

24 A. Yes.

25 Q. And the PICIS anesthesia software, that's not

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1 the software that you use to send text messages, is it?

2 A. No. No.

3 Q. So you've got to minimize or close out PICIS
4 and open up some other program --

5 A. Yes.

6 Q. -- in order to send those messages?

7 A. Yes, another icon.

8 Q. So if we were to pretend for a moment that
9 this courtroom is set up the way that this room is set
10 up, when you're using the keyboard, you're facing the
11 screen just as you are right now. And the patient
12 would be behind you, just like the TV monitor is?

13 A. No. I understand this is -- this is the set
14 up as you've photographed it, Rob, but when there's a
15 patient there, you angle the machine and you angle --
16 or at least I do -- angle the computer screen and the
17 keyboard, so that I can see everything going on.

18 I might type ten seconds (indicating) then I'm
19 looking at the monitor, and looking at him, making sure
20 that everything is rolling along.

21 Q. Okay. So you didn't check the equipment as
22 required by the policy because you were busy and in a
23 hurry?

24 A. No, sir. I checked the anesthesia equipment
25 and the monitoring, and I was able to pull up PICIS on

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1 the computer. In other words, my computer was working.
2 It did boot up accurately at the time.

3 Q. Okay. I want to go back for a minute to these
4 anesthesia records. Now, you had gone into the system
5 on October 1st and made, what you said, you went
6 back -- at the end of your shift on October 1st, you
7 went and accessed the anesthesia record in order to
8 complete the record?

9 A. In order to accurately reflect the times on
10 the narrative.

11 Q. Okay. And then you went back into the system
12 again the next day on October 2nd?

13 A. Yes. To visually kind of look at
14 everything -- kind of all in one, yeah.

15 Q. And to print out the record and shred it?

16 A. Correct, yes.

17 Q. Now, let me show you what's marked as
18 Plaintiff's Exhibit 5. And this is yet another
19 printout of the anesthesia record. And you'll see that
20 this one has been printed out on April 2, 2013; do you
21 see that?

22 A. I do.

23 Q. And the audit trail is Plaintiff's Exhibit 11.
24 I'm going to switch back and forth for just a second.
25 Plaintiff's Exhibit 11 is the one that shows us that

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1 you had printed out the record on October 1st?

2 A. Yes.

3 Q. And then when we look at the second page, we
4 also see that you have printed it out on October 2nd?

5 A. Yes, sir.

6 Q. At 1814, and again at 1815?

7 A. Um --

8 Q. -- right -- and then lastly on this audit
9 trail, we also see that a Jeff Toohey has printed the
10 record on October 1st, at 1344, and he's done it twice?

11 A. Uh-huh.

12 Q. Do you see that?

13 A. That's recovery room, uh-huh. Jeff is an RN.

14 Q. Right.

15 A. In PACU.

16 Q. And that sort of correlates with Plaintiff's
17 Exhibit 2, where we see the print time of October 1st,
18 1347. So it looks like Exhibit 2 is the record that
19 Mr. Toohey printed out. Now, he's the nurse
20 anesthetist in the recovery room --

21 A. Registered nurse, yes.

22 Q. Right.

23 A. He's the one that took Mr. Mikell.

24 Q. So when Mr. Mikell had his heart shocked back
25 into rhythm, he's then taken out of the endoscopy

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1 procedure room --

2 A. Yes.

3 Q. -- to an area of the hospital called the Post
4 Anesthesia Care Unit?

5 A. Yes.

6 Q. And Mr. Toohey is one of the people that's
7 managing his care there?

8 A. Yes.

9 Q. All right. And so what we see then is that
10 Mr. Toohey has accessed the system and printed the
11 anesthesia record, and that's what we have as
12 Plaintiff's Exhibit 2; right?

13 A. Yes.

14 Q. Okay. And it also looks as though Mr. Toohey
15 was the one who printed the record that's marked as
16 Exhibit 1 at 1346, where we're missing the first page.
17 Now, Ms. Embrey, did you go into Mr. Mikell's record
18 and take the first page of that first printout and do
19 something with it?

20 A. Absolutely not, sir, no. I edited later on
21 that afternoon in the computer. I edited my narrative,
22 so.

23 Q. Is that -- is that page one part of what you
24 shredded after you had changed the record?

25 A. I printed out the -- I printed out what I

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1 thought to be the entire record Friday evening, and
2 then -- to put in the chart in the MSICU. And then the
3 next day, to kind of just look at it visually, because
4 I was on a 24 hour shift that day. I just wanted to
5 make sure that the sequence of events and everything
6 that I put in was accurately reflected.

7 Q. Okay. Well, again --

8 A. But everything was in the computer, I -- I
9 can't -- I can't delete a page or any -- I can't delete
10 any data that's there. The page one is always there.
11 I was just editing the narrative in the narrative
12 section.

13 Q. Back on Plaintiff's Exhibit 11, this audit
14 trail -- again, my office has been provided in this
15 case the audit trail that only runs through October 2nd
16 of 2010, at 2359 -- that's like a minute before
17 midnight. Okay. And that's where this Exhibit 11
18 ends. We don't have the record of any other changes to
19 the anesthesia record after that, but those aren't the
20 only changes that have been made, are they?

21 A. I'm not -- I'm not certain.

22 Q. Well, that's what I say, when we look then at
23 what's marked as Plaintiff's Exhibit 5, we're going to
24 see that another part of the record has been altered.
25 And if you'll take a look -- ladies and gentlemen, this

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1 is a little bit -- so, if we look at the record, that's
2 printed out on October 2nd at 1815, and that's about
3 the time that you were up in Mr. Mikell's room making
4 your last review of this; right?

5 A. Yes, sir, uh-huh.

6 Q. What we see is these entries under Dr.
7 Nelson's name at 7:48, all come grouped together -- do
8 you see that?

9 A. Yes.

10 Q. All right. And these relate to the
11 "anesthesiologist assessed the patient, reviewed the
12 chart, formulated the anesthesia plan"?

13 A. Yes.

14 Q. "He was medically directing the case." That
15 means he's in charge; right?

16 A. Right.

17 Q. Okay. He's present for induction. That means
18 when the patient is put to sleep; right? Then it says,
19 "I, or another attending anesthesiologist, was
20 immediately available," it says. So those four entries
21 that are timed at 7:48, they are all one right after
22 another?

23 A. Right.

24 Q. And that's on the record that's printed on
25 October 2nd. But now when we turn to the record that's

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1 been printed in April of 2013 -- and again, I'd like us
2 to take judicial notice that this lawsuit was filed in
3 2012.

4 THE COURT: What was -- what was the date of the
5 filing? Do you know?

6 MR. RANSOM: I believe it was in November of 2012,
7 is what the record --

8 THE COURT: Does the defense agree with that? We
9 have November 6, 2012, the lawsuit was filed. The
10 Court will take judicial notice of that.

11 MR. RANSOM: All right. Thank you.

12 BY MR. RANSOM:

13 Q. So, now this -- this record is being printed
14 about six months after the lawsuit has been filed. And
15 we see these entries by Dr. Nelson at 7:48. Here's the
16 first two of them?

17 A. Okay.

18 Q. All right. And then here's -- the second two?

19 A. Right.

20 Q. At 7:48. But now there's an entry that's in
21 between them, under your initials?

22 A. I thought that was -- I thought that was
23 present on the afternoon that Mr. Mikell went to the
24 unit.

25 Q. So, what we see, Ms. Embrey, is that sometime

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1 after -- well, sometime between October 2, 2010, and
2 April 2, 2013, you've gone back into the system, you've
3 changed the entries -- or the order of the entries, and
4 isn't it interesting that none of that shows up on the
5 audit trail that my office was provided?

6 A. No, sir. Because I did not -- I did not edit
7 anything in Mr. Mikell's record after -- after that --
8 after that afternoon evening.

9 Q. Ms. Embrey, do you think that the computer did
10 this all on its own?

11 A. I don't know, Mr. Ransom. I don't know.

12 Q. Do you think that somebody else logged in
13 under your user name and password, and changed that
14 record?

15 A. No. But that was there on a previous record
16 though. That was there in the narrative on a previous
17 record.

18 Q. Now, I want to ask you a little bit about this
19 idea that you've tried to explain some of these things
20 by saying that Dr. Nelson was charting under your name.
21 Do you remember you told me that three separate times
22 under oath, when you were trying to explain the entry
23 that you had changed from his initials to yours?

24 A. Yes, sir.

25 Q. All right. You tried to tell us that that was

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1 because he was charting under your name?

2 A. I might have honestly thought that at the
3 time.

4 Q. Have you ever seen the PICIS anesthesia user
5 training manual, and this is the manual there at the
6 Medical University?

7 A. I've seen it. I've seen it.

8 Q. That teaches you how to do this electronic
9 charting?

10 A. Yes, sir. It was more of a one-on-one with a
11 PICIS team. I thumbed through this, but.

12 Q. We've got this marked as Plaintiff's Exhibit
13 44. And I apologize -- the document control numbers
14 are cut off, but I'm going to put the second page up
15 here on the screen. And the very first thing that this
16 manual talks about, point number one, is
17 confidentiality and security. And it says, "You must
18 also not leave the anesthesia manager log-in under your
19 user name for someone else to use. This is a
20 disciplinary matter."

21 A. I see that.

22 Q. Which means that if you're allowing someone
23 else to make entries in the record under your user
24 name, you could be fired for that; right?

25 A. I see that. However, with six or seven

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1 anesthesia providers all doing for Mr. Mikell at the
2 same time, it is not always feasible to log out and
3 relog in under your name. There's kind of -- I guess a
4 trust within the people that are present in a critical
5 situation, that what you put in under my name is going
6 to be accurate.

7 Q. Recognizing that your job could be at stake if
8 you logged in under someone else's name, do you think
9 that somebody else would have gone into this chart
10 under your initials and changed the order of these
11 entries?

12 A. No, sir, but I edited the narrative that
13 afternoon and evening. And everything that's in there
14 under my name was put in, I believe that
15 afternoon/evening. That's why I wanted to be done with
16 it. That's why I stayed later than my shift that
17 evening, to make sure everything was accurate.

18 Q. And you said the reason that you wanted it to
19 be accurate was?

20 A. I wanted the record to reflect accurately what
21 we had done for Mr. Mikell. I mean, there was -- there
22 were at least six or seven of us anesthesia providers
23 at any given time while the code was going on, and we
24 were stabilizing Mr. Mikell, and giving meds and
25 starting drips. And everything prior to getting him up

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1 to the recovery room, there was -- there was a lot
2 going on. So there were a lot of people jumping on the
3 computer to add this, that, or the other. And I'm sure
4 I wasn't logged out at any time, which is fine, you
5 know. Because obviously most of us were busy -- at one
6 point extremely busy doing for Mr. Mikell and taking
7 care of what we needed to.

8 Q. So when we look at the first anesthesia record
9 that's printed out, and we look at the detail of the
10 narrative, and this is Plaintiff's Exhibit 2, we see
11 that there really isn't a whole lot of information
12 that's been entered; right? I mean, in essence, all
13 that got entered was this business right here,
14 transfer?

15 A. Right.

16 Q. And that's part of the process of trying to
17 correct the software problem?

18 A. Yes.

19 Q. And that entry is timed at 7:47?

20 A. Correct.

21 Q. I see everyone is straining to see that?

22 A. I believe that's when Annette, from PICIS,
23 kind of worked it out. And actually the chart was
24 transferred successfully.

25 Q. Okay. And -- and that's an electronic entry

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1 at 7:47; right?

2 A. Correct, yes.

3 Q. All right.

4 A. Yep.

5 Q. So, this helps us then to further identify
6 that even at 7:47, you're still on the keyboard doing
7 something to correct this problem?

8 A. Not necessarily.

9 Q. Okay.

10 A. No, not necessarily.

11 Q. All right. So there really isn't any
12 information that's entered in the record about what's
13 taking place at all? That's a pretty bare bones
14 record; right?

15 A. Say that again.

16 Q. I say, these entries right here are very
17 limited? They don't give us much description at all
18 about what's actually taking place with the patient?

19 A. No, sir. Including when Eric came in and
20 signed in his anesthesiology attestations at 7:48, that
21 was when he stepped in and I had just put the nasal
22 airway in, so.

23 Q. And that's why you went back -- when you
24 created the detailed narrative in order to put a whole
25 bunch of other stuff in there; right? And one of the

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1 things --

2 A. Yes. I -- I edited that to include when
3 Nelson walked in, checked on me. I had just put the
4 nasal airway in. I said, the sats were fine. He was
5 still in a lateral position, all of that -- all of that
6 happened, uh-huh, at the same time that Eric came in to
7 chart his attestations.

8 Q. Right. So you've gone back in and you've
9 filled in all of this preop stuff; right?

10 A. Yes.

11 Q. And --

12 A. -- because I don't -- it normally populates
13 when you -- it normally populates when you hit
14 anesthesia start in holding. So I'm not sure -- I'm
15 not sure why I knew that it didn't populate, because I
16 was having no problems with the computer to my
17 knowledge in the holding area when we were looking at
18 the preop and kind of setting the record up and -- and
19 doing all that.

20 Q. And you filled in quite a number of entries at
21 7:51, Dr. Nelson's left the room?

22 A. Yes.

23 Q. 7:55, you've turned the patient. 7:56, Dr.
24 Nelson's back in the room. That's the entry that you
25 changed. 7:57, 7:57, then 8:01. My point being that

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1 there's a number of entries in there that are timed
2 earlier than 8:00; correct?

3 A. Yes.

4 Q. Okay. And it's your testimony that you were
5 relying upon the Mayday record in order to be able to
6 accurately recount what had taken place during those
7 times?

8 A. Yes. That's the -- that's the only other
9 thing I would be able to look at, and talk about CPR,
10 defibrillation, intubation time. I could probably
11 guesstimate pretty well from other data that was
12 populating by then, as far as peak airway pressures,
13 tidal volume, et cetera, that comes across on a
14 ventilator. By, yeah, key times after -- after the
15 code was called.

16 Q. Right. The key times that would reflect,
17 amongst other things, when Dr. Nelson was coming in and
18 going back out; right? Because, I mean, they are there
19 --

20 A. Yes, yes, the narrative did, yes.

21 Q. And your testimony is that you were able to
22 accurately recreate those times by looking at the
23 Mayday record?

24 A. No. I was accurate -- I was reflecting on
25 them to accurately report the CPR, defibrillation

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1 times. And then other -- other events that might have
2 gone on. Mostly defibrillation, CPR, what time the
3 code was called is -- was why I was looking at the
4 Mayday record.

5 Q. Well --

6 A. A Mayday record would not begin until the
7 Mayday is called. It would not reflect anything about
8 the case until the Mayday is called.

9 Q. How then were you being able to accurately
10 reconstruct all of these events?

11 A. I remembered him coming into the room as I put
12 the nasal airway in. We talked about it. We talked
13 about it after -- after the -- after the case at some
14 point. Then I said, well, you came in, you know, right
15 when I put the nasal airway in and everything was fine.
16 You know, we kind of just --

17 THE COURT: All right, let's -- I'm sorry. Go
18 ahead and finish. Excuse me.

19 A. Yes, Your Honor. So that was -- that was
20 accurately recorded. Because when he came in to record
21 his attestations, that was almost exactly the time I
22 just put the nasal airway in. He's like, you all
23 right. I'm like, he's fine. Yeah. The sats are up.
24 We're good. And he came around -- he has to really --
25 as you can imagine, that room is cozy. So he has to

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1 come in behind me and get to my computer, log out, log
2 in, put his attestations in, then leave. So that took
3 about two or three minutes.

4 THE COURT: All right. Mr. Ransom, we're going to
5 take a break at this time.

6 MR. RANSOM: Yes, sir.

7 THE COURT: Madam Forelady, ladies and gentlemen
8 of the jury, leave your notepads. And please don't
9 discuss the case amongst yourselves. If you need
10 anything, let the bailiff know. We're going to take a
11 morning break at this time.

12 If you'll follow the bailiff to the jury room.

13 (WHEREUPON, the jury leaves the courtroom at
14 11:20 a.m.)

15 THE COURT: All right. Ms. Embrey, during the
16 break, don't discuss the case with anyone; do you
17 understand?

18 THE WITNESS: Yes, sir.

19 THE COURT: All right. We're going to take about
20 a 20 minute break. Thank you very much.

21 (WHEREUPON, a brief recess was taken.)

22 THE COURT: Anything from the plaintiff before we
23 bring in jury?

24 MR. RANSOM: Nothing, Your Honor.

25 THE COURT: Anything from the defendant?

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1 MR. COOKE: None, thanks.

2 THE COURT: All right. Bring us the jury, please.

3 (WHEREUPON, the jury enters the courtroom at
4 approximately 11:42 a.m.)

5 THE BAILIFF: All jurors are present, Your Honor.

6 THE COURT: Thank you very much. Please continue.

7 MR. RANSOM: Thank you, Your Honor.

8 BY MR. RANSOM:

9 Q. Ms. Embrey, when was the last time that you
10 actually had the Mayday record in your possession?

11 A. Yes, sir, to the best of my recollection, the
12 one and only time that I would have looked at it to get
13 correct times on the defibrillation, and the CPR and
14 other things that went on within the Mayday, were
15 that -- that afternoon. That afternoon in the MSICU.

16 Q. That would be October 1st?

17 A. That would be October 1st, I believe, yes.
18 Yes. It was part of the chart. It was in the chart.

19 Q. Explain to the jury the process of how you
20 came to have it in your possession, if you will,
21 please?

22 A. It was in the chart. When I was editing the
23 narrative in the anesthesia record, when the patient
24 was in MSICU later in the afternoon, around 6:00, 6:30.

25 Q. When you say "it was in the chart", can you

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1 give us a physical description -- are you talking
2 electronic record, paper chart?

3 A. No, sir. It's a paper chart. I'm not sure
4 even if we have an electronic record of the Mayday. I
5 believe it's just a paper copy, because anybody can
6 grab it off the clipboard -- the nurses can grab it off
7 the Mayday cart that is brought into the room, and
8 start charting on it. So it was part of the chart in
9 the -- in the -- in the bind -- in the binder rings.

10 Q. So, when you went to the Intensive Care Unit
11 where Mr. Mikell was in the bed, there was a metal
12 binder hanging on the end of his bed?

13 A. I don't recall exactly where it was. I was --
14 I believe I asked -- I believe I asked one of the
15 nurses if they could bring me Mr. Mikell's chart and
16 record, et cetera, yes. I do not recall going to
17 Mr. Mikell's bedside that particular day. I do not
18 have that recollection.

19 Q. And in his physical record, you're talking
20 about sheets of paper that are tacked down with these
21 holes that are punched across the top?

22 A. Yes. Yes.

23 Q. And so the Mayday record was affixed to his
24 chart in that fashion?

25 A. It was as -- as best I can recall.

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1 Q. Where was it the last time you saw it?

2 A. That was the last time that I -- that I looked
3 at it or recalled looking at it was then to -- to edit
4 my narrative, and get the times correct.

5 Q. Well, so it was tacked down in his physical
6 chart that a nurse had helped you to find -- where did
7 you leave the chart?

8 A. I'll be honest, I don't recall if I -- if I
9 left it next to the computer where a lot of the
10 anesthesia and MDs that come in and out of MSICU work,
11 or if I left it with a particular person. I don't
12 recall. I don't recall, yeah.

13 Q. Well, now, are you telling us that you fumbled
14 it or did you return to where you got it from?

15 A. No, sir. I'm telling you that I left it on
16 the unit somewhere. I'm not sure exactly where in the
17 MSICU I left it. I can't recall.

18 Q. All right. Now, we have been talking before
19 the break about the Mayday record and the information
20 that it contained, and the fact that you were using it
21 in order to complete the entries in the narrative;
22 right?

23 A. Yes.

24 Q. Okay. And we have been talking a little bit
25 about what some of the information that you were

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1 relying on the Mayday record to complete; right?

2 A. Yes.

3 Q. Okay. And one of the things that the Mayday
4 record showed was the time that Dr. Nelson came back
5 into the room?

6 A. I'm not sure if it reflected the time that he
7 came in the room. I know that it reflected the time
8 that the Mayday was called, and that defibrillation
9 occurred, what energy we defibrillated at; when CPR was
10 initiated, et cetera. I'm not sure if that -- if that
11 entry was -- was actually in the -- written in the
12 Mayday -- Mayday record.

13 Q. And in terms of being able to accurately
14 recreate the events, it was important for you to be
15 able to place a time on when it was that Dr. Nelson
16 came back into the room?

17 A. Yes, sir, I knew -- I knew when Dr. Nelson
18 came in the room because he actually came into the room
19 and helped us turn the patient supine. And -- and that
20 kind of -- in that moment, everything was kind of
21 starting to -- Mr. Mikell was becoming unstable, so a
22 lot of things kind of occurring within a minute or two.

23 Q. Right. And -- and to know when it was that
24 Dr. Nelson came in, I mean, that's pretty important;
25 isn't it?

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1 A. Yes, sir.

2 Q. And because you were going to change Dr.
3 Nelson's entry, that he came back into the room at
4 8:00, you were trying to figure out what time to change
5 that entry to?

6 A. I edited a lot of the narrative, like from the
7 beginning to the end, so just to reflect accurate
8 times.

9 Q. Right. And you say that you were able to
10 accurately change that entry from him coming in at
11 8:00, to him coming in at 7:56 because that information
12 was contained in the Mayday record?

13 A. Yes, sir. What time that the -- that the
14 actual Mayday was called.

15 Q. Okay. Well, but in terms of the time when Dr.
16 Nelson came back into the room, you were relying on --
17 because look what this entry says is that he came into
18 the room, and then a Mayday team was called; right?

19 A. Correct.

20 Q. All right.

21 A. Yes, all -- a lot of things are in that
22 sentence. And they occurred within a minute, a minute
23 -- you know, it's -- you know, it's, again, it's non
24 contemporaneous charting. So it's within a minute or
25 so of everything happening. There's a lot of things

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1 that kind of transpired from the time that we turned
2 him, when he was becoming unstable, to the time that
3 the Mayday was called, so.

4 Q. That's right. And so what you're telling us
5 is, again, in order to try to recreate the events and
6 be able to accurately chart all of these things that
7 are happening, you're using the Mayday record as your
8 source. And one of the things that you say that the
9 Mayday record contains was the time -- not when the
10 Mayday was called, but when Dr. Nelson came into the
11 room?

12 A. I -- I don't recall editing from the Mayday
13 record about that, but.

14 Q. Well, I asked you about that at your
15 deposition on February 22nd of this year; do you
16 remember what you told me?

17 A. I do not.

18 Q. So I asked, and this is on page 152, carrying
19 over to page 153, the question was "So the Mayday
20 record shows the time that he came back into the room?"
21 And your answer was, "The Mayday reflected that, yes."
22 It says, "Is there any other record besides that Mayday
23 record that tells us that time?" And your answer was,
24 "Not to my knowledge, not to my knowledge."

25 A. All right, sir. So if I may explain, the fact

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1 that Eric came in and helped us turn him supine, and
2 then the Mayday was called, I knew for sure that when
3 the Mayday was called, Eric was -- I mean, I -- I
4 recall Eric coming and helping us turn Mr. Mikell from
5 his -- from his left side to his back -- from being on
6 his left side to his back, so.

7 Q. So you would agree that Mr. Mikell was already
8 in trouble when Dr. Nelson came into the room?

9 A. He had started to become unstable and
10 desaturate.

11 Q. And I think you've also said -- you would
12 agree with me that Dr. Nelson was not actually in the
13 room when you first gave Mr. Mikell the Propofol?

14 A. Not to -- not that I recall, no. When I
15 initiated Propofol, not that I recall. Eric was there.
16 He stepped in when I put the nasal airway in about --
17 you know, midway through the time that the scope was
18 in.

19 Q. Right.

20 A. When I made that notation, I know he stepped
21 in and did his computer work. And we talked about I
22 put a nasal airway in and everything was all right.

23 Q. Well, but you previously testified that Dr.
24 Nelson was not in the room when you first gave the
25 Propofol?

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1 A. No, sir. When I started the drip I -- I
2 believe that -- I believe -- I do not recall him being
3 in the room.

4 Q. And what you testified is that this effort
5 that you undertook later that afternoon was to make the
6 entries in the narrative to be accurate; correct?

7 A. Yes, sir, as far as -- especially about the --
8 about the timing of how everything happened, including
9 the CPR and the defibrillation, et cetera.

10 Q. And one of the things that's particularly
11 important from a billing standpoint is that in order to
12 be able to send a bill to Mr. Mikell's insurance
13 company, you have to be able to certify that Dr. Nelson
14 was actually physically present in the room at the time
15 that the anesthetic agent is administered; right?

16 A. Yes, sir. So when you call that period of
17 anesthesia induction, it's a very general term,
18 meaning -- especially in the DDC, where we do upper and
19 lower endoscopies, and we start a Propofol drip, it's
20 kind of a general -- like a gradual Propofol drip that
21 is started, and the patient just kind of drifts off to
22 sleep, remains breathing spontaneously with oxygen and
23 supplemental. We call that an IV general anesthetic
24 because you're not able -- you're non-verbal. You're
25 sleeping. Your brain is unaware of anything going on.

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1 So it's very common for us to induce for -- for an IV
2 general, for procedural cases with Propofol on a drip
3 versus the MDAs and the DOs always have to be there
4 when we're inducing to intubate and put the breathing
5 tube down. They are always present for that at the
6 Medical University, because it's medically supervised
7 and medically directed. But they are not necessarily
8 there for the -- for the moment that the Propofol drip
9 is started, no, no.

10 Q. Well, and to clarify, Mr. Mikell didn't get an
11 endotracheal tube --

12 A. No.

13 Q. He wasn't intubated?

14 A. No.

15 Q. That wasn't what happened with his case?

16 A. No, it was not, not until after we initiated
17 the -- initiated the Mayday. He was -- he was Propofol
18 drip with nasal cannula.

19 Q. So you wanted to make sure that all of the
20 entries and the time sequence was accurate in the
21 record; correct?

22 A. Yes.

23 Q. Okay.

24 A. Yes.

25 Q. But you didn't really make sure that all the

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1 entries were accurate, did you? I mean, the only
2 entries that you were concerned with making accurate
3 were the ones that would have shown what was going on
4 at the time of Mr. Mikell's crisis? The entry that
5 showed when Dr. Nelson was coming back into the room,
6 and when the Mayday was called, when you were turning
7 the patient -- you spent a lot of time trying to
8 recreate those, so that they would look as though
9 everything was done just so; right?

10 A. Not actually recreate, I just edited -- mostly
11 edited the time stamp on what time everything occurred
12 in the sequence of him becoming unstable, us calling
13 the Mayday, intubating him, CPR defibrillation, et
14 cetera, for like that -- that 30, 40 minutes timeframe
15 that I wanted --

16 Q. The whole sequence --

17 A. -- everything to be --

18 Q. -- including when Mr. Mikell gets unstable,
19 when people are coming into the room, all of that, you
20 were making an effort to make sure that that was
21 accurate?

22 A. I was making sure that it was as accurate as I
23 could based on, you know, again, looking at the Mayday
24 record, which is where I would have gotten my
25 defibrillation and CPR.

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1 Q. Because that was part of the record that you
2 knew that the department would be scrutinizing when
3 they investigated this?

4 A. I -- I wasn't really thinking about that at
5 the time, I was just editing the -- the record to make
6 sure that it accurately reflected times and --

7 Q. Well --

8 A. -- and interventions.

9 Q. And one of the problems that you had, Nurse
10 Embrey, was there were certain entries in the record
11 that had been made under Dr. Nelson's initials, that
12 because of the lockout system in the software, you
13 couldn't change those; could you?

14 A. I'm not certain --

15 Q. At his entries --

16 A. Oh, right, his attestations, and everything.

17 Q. Right.

18 A. I'm pretty sure I cannot access those, yes.
19 That's his billing record and billing --

20 Q. So one of the things --

21 A. -- billing departments, et cetera -- I'm
22 sorry.

23 Q. One of the things that Dr. Nelson, himself,
24 charted was that he was medically directing the case;
25 correct?

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1 A. Yes, sir.

2 Q. And medically directing the case is important
3 because you, as a nurse anesthetist, under state law
4 are not allowed to administer drugs like Propofol
5 unless you're acting under the supervision of a medical
6 doctor?

7 A. Correct, yes.

8 Q. And now when Dr. Nelson says that he's
9 medically directing the case, I mean, that's true;
10 right?

11 A. Absolutely. We made a -- we made a plan and
12 agreed upon what we would do with Mr. Mikell.

13 Q. He was directing your care and he was
14 supervising what you were doing?

15 A. Yes. Yes.

16 Q. And that's why he's making this entry right
17 here, attesting that he was present to direct and
18 supervising what you were doing?

19 A. Yes, but they are not necessarily present
20 during the entire case. The plan is made, and he may
21 step in, like he did, and check on things. If all is
22 well, then they will, you know, a lot of times they
23 will step in and out.

24 Q. And the other thing that we see under his
25 initials is that he's present for induction and he's

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1 timed that at 7:48; right?

2 A. All right, sir, uh-huh.

3 Q. But you've also got an entry under your
4 initials that's timed at 7:48, and this is saying that
5 he's coming into the room when the nasal airway goes
6 in?

7 A. Correct.

8 Q. Okay. So which -- which -- which one is true?

9 A. Which one is true as far as?

10 Q. Well, so he's saying that he's medically
11 directing the case, that he's present for induction of
12 anesthesia at 7:48. You've got at 7:48 that he's
13 coming in and the sats are coming up, and the -- you're
14 putting in a nasal airway; did that happen at the time
15 --

16 A. Not when I started the -- the initial Propofol
17 drip, no, not to my recollection.

18 Q. So, again, we can agree that Dr. Nelson was
19 not actually in the room at the time that Mr. Mikell
20 was administered the Propofol?

21 A. That's when I initiated the Propofol drip, not
22 to the best of my knowledge.

23 Q. And, again, it was your testimony that the
24 Mayday record shows when he came back into the room and
25 that that's the only record that actually provides that

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1 time?

2 A. Which time exactly now are you talking about?

3 Q. The time when Dr. Nelson came back into room.

4 A. Into the room at 56?

5 Q. Right.

6 A. Yes.

7 Q. That this was something that you were relying
8 upon the Mayday record, in order to be able to chart
9 that and recreate it --

10 A. I was -- I was correlating that time because a
11 lot went -- went on in that minute, minute and a half,
12 yes, when we turned him, started masking him, and
13 called a code.

14 Q. All right. Now, I want to try to wrap this
15 up. Plaintiff's Exhibit 10 is the audit trail that
16 shows every time somebody accessed this narrative part
17 of the record and changed it; you've seen this?

18 A. I believe I have, yes, sir.

19 Q. All right. So let's put this on the overhead.
20 And the first thing that we see -- I hope folks can see
21 this -- so the first thing that you see that's been
22 highlighted is over here in the right hand column, at
23 8:30 in the morning on October 1, Dr. Nelson has logged
24 in?

25 A. Right.

DONNA EMBREY -- DIRECT

1 Q. And he has created this entry that he came
2 into the room and the patient was hypoxic. That's a
3 memo, that's something he enters into the memo field;
4 and he's indicated that that took place at 8:00 a.m.;
5 correct?

6 A. Yes, sir.

7 Q. And then what we see here is that you have
8 come along at 5:34, later that evening, and you've
9 modified that entry in order to push that time back by
10 four minutes; correct?

11 A. Yes, and reflect that he came into the room,
12 helped us turn the patient, and then just when
13 Mr. Mikell was becoming unstable, yes.

14 Q. And as we've seen, just a moment ago, you were
15 doing that based on information that you say was in the
16 Mayday record?

17 A. To the best of my knowledge, yes.

18 Q. Now, the other thing that you've done is
19 you'll see there's an entry, and you had initially
20 created this at 5:35 on October 1st. And this
21 indicated when Dr. Nelson came in with this nasal
22 airway; right?

23 A. Right.

24 Q. And this shows that initially the system times
25 it at 1734?

DONNA EMBREY -- DIRECT

1 A. Right.

2 Q. And then you changed it to be 7:50?

3 A. Right.

4 Q. And then it was changed again, but it stayed
5 at 7:50. And then it was changed again, and now it's
6 at 7:48 --

7 A. Forty-eight.

8 Q. And it's changed now a fifth time and now it's
9 at 7:48, and that was last done at about 6:22?

10 A. 6:22 on 10/1, yes.

11 Q. Now, what we're seeing here is you're
12 spending -- I mean, between 1735 and -- I'm sorry --
13 between 6:18 and 1822 -- that's almost two hours that
14 you're spending trying to rearrange these entries;
15 right?

16 A. Yes. I don't -- I don't recall looking at
17 things at -- at 4:00. I recall looking at them between
18 5:30 and 6:30 in the evening, so.

19 Q. All right. So you've changed it --

20 A. I'm not sure I was at -- I'm not sure at
21 4:18 -- I'm not sure where I was when I was looking at
22 it or -- actually, the time is same, so I didn't -- I
23 didn't actually change it at 6:22. But I don't -- I
24 don't recall where I was at 4:18, looking at the record
25 or -- yeah.

DONNA EMBREY -- DIRECT

1 Q. I guess the point would be that at 4:18 you
2 begin looking at that entry? All right.

3 A. Yes.

4 Q. And it's not until about two hours later that
5 you're finally satisfied with being able to say that
6 you want to leave that at 7:48?

7 A. Yes, sir. Because in the MSICU, between 5:30
8 and 6:30, was where I had access to the -- to the
9 Mayday record that I was looking at, I think, to get
10 timing accurate and -- as accurate as possible in the
11 narrative.

12 Q. Then the other thing that we see is, again,
13 there's your initials --

14 A. Uh-huh.

15 Q. -- and in the 4:19 to 4:30 timeframe, you're
16 coming in and creating an entry that Dr. Nelson has
17 left the room?

18 A. Right.

19 Q. And initially you put down a time of 7:50?

20 A. Right.

21 Q. And then you back that up to be 7:51; okay?

22 A. Right.

23 Q. Now, I want to finish up with this exhibit.
24 So what we've done on this first page is you've added
25 four minutes on that first change; correct?

DONNA EMBREY -- DIRECT

1 A. Yes, sir.

2 Q. All right. Then on the next change, you've
3 added two minutes, for a total of six; right?

4 A. Added two minutes meaning -- I'm sorry.

5 Q. Well, two minutes that doctor -- you've got
6 Dr. Nelson coming in the room two minutes --

7 A. Oh, where -- where I subtracted?

8 Q. Right.

9 A. Two minutes, yes.

10 Q. Right.

11 A. Yes.

12 Q. So it goes from 8:00 to 7:56. That's got him
13 coming into the room four minutes earlier?

14 A. Yes. Yes.

15 Q. Okay. It goes from 7:50 to 7:48, that's
16 another two minutes? All right.

17 A. I imagine, if I might explain, Mr. Ransom, I
18 imagine that looking at his attestation, and when he
19 came in and computer charted his attestations, I was
20 looking at that time that he entered the room. Because
21 I knew that Mr. Mikell was still lateral, that I put a
22 nasal airway in. Eric inquired about it, and I said
23 everything was fine. That his sats had come back up
24 and he -- and he was -- and he was doing well. He was
25 stable at that time.

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1 So I was -- I was backing it up to 7:48, because
2 I knew he was in the room, and I knew all of that
3 occurred within about two to three minutes when he
4 stepped in the room.

5 Q. Okay. And then the last change that you made
6 was this time when he goes out?

7 A. Yes.

8 Q. And you change that from 7:50 to 7:51, so
9 that's another minute. Four plus two, plus one is a
10 total of seven minutes. And that would be the ultimate
11 consequence of those three changes that you made in the
12 record would be to have Dr. Nelson present in the room
13 for an additional seven minutes?

14 A. Well, he was -- while the procedure was going
15 on, he was in there from 48 to approximately 51. He
16 spent two to three minutes in there charting, asking me
17 about the nasal airway, and my reply. In general, just
18 two to three minutes that he spent in the room. And
19 then the next time he stepped in was when we were
20 turning Mr. Mikell on to his back.

21 Q. So in this circumstance where your patient is
22 undergoing this critical desaturation process we see
23 with this V right here that ultimately leads to his
24 cardiac arrest, the fact of these various changes that
25 you've made in the chart, is to put Dr. Nelson back in

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1 the room for another seven minutes while all of this is
2 going on; right?

3 A. No, sir. I note that he walked in and out
4 during the middle of the procedure. And then I note
5 when he walked back in and Mr. Mikell became unstable
6 and we started CPR.

7 Q. Now, do you remember at your deposition in
8 February -- I marked an exhibit that had this graph on
9 it -- and -- and I think it was page 499. And this was
10 the 15 minute record. I'll put this on the overhead as
11 well. All right. And you'll recall we had a fairly
12 lengthy discussion?

13 A. Yes.

14 Q. Where I was asking you to please tell me what
15 time it is -- what time it was when that desaturation
16 shows on that graph -- remember that?

17 A. I do.

18 Q. Okay. And I was asking you with respect to
19 where that graph starts right there, Ms. Embrey, can
20 you tell me what time it is when that starts -- when
21 that line starts plotting that downward trend?

22 A. Respectfully, Mr. Ransom, I've seen this same
23 graph on the one minute, the five minute, and the 15
24 minute records. So it does not seem to expand
25 accurately to the timeline, the data graph. I would

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1 prefer it -- look at a number of variables, or
2 something else other than that graph.

3 Q. Well, do you remember at one point in time --
4 I think you told me that you felt that graph was
5 accurate?

6 A. I mean, it accurately reflects a -- a dip in
7 his saturation.

8 Q. Okay.

9 A. I will -- I will concede that, but I cannot
10 tell exact times and exact numbers from that graph.

11 Q. Well --

12 A. I have seen it on several different timelines.

13 Q. Yeah, I mean, there's been a lot with all
14 these different graphs that we've had, there has been
15 some question as we look at these records, and some of
16 them are a 15 minute graph, and some of them are a one
17 minute graph, and some of them are a 10 second graph.
18 And we've all had some consternation about the fact
19 that none of them seem to show the same thing. But
20 when I've asked you about it, you've told me, Mr.
21 Ransom, it's the graph that's on page 499, that I
22 believe is accurate; right?

23 A. I don't recall saying that. I might have felt
24 like it was the most accurate representation of the
25 graph, but it's difficult to kind of speak to numbers

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1 and everything when you see it on so many different
2 timelines. I'd rather just look at the numbered
3 variables at the top of the page.

4 Q. Bear with me. Okay. So here at your
5 deposition in February, and this is at page 163 we're
6 talking about this. And I'm saying, "Can you identify
7 by the document control number what part of the record
8 you're looking at?" And you say, "This looks much more
9 accurate." And we go down here, and you say -- we are
10 talking about the page numbers -- and you -- I asked
11 you, it's 499 of 2,115. And I asked, "So is that an
12 accurate representation of the real time graph?" And
13 your testimony was, "It appears to be much more
14 accurate."

15 A. Than the one and five minute graph on the
16 timeline that you had shown me, yes.

17 Q. Okay. And, again, this is the 15 minute
18 record; right?

19 A. Yes, sir.

20 Q. That at various times you and various other
21 witnesses have told me -- because I'm trying to
22 understand this. I'm being told, no, this is the one
23 that's accurate and reliable. The question that I
24 imposed to you in your deposition was, looking at where
25 that downward sloping line starts to plot, which is the

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1 desaturation, I asked you, can you tell me what time is
2 it when that starts going off the cliff. And you told
3 me -- your answer at your deposition was, You thought
4 that all started at 8:00; do you remember that?

5 A. I do not recall that, no, sir.

6 Q. We got to that part -- again, if you'll turn
7 your attention to the real time graph on page 499, is
8 that accurate? It appears that it is more accurate
9 than the last one. And I asked, "What time does that
10 get started?" And I asked you, "About 7:42?" And you
11 said, "No".

12 And I asked you again, "Well, where does that
13 start? What does that represent in that block where
14 that V starts, what time" -- that's my question --
15 "What time does that start?" And you said, "So, it
16 looks like close to 8:00." And I said, "Is that your
17 answer?" And you said, "Yes, sir." "That drop in his
18 02 sats starts at 8:00; that's your testimony?" And
19 you said, "It looks like the data that is recorded on
20 the 15 minute data graph is starting right about 7:45,
21 7:46, when she got the chart up and running. It looks
22 like that's just when the data starts kind of coming
23 across."

24 A. Yes.

25 Q. Okay. So you first said 8:00, but then you

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1 kind of changed that to about 7:45 to 7:46; right?

2 A. That would have been more accurate because
3 that was the -- the Propofol was started. I believe we
4 had kind of started the procedure. That, to me, I
5 think would have been a little more accurate. I might
6 have been answering what the lowest part of the V,
7 where that was falling at the 8:00 mark. I'm not
8 certain.

9 Q. Okay.

10 A. Like on this 15 minute, it appears that it
11 started shortly after 45 --

12 Q. Right.

13 A. Like 46, 47, and that's when -- that's when I
14 put the nasal airway in, and it pops back up to 94.

15 Q. 7:45 or 7:46, which would be during this time?

16 A. Yes.

17 Q. That you're on the phone, sending text
18 messages, trying to fix the problem. I don't have any
19 other questions.

20 A. Mr. Ransom, if I may? I --

21 THE COURT: No, ma'am, you may not.

22 A. Oh, yes, sir.

23 THE COURT: You can answer any questions. You're
24 not going to volunteer anything. Mr. Cooke, do you
25 want to start the cross -- I mean, I don't how long

DONNA EMBREY -- DIRECT

1 it's going to take. Do you want to take a lunch break
2 now, and come back, or do you want to start now?

3 MR. COOKE: If I have a choice --

4 THE COURT: I don't how long you're going to take
5 and I don't want to cut you short.

6 MR. COOKE: I would have to be interrupted, I
7 think, for lunch if I started now, so.

8 THE COURT: That's what I'm saying, do you want to
9 go ahead and take lunch now?

10 MR. COOKE: Yes, that would be fine.

11 THE COURT: And do all the cross at one time?

12 MR. COOKE: Yes, please.

13 THE COURT: Okay. That's fine. All right. Madam
14 Forelady, ladies and gentlemen of the jury, it's
15 12:15 -- be back in the jury room at 1:45, and we'll
16 continue at that time.

17 Please don't discuss the case with anyone else.
18 Leave your notepads -- which juror has a doctor's
19 appointment -- if you'll raise your hand.

20 (Juror complied.)

21 THE COURT: Okay. I'll let you know just as soon
22 as I can. Okay. Thank you very much for asking. See
23 you at 1:45.

24 (WHEREUPON, the jury leaves the courtroom at
25 12:17 p.m.)

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1 THE COURT: Anything from the Plaintiff before we
2 break for lunch?

3 MR. RANSOM: Nothing, Your Honor.

4 THE COURT: Thank you. Anything from the
5 defendant?

6 MR. COOKE: Nothing, thanks.

7 THE COURT: All right. Mrs. Embrey, I will tell
8 you, again, please, don't discuss the case with anyone
9 during the lunch break; do you understand?

10 THE WITNESS: Yes, sir.

11 THE COURT: All right. Thank you very much. See
12 you at 1:45.

13 (WHEREUPON, a lunch break was taken.)

14 (WHEREUPON, Court's Exhibit Nos. 2 and 3
15 marked.)

16 THE COURT: Anything before we bring in the jury?

17 MR. RANSOM: I would like to offer into evidence
18 the various exhibits that we used during the
19 examination --

20 THE COURT: Which ones?

21 MR. RANSOM: Permit me to get them in order here
22 for just a second. Plaintiff's Exhibits 1, 2 --

23 THE COURT: I think 2 is already in, isn't it?

24 MR. RANSOM: Okay --

25 THE COURT: It's in.

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1 MR. RANSOM: Four.

2 THE COURT: It's in.

3 MR. RANSOM: Five?

4 THE COURT: It's in.

5 MR. RANSOM: Six, 7, 8.

6 THE COURT: Eight -- eight is not in.

7 MR. RANSOM: All right. We'd offer that. Ten,
8 11, and 51.

9 THE COURT: Fifty-one?

10 MR. RANSOM: Fifty-one. And that's not on the
11 list.

12 THE COURT: I think 51 has already been introduced
13 -- all right -- does the defense have any objection to
14 1, 8, 10, and 11?

15 MR. COOKE: No objections.

16 THE COURT: All right. One admitted without
17 objection; 8 admitted without objection; 10 admitted
18 without objection; and 11 admitted without objection.

19 (WHEREUPON, Plaintiff's Exhibit Nos. 1, 8, 10 &
20 11 admitted into evidence.)

21 THE COURT: Anything else that you've overlooked
22 that you need to admit?

23 MR. RANSOM: Exhibit -- yeah, 51, which isn't on
24 the list, Judge. That was the --

25 THE COURT: Well, I think we've already admitted

1 that during the trial -- is that correct?

2 COURT REPORTER: Yes.

3 THE COURT: Fifty-one has already been admitted.

4 MR. COOKE: Do we have -- you say 1, 2, 3, 4, 5
5 and 6 are already in?

6 THE COURT: Yeah. One -- one through 12 are
7 already in; 14, 15, 17 through 31, 39, 40, 46 & 51.
8 And the -- the -- all right. Anything else that you
9 want to talk about admitting while we're talking about
10 that you haven't admitted -- or offered?

11 MR. RANSOM: Nothing at this time, Your Honor.

12 THE COURT: Okay. All right. Anything from the
13 defense before we bring the jury?

14 MR. COOKE: Nothing.

15 THE COURT: All right. Bring us the jury, please
16 sir.

17 (WHEREUPON, the jury enters the courtroom at
18 approximately 1:54 p.m.)

19 THE BAILIFF: All jurors are present, Your Honor.

20 THE COURT: Thank you very much.

21 MR. COOKE: Thank you, Your Honor.

22 **CROSS EXAMINATION BY MR. COOKE:**

23 Q. Good afternoon, Ms. Embrey.

24 A. Good afternoon, Mr. Cooke.

25 Q. I'm going to sort of break this up into two

1 parts. And I'm going to start by asking you some
2 questions about the same thing that Mr. Ransom asked
3 you about, the records, and how records are kept and
4 what you did to the records and so forth. And then
5 we're going to spend a few minutes talking about what
6 you actually did that day for Mr. Mikell; would that be
7 all right?

8 A. Yes, sir.

9 Q. So let's start with trying to understand how
10 these records work. Let's start with Plaintiff's
11 Exhibit 3. Now, you can watch this on the monitor
12 right in front of you.

13 A. Yes, sir.

14 Q. And I'm going to zoom out a little bit.
15 You've already seen this several times. Can you read
16 that on your monitor?

17 A. I can.

18 Q. Would you tell the jury what this document is?

19 A. So this represents one of the pages in the
20 PICIS record that reflects the values that are coming
21 over from the monitor in numerical form, as well as
22 graphic form.

23 Q. All right. And does that look, other than the
24 red markings on here, does it look kind of like this?

25 A. Yes, sir.

1 Q. Okay. And is this what we've been referring
2 to as the 15 minute chart?

3 A. That's correct.

4 Q. Why do we call it -- why do you call it that?

5 A. Because it is being recorded. It has a time
6 line -- I'm sorry -- of 15 minute increments on the
7 across axis.

8 Q. And that's reflected across there -- across
9 the top?

10 A. Yes, sir.

11 Q. Now, we notice that there are all these words
12 down the left hand side -- what do those mean?

13 A. FIO2 is the percent of inspired oxygen. That,
14 generally speaking, is an estimation -- especially if
15 you have a nasal cannula on. It's an estimation of
16 what the monitor is picking up. That number is a lot
17 more accurate if you're intubated, and it's in the
18 breathing tube and out the breathing tube. SPO2 is --

19 Q. I'm sorry -- that FIO2, is that the -- is that
20 the concentration as it goes into the patient?

21 A. It is, yes, uh-huh, that's being delivered to
22 the patient, yes. SPO2 is the oxygen saturation.

23 Q. And that's the number we've been talking about
24 a lot this week; right?

25 A. Correct.

1 Q. Oxygen saturation. What does that -- what
2 does that tell you generally?

3 A. It tells us that the patient is getting -- is
4 getting enough supplemental oxygen for whatever it is
5 going on, the procedure or your anesthetic that you're
6 delivering, or both concurrently.

7 Q. Okay. And so that number --- like where it
8 says 47.5, 83.5, that's a percentage?

9 A. Correct. And as I understand it on the 15
10 minute across axis -- the numerical values that are
11 popping up are averaged in the PICIS system. It's not
12 a --

13 Q. We're going to get to that in a minute.

14 A. Exactly. Right. Right.

15 Q. So a healthy, normal person, would you want it
16 to be ideally in the -- in the 90s if you're not under
17 any distress or so forth?

18 A. Yes, sir. You know, preferably 93, 94, or
19 above -- above that.

20 Q. And then is there a general number that is
21 considered not compatible with life?

22 A. Well, less than -- less than 90 -- less than
23 90, you become concerned and try to do something
24 differently.

25 Q. Good.

1 A. You know with the airway, or add an airway
2 device maybe to support, or back off on your
3 anesthetic, or all of above. So, you know --

4 Q. We'll keep that in mind as we talk this
5 afternoon that -- less than 90 is when you start
6 thinking that you needed to do something for the
7 patient?

8 A. Exactly.

9 Q. Okay. Not necessarily an emergency?

10 A. But you -- if it's trending downward and not
11 getting better immediately, then you need -- you need
12 to do something different, yes, generally speaking.

13 Q. What is the next one down?

14 A. End Tidal CO2, which is the -- as much as the
15 -- again, the device that you're using can train --
16 this is your expired end tidal CO2, what's coming out
17 as you breathe out. Again, if you're -- if you're
18 delivering oxygen via cannula, it's in training and
19 giving you a -- a general range on that number.

20 If you have a breathing tube down, it's in the
21 tube, out the tube, so it's very much more accurate, I
22 would say, than a nasal cannula. But that is that
23 number. It's your expired end tidal -- end tidal CO2
24 at the end of a tidal volume breath, what is that
25 number.

1 Q. Is that tidal like tides, t-i-d-a-l?

2 A. Tidal volume as in lung volume.

3 Q. The word tide -- spell that?

4 A. In other words, tidal volume -- t-i-d-a-l,
5 right. And it -- it beads at the end of a breath, you
6 know, your tidal volumes are how much you're taking
7 into the lungs. So it's at the end -- it's at the end
8 of expiration, what that number is.

9 Q. Okay. All right. Then the next one down is
10 Des out percentage, what does that mean?

11 A. Right. So that's Desflurane the expired
12 percentage. And Desflurane is one of the anesthesia
13 gases that we have on -- on our anesthesia machine, so
14 how much is being -- you may be dialed in at a certain
15 percentage, but what's been expired by the patient out
16 the breathing tube is a more accurate number. It's a
17 more accurate reflection of what the patient is
18 receiving. And it may be a little less or it may be
19 significantly less than what you've got dialed in.

20 Q. All right. Then the EKG rhythm, what is that?

21 A. Correct. So that is your -- that is your --
22 your electrocardiogram reading. That is exactly what
23 is going on. With that, we -- our monitors default to
24 lead to and de-lead -- so with an anterior and inferior
25 lead at the same time. We pretty much do that for

1 everyone.

2 Q. Okay. And SR is good; right?

3 A. Correct. That's sinus rhythm.

4 Q. Okay. And PEA is bad?

5 A. Pulseless electrical activity, yes. You have
6 activity on your EKG that you have no pulse.

7 Q. All right. RSPN -- is that what that says --
8 or what is that next thing down?

9 A. Yes, uh-huh. Respirations per minute.

10 Q. Respirations per minute. Okay.

11 A. Correct.

12 Q. Then tidal volume, what is that?

13 A. Yeah, so that's -- that again, more accurate
14 when you have a breathing tube down. It can tell you
15 exactly what's being delivered and accepted by the
16 patient's breathing tube via the ventilator on the
17 anesthesia machine. With a nasal cannula, it's an
18 estimate. It's an estimate because all you have is --
19 is the cannula prongs in the nose. You don't have
20 anything actually in the -- in the lungs.

21 (Court Reporter Interruption.)

22 BY MR. COOKE:

23 Q. She's trying to take down everything you say,
24 so just slow down a little bit.

25 A. Right. Right.

1 Q. Did you finish talking about tidal volume?

2 A. I did.

3 Q. What about PIP?

4 A. So peak inspiratory pressure is the amount of
5 pressure that the ventilator on the anesthesia machine
6 senses as you're delivering oxygen.

7 Q. And so that -- that would reflect how much
8 pressure is being put on the oxygen -- on the air going
9 into the patient?

10 A. Exactly. Again, this would be a more
11 applicable relevant and efficient -- efficiently
12 documented number once you have the breathing tube
13 down. You're looking that you're not forcing in too
14 much air and causing any trauma to the lungs. So you
15 want your peaks, generally speaking, about 12, 13, 14.

16 Q. Okay. And I think I know what the next one
17 is, temperature; and you do it in Celsius?

18 A. Correct, uh-huh. That's skin, esophageal,
19 nasal. We have many ways to -- to monitor that.

20 Q. Now, while I've got this one up here, what of
21 those -- how do those numbers get into that chart?

22 A. So, there is a cable that -- as I understand
23 it, my rudimentary understanding of it -- is that there
24 is a cable that runs from the Phillips monitor and our
25 anesthesia machine into the computer system. And it's

1 captured by PICIS, our program, when we pull up that
2 patient and that data on that machine in that room.

3 Q. Now, which of those numbers up there are --
4 are entries -- are entered by a machine and which are
5 entered by a human being?

6 A. As I understand it, all of the -- all of the
7 entries are the machine data that comes over.

8 Q. How about the rhythm, the heart rhythm, PEA
9 and SR, does that have to be entered by a person or is
10 that --

11 A. Yeah, because a lot of times, there is --
12 that's one of them that I know that we can edit.
13 The -- a lot of times, there's artifact on the EKG, and
14 it may pick it up as some type of arrhythmia, which it
15 is not. It may, in fact, just be sinus rhythm and
16 somebody's -- somebody's moving or something, and it
17 picks it up as an arrhythmia, and you would go back in
18 and, you know, correct that if you needed to if it was
19 picking it up differently, so.

20 Q. Can you do that in real time as you're sitting
21 there?

22 A. You absolutely can, uh-huh.

23 Q. Okay. Now, but those other values, are
24 those -- are you supposed to leave those alone? Those
25 are what the machine says they are?

1 A. As I understand it, yes.

2 Q. Well, let me ask you, do you change those
3 numbers?

4 A. No. No.

5 Q. Now, one thing about this particular chart is
6 it's divided into 15 minute intervals, but we know --
7 we know that those values are measured how often?

8 A. Okay. So they are measured like every
9 second -- every second, they are -- they're being
10 monitored.

11 Q. So when you're sitting in the room monitoring
12 the patient, are you looking at this chart, or are you
13 looking at some other monitor as to the continuous
14 numbers?

15 A. No. Because the computer chart is right here,
16 and the actual patient monitor and patient are right
17 here. So once we get started, I'm keeping my eye on
18 the monitors.

19 Q. Right. But I mean what are you -- are you
20 actually working with as you are -- you're monitoring
21 the patient? In a few minutes, I'm going to -- in a
22 little while, I'm going to show you the picture of the
23 room. But are you looking at this 15 minute chart to
24 assess the patient, or are you looking at other
25 indicators -- or monitors? Do you understand my

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1 question?

2 A. Not really. Not really.

3 Q. We are sitting here looking at this chart as
4 it records these numbers every 15 minutes.

5 A. Correct.

6 Q. But I think you testified that you're actually
7 monitoring it on a continuous basis?

8 A. Oh, yes. Oh, yes, like beat to beat.

9 Q. All right.

10 A. And you have the pulse -- you have the pulse
11 tone, obviously, on your O2 stat. That's an ASA
12 standard. So it defaults, and it comes on at a pretty
13 good volume level so everybody can hear it.

14 Q. So, when I -- when I look at these numbers, I
15 see the first entry as under the number that says 7:45,
16 does that -- does that represent the 15 minute interval
17 between 7:45 and 8:00?

18 A. As I understand it, yes.

19 Q. Okay. Do you know how the machine decides
20 which of those myriad of numbers that it -- that it
21 detected between 7:45 and 8:00 get put in that box?

22 A. Okay. So I have come to understand that it's
23 a result of an average.

24 Q. Okay.

25 A. That is a result of the average of 15 minutes

1 worth of beat-to-beat monitoring.

2 Q. Some kind of average?

3 A. Correct.

4 Q. So if we go down to the bottom of this, what
5 is that?

6 A. So this is supposed to be your real time data
7 graph of your SP02, your systolic and diastolic, the
8 blood pressure. Your mean blood pressure, your O2 sat,
9 and your heart rate.

10 Q. What do you use that for?

11 A. What do I use the real time data graph for?

12 Q. Yes.

13 A. Nothing. It is printed out with the record.
14 I'm -- I'm watching my patient and I'm watching the
15 numbers on the monitor. This is what's printed out
16 later.

17 Q. For somebody looking at the chart afterwards,
18 is that intended to give them an idea of the trends
19 that took place over time?

20 A. I would say so.

21 Q. And are those in color, normally, when you get
22 the original chart?

23 A. Yes, yes, they are.

24 Q. So they would be different colors for
25 different things?

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1 A. Yes, sir.

2 Q. So do those -- on this particular version of
3 this chart, are those numbers intended to roughly line
4 up with -- with the graph below it?

5 A. So I believe they are intended to roughly line
6 up with -- with the numerical values that are at the
7 top.

8 Q. When the patient is actually in the hospital
9 and you're taking care of them, do you print out a
10 version of this to go in his chart?

11 A. Yes. So, generally speaking, after anesthesia
12 is finished with the chart, and they go to the recovery
13 room or they go to the unit, if you turn -- if we turn
14 them over to recovery room, generally, recovery room
15 continues the record and prints the record that goes
16 with the patient on the chart.

17 If you're in DDC, again, you go to a recovery
18 area and they're supposed to finish the chart as it is
19 like a procedural anesthesia and postop chart, printed
20 and it goes on the -- on the chart as complete for the
21 procedural areas.

22 Q. And which version of that -- of this chart do
23 you normally print for the record, is it the 15 minute
24 version or the one minute version, or some other
25 version?

1 A. I'm -- I'm not sure. It may -- it may have to
2 do with whoever is printing the chart, and what their
3 -- what their default settings are. You know, when we
4 are monitoring and looking at it, you know, when we
5 were using PICIS, we could opt to look at a one minute,
6 a five minute, a 15 minute chart in numerical values
7 and everything is -- we could kind of decide what our
8 default was, that we were looking at, as the case was
9 going on.

10 When it gets printed, I'm not certain. Because
11 when PICIS was in its infancy, like the first year or
12 two, it would print out a lot of pages that didn't need
13 to be, like 200, and some of them were blank. So I
14 believe they eventually tried to kind of pare it down,
15 if they could to to the -- to the 15 minute version was
16 my understanding from other people just in general.

17 Q. But in your experience, by the time it's
18 printed out, you're done; right?

19 A. Oh, absolutely, yes.

20 Q. I'm going to show you -- hand you a stack of
21 papers that's been marked as Defendant's Exhibit 6, and
22 ask you to look at it, and tell us if that appears to
23 be the one minute version printout?

24 A. It appears to be the one minute version, yes,
25 uh-huh.

1 MR. COOKE: Your Honor, we would offer this into
2 evidence.

3 THE COURT: What's the number?

4 MR. COOKE: Defendant's Exhibit 6. And it's the
5 one minute version of the section of the chart.

6 MR. RANSOM: No objection.

7 THE COURT: Exhibit 6 admitted without objection.

8 (WHEREUPON, Defendant's Exhibit No. 6 was
9 admitted into evidence.)

10 BY MR. COOKE:

11 Q. Now, all of that was a long winded
12 introduction to one question that I just wanted to ask
13 you about. When I look at a page that has a lot of the
14 same data; do you see that?

15 A. Yes.

16 Q. And this one is broken up in one minute
17 intervals; correct?

18 A. Yes, I see it.

19 Q. But do you see that that graphic part of it
20 down there, looks exactly the same as the version
21 that's in the 15 minute chart?

22 A. Yes, yes, I do.

23 Q. And do the numbers -- do the times match up on
24 the one minute version with the -- with the -- with the
25 actual data?

1 A. They do not.

2 Q. Do you have any idea why that happens when
3 they try to print this thing in a one minute version?

4 A. I do not.

5 Q. Am I right when I look at that and say, it
6 looks like that software somehow just takes the exact
7 same graph and sticks it on the -- on the one minute
8 chart?

9 A. That's my thought, exactly.

10 Q. So would it be a good idea to rely on this
11 chart down here when you're looking at the one minute
12 version?

13 A. No, it would not.

14 Q. Is it even each possible for this chart to
15 have been created, given that there's no data above it?
16 In other words, do you see there's a thing there that
17 says one of those lines is for oxygen saturation?

18 A. Yes.

19 Q. But when you go above that, there's no number
20 at 7:35 in the oxygen saturation?

21 A. I see that, yes.

22 Q. You see that?

23 A. I do.

24 Q. And is that consistent with your recollection
25 that the machine, although -- although it was showing

DONNA EMBREY -- CROSS

1 you what the saturations were --

2 A. Yes.

3 Q. It was not recording them to this chart at
4 that time?

5 A. Absolutely.

6 Q. And does that show that it began recording,
7 all that -- data looks like at 7:48?

8 A. Yes.

9 Q. And that SR, is that -- is that because you
10 were able to enter that, or some human being was able
11 to enter that data manually?

12 A. Yes. So part of the assessment and position
13 checks, as I recall it from PICIS, is that you --
14 depending on how often things change, you can do it
15 every one minute, every five or every 15. Most of us
16 did every 15. A rhythm, you would enter. A patient
17 position, it was kind of like a -- a way to
18 electronically record check patient position, very
19 important.

20 Because when you have an anesthetized patient,
21 you're checking on their position, making sure the
22 pressure points and everything are good. And this is
23 part of the record that we could actually manually
24 enter along the way, still in sinus rhythm, still in
25 left lateral, oxygen being delivered via nasal cannula.

1 So it's a -- it's kind of like an assessment check
2 however often you deem it necessary.

3 So as I understand it, sometimes it will be --
4 the assessment will kind of back populate to -- to the
5 time that the anesthetic was started.

6 Q. And we'll get into -- we'll get into the
7 anesthesia starting in a few minutes. When you're
8 sitting in the room, and you're watching your monitors,
9 is there any audible information coming to you as well?

10 A. Absolutely. So it's an ASA standard that the
11 tone be on pulse ox, so that everyone can hear it at
12 all times. Obviously the anesthesia provider is the
13 one that needs to hear it. Our machines now default to
14 volume level of three, which is pretty normal. Three
15 when you hear actually in the room -- in the procedural
16 area or in the OR. So sometimes I'll turn it down a
17 little bit because it's very quiet and I really need to
18 hear it. And, you know, it doesn't need to be blaring.

19 Q. And those are the things -- you're supposed to
20 check those before you start the procedure to make sure
21 that they're all working; right?

22 A. Oh, absolutely, yes.

23 Q. The lines --

24 A. Oh, yes, uh-huh.

25 Q. I want to ask you about another record that

1 Mr. Ransom asked you about. And he was suggesting to
2 you, I believe, that sometime between two -- October of
3 2010 and 2013, that somebody had monkeyed with the
4 narrative notes. And I believe you said that it wasn't
5 you, if anybody did that. But I want you -- I want to
6 look at the records for a second, and just see what, if
7 anything, was actually changed in that interval of
8 time?

9 A. Yes, sir.

10 Q. And he was looking specifically at what
11 occurred at 7:48; do you remember that?

12 A. Yes.

13 Q. I'm going to put these boards up here so you
14 can see them. And I'm going to show you what he showed
15 you, this is -- this was a printout of the anesthesia
16 record -- it was printed out on October 2nd, 2010; do
17 you see that?

18 A. Yes, sir.

19 Q. And I know it's a little hard to read back
20 there, but the 7:48 entries are right here?

21 A. Yes.

22 Q. 7:48, 7:48, 7:48 --

23 A. Yes.

24 Q. -- 7:48 and 7:48 and a 7:48; do you see that?

25 A. Yes, I do.

1 Q. These are all -- these are all entered by
2 human beings; right?

3 A. Yes. Uh-huh. They are narratives, uh-huh.
4 They're narratives where -- in Eric's case, his
5 attestations that are the first four entries, I think,
6 are automatic. He -- yes, I was available. Yes, I
7 was -- you know, right. But, yes, otherwise, you type
8 in your narrative.

9 Q. And then this was the version that was printed
10 out on April 2nd of 2013, according to that; do you
11 remember seeing that?

12 A. I remember seeing that date.

13 Q. Okay. Now, this is actually -- can you tell
14 that this is actually a different record that -- the
15 one up here is called an anesthesia record, and this
16 one here is called an anesthesia PACU record?

17 A. I did not notice that the first time, when I
18 saw it before.

19 Q. Are those different records?

20 A. What it probably means is that PACU has added
21 to it. They've added to the record that has been
22 finalized or printed out.

23 Q. Well, let's look at 7:48. And what we have
24 here are -- it's printed out a little differently, but
25 there's 7:48, 7:48, 7:48, 7:48, 7:48 -- so there are

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1 five entries?

2 A. Right.

3 Q. At 7:48. On this -- this one, there are five
4 entries for 7:48 on that entry?

5 A. Okay.

6 Q. Are any of those entries different in the 2010
7 version from the 2013 version; do you want me to hand
8 this to you?

9 A. No, sir. I can see them. I can see them.
10 Not on the 48 entries, other than -- other than they
11 are like in a different order. It looks like my -- the
12 7:48 entry that I made, about the nasal airway, is in
13 the middle of Eric's attestations is the only
14 difference I see.

15 Q. So is it fair to say that each one of those
16 five entries that Mr. Ransom pointed out to you on the
17 2010 version versus the 2013 version, has the same time
18 and the same information in it?

19 A. Correct. It appears to, yes.

20 Q. Just in that -- just in the computer, when
21 they printed it out, they printed it in a different
22 order?

23 A. It must have been, yes.

24 Q. Well, did you go into that computer and
25 scramble it, so that it would print these in a

1 different order?

2 A. No, sir. Not -- not -- whenever the later
3 record was, no, sir.

4 Q. Does it look -- does it look, based on your
5 knowledge and your examination of these entries, does
6 it look like anybody changed anything in those entries?

7 A. No, sir, not in the entries you're talking
8 about. I see that times have popped up, that weren't
9 in the previous, so there are things that are populated
10 that...

11 Q. At 7:48, everything is exactly the same?

12 A. That's correct. It appears to be, yes.

13 Q. When somebody prints the record, prints a
14 chart, how do you do that?

15 A. On the computer, you go into the patient's
16 record, and hit -- with your mouse, you hit a print --
17 a print button.

18 Q. Does -- does -- does the act of printing a
19 record change the record in any way?

20 A. No, sir, not that I'm -- not that I'm aware
21 of. It just prints what's been generated
22 electronically up until then.

23 Q. And this is going to be a silly question --
24 but if you print it, then shred it, that doesn't change
25 the record either; does it?

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1 A. No, sir.

2 Q. The record remains what it is in this
3 computer?

4 A. Absolutely.

5 Q. And you could print it out a thousand times
6 and it's still going to say what it says? The data is
7 going to be the same?

8 A. Absolutely.

9 Q. Did you discard anything out of Mr. Mikell's
10 chart?

11 A. No, sir.

12 Q. I'm going to show you an audit trail. Have
13 you ever seen one of these things before this
14 litigation started, an audit trail?

15 A. Before the litigation started?

16 Q. Yeah. I mean, is this something you work with
17 in your normal daily life?

18 A. I cannot recall actually looking at one prior
19 to this case.

20 Q. Okay. Were you shown this before your
21 deposition?

22 A. I do not recall being shown that prior to my
23 deposition, no, sir.

24 Q. I'm going to show you what Mr. Ransom showed
25 you. All right. Do you see that?

1 A. I do.

2 Q. This -- this refers to the notations about Dr.
3 Nelson being in the room; do you see that?

4 A. Yes.

5 Q. And it looks like at 1535, which I think is
6 5:35, you went up and you created an entry, and then
7 you modified the entry?

8 A. Yes.

9 Q. Do you see that?

10 A. I do.

11 Q. And then he asked you about the last one there
12 that says 4:18:24 seconds, do you see that?

13 A. Yes, I do.

14 Q. And you couldn't figure out why you would have
15 been in there at 4:18 working on it? And do you think
16 that you and Mr. Ransom might have missed something on
17 the date of that number? Take a look at the date.

18 A. I see the date that I -- that I modified -- it
19 was the next day.

20 Q. Okay.

21 A. But I'm -- I'm looking at it, and it says
22 modified, but I didn't -- I didn't change anything
23 though. Do you follow?

24 Q. Yeah.

25 A. So nothing is changed. I printed a record to

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1 look at it visually on Saturday, but I -- I do not
2 recall editing any of narrative.

3 Q. But according to that, at least, you at least
4 went into the system, into that entry?

5 A. I did.

6 Q. On the second day?

7 A. I did.

8 Q. So -- so just for clarification, it was not at
9 4:18 on the 1st, it was at 4:18 on the 2nd?

10 A. Correct.

11 Q. That you looked at that entry?

12 A. Yes.

13 Q. All right. I'm going to ask you to look at a
14 couple of other things in here. You were challenged
15 about your assertion that Dr. Nelson was in the room at
16 7:48; do you remember that?

17 A. Yes.

18 Q. And was he in there at 7:48?

19 A. He was, because he made his attestations on
20 the computer. And at the time you had to -- you had to
21 -- when a case was on-going, it was my recollection
22 that you had to be actually present in the case and on
23 the same computer that was being charted on with the
24 patient.

25 Q. All right.

1 A. So the anesthesiologist would frequently log
2 you off, log on, do their thing, and then they were
3 done, to cover for their attestations for medically
4 directing and supervising the case.

5 Q. So, do you see Dr. Nelson's name up there at
6 the right?

7 A. I do, I do, yes.

8 Q. And do you see what time he was logged into
9 the computer?

10 A. Yes.

11 Q. Just for clarification, the numbers -- the
12 date and the time on the right hand are when the person
13 was typing into the computer; correct? The -- the
14 numbers on the left hand column are the -- are the time
15 that appears on the chart; correct?

16 A. Correct, yes.

17 Q. So, do you see there that at 7:49, Dr. Nelson
18 created an entry that begins with "anesthesiologist
19 assessed patient" and so --

20 A. Yes. Yes.

21 Q. Are those things there his attestations that
22 you referred to?

23 A. Yes, they are.

24 Q. And where would he have to be to make those
25 entries?

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1 A. In -- in the room, in the procedural area.

2 Q. Okay.

3 A. In the procedure area that the -- that case
4 was going on.

5 Q. So does this audit trail prove, to your
6 satisfaction, that Dr. Nelson was in fact in the room
7 exactly where you said he was at 7:49 a.m. that
8 morning?

9 A. Yes. Yes.

10 Q. Ms. Embrey, there's been a lot of talk about
11 changing records, adding to records, and that -- for
12 lawyers, that's -- that's a pretty dangerous term,
13 "changing records"?

14 A. Yes, sir.

15 Q. I'm going to ask you, is a part of your job to
16 go in after a case is over, when you have time to
17 review everything, is it your job to change that record
18 if there are omissions or inaccuracies in that record?

19 A. I'm very -- I'm very meticulous and take a lot
20 of pride in what I do in the -- in my anesthesia work
21 area, and what I do for patients in the OR and in the
22 procedural areas. So if there has been a lot going on,
23 I try to -- even if it's noncontemporaneous, as in not
24 at the time of the occurrence, I try to make sure that
25 everything is accurately reflected that we gave and did

1 for a patient.

2 Q. But to answer my question specifically, is it
3 part -- is it part of a CRNA's job to go in and make
4 sure that the anesthesia record is correct?

5 A. I mean, I think -- I think it is to the best
6 of my ability.

7 Q. Well, who's going to do it if you don't do it?

8 A. Possibly no one.

9 Q. I mean, is this the only case that you've ever
10 gone in after the case was over, and added information
11 and corrected information?

12 A. No, sir.

13 Q. Is this something that you do day in and day
14 out?

15 A. No, sir, I wouldn't say day in and day out,
16 but a lot of times if there's critical occurrences in
17 the ORs, and you may have helped in the OR or the
18 procedural area, and you have a very unstable patient
19 and five, six, seven of you are busy doing for the
20 patient, and no one is charting for 20 or 30 minutes,
21 then that begs maybe going back and taking a look at
22 it. And usually collaborating with whoever -- someone
23 else that was on the case, or you know using what
24 references you have at your disposal, so.

25 Q. All right. I'm going -- I'm going to bear

1 down on you a little bit here. Mr. Ransom called you
2 to task because when your deposition was taken in
3 August of 2014 --

4 A. Yes.

5 Q. -- you told him that Dr. Nelson had charted
6 under your name?

7 A. Yes.

8 Q. Do you remember that testimony?

9 A. Yes.

10 Q. All right. And I'm going to show you some
11 things from that record, and I'm going to ask you to
12 explain them. Okay?

13 A. Yes, sir.

14 Q. So let me start -- what Mr. Ransom showed
15 you -- this is -- this is the entry we're talking
16 about. Do you see right down there, it says 7:56,
17 "Memo, came into room, patient hypoxic with junctional
18 rhythm, and no palpable pulse"?

19 A. Yes.

20 Q. "ACLS protocol initiated, Mayday team called"?

21 A. Yes.

22 Q. And that's the one, is it not, that in your
23 deposition in August of 2014, you told Mr. Ransom that
24 that was Dr. Nelson charting under your log-in?

25 A. Yes, I believe so, yes.

1 Q. And why did you think that in August of 2014?
2 What was it about that entry that made it look like he
3 was charting under your name?

4 A. Because it says "came into room" at the time
5 that he actually did, and that means he was charting in
6 first person. He thought -- I guess, maybe, you know,
7 under -- under his name -- under his log-in at the
8 time -- do you follow -- he said, I'm logged in.

9 Q. Yeah.

10 A. Inferred that I came into the room, meaning --
11 meaning Nelson.

12 Q. Okay. So in other words, the context of that
13 note makes it clear that it's him writing it, right?
14 Because you're already in the room?

15 A. Of course, yes, yes.

16 Q. So you wouldn't write "came into the room" if
17 he's talking about you?

18 A. Correct.

19 Q. All right. And -- and -- but DBE is you?

20 A. Yes, yes, sir.

21 Q. So does it -- does it look to somebody looking
22 at this record, who doesn't know any better, that it --
23 that it was Dr. Nelson writing about himself or
24 somebody writing about Dr. Nelson, but it's under your
25 initials?

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1 A. Correct, yes. Unfortunately, like I said,
2 when it was -- right when Eric charted it, I believe
3 that he wanted to convey that it was in first person.
4 "I came into the room", meaning Nelson.

5 Q. All right. Now, did you know, when you were
6 sitting there in August -- it was August 24, 2014,
7 wasn't it, that your deposition was taken?

8 A. Yes, sir.

9 Q. Did you remember, as you were sitting there in
10 that room under oath, did you remember having gone in
11 at 5:30 p.m. on October 1st of 2010, almost four years
12 earlier, did you remember having gone in and changing
13 that particular entry yourself?

14 A. I'm not certain if that particular entry was
15 brought up or I confirmed it at that time.

16 Q. In your deposition, when you were shown this,
17 did Mr. Ransom first show you what's been marked as
18 Plaintiff's -- Plaintiff's Exhibit 2, the PACU note
19 showing that same notation being at 8:00?

20 A. I believe so.

21 Q. When did he show that to you?

22 A. I can't be certain.

23 Q. Do you think you -- do you think you saw that
24 note at all before he asked you that question in August
25 of 2014?

1 A. Well, I edited the time on it the very next
2 day. I edited the time narrative.

3 Q. I'm talking about -- we know that. But I'm
4 talking about -- I'm talking about what you knew, as
5 you were sitting there under oath, being questioned by
6 Mr. Ransom in -- August 24, 2014, did you remember at
7 that time that Dr. Nelson had originally written that
8 note at 8:00, and you had changed it to 7:56? Did you
9 remember that as you were being asked that question by
10 Mr. Ransom?

11 A. I can't be certain.

12 Q. Do you remember him -- did he show you the
13 audit trail at that time, to remind you that you had
14 gone in the next day and changed that entry?

15 A. I can't recall.

16 MR. RANSOM: Your Honor, I'm going to object on
17 that point. Because as Mr. Cooke well knows, my office
18 had not yet been provided the audit trail when I took
19 her deposition in August of 2014.

20 THE COURT: What -- what is your legal objection?

21 MR. RANSOM: That he's misrepresenting the record
22 with this witness.

23 THE COURT: All right.

24 MR. COOKE: I think the question was, did he show
25 you the audit trail -- I'll rephrase it.

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1 BY MR. COOKE:

2 Q. Did you -- did you see the audit trail before
3 you were asked that question?

4 A. Not before I was asked the question, I don't
5 believe.

6 Q. So here's our dilemma, you testified earlier
7 that you used the Mayday sheet to help you come up with
8 some of the information that you put into the record?

9 A. Yes.

10 Q. But we don't have that Mayday sheet anymore.
11 So the jury sometime is going to have a problem,
12 they're going to have to decide whether you're telling
13 the truth or not about those times. And one of the
14 pieces, or least materials, that you relied on is not
15 anywhere to be found. Do you have any idea of where we
16 might look in this chart to find some objective data
17 that you couldn't have changed, that corroborates your
18 testimony here?

19 A. Only the numbers and the variables on the
20 anesthesia record.

21 Q. Well, why don't we look at some of those. I'm
22 going to show you the one minute chart. And this is
23 the one that's now been marked as Defendant's Exhibit
24 6. And if you'll remind us what this is.

25 A. Yes, sir. That is the one minute record

1 reflecting numerical variables and EKG rhythm.

2 Q. Now, what numbers would you see change on
3 there once you start bagging a patient?

4 A. Peak inspiratory pressure, end tidal, and
5 FIO2.

6 Q. So that would be this number down there?

7 A. Correct.

8 Q. And the FIO2, those two numbers there?

9 A. Yes, sir. And probably your expired tidal
10 volume in mills --

11 Q. Okay.

12 A. -- as well. Once the patient was -- well,
13 you're manually bag masking them, those definitely
14 would -- would convey at a minimum.

15 Q. So what we see here is this pit number is
16 zero, all the way up to 7:54; is that right?

17 A. Yes, yes.

18 Q. And this FIO2 number, there's a 99 there, but
19 there's a 35, a 26, a 29 --

20 A. Yes.

21 Q. -- 26, 29, what does that indicate to you
22 about the way that the air and oxygen is being provided
23 to Mr. Mikell?

24 A. Via nasal cannula. Because you're only
25 speaking -- again, it's a general range. It's not an

1 exact number like you're going to get the FI02 on an
2 anesthesia ventilator -- on the machine delivering a
3 set inspired oxygen concentration, via an endotracheal
4 tube. This is a nasal cannula, so it's kind of a
5 genral range. And usually it reads anywhere from 25 to
6 40.

7 Q. And I'm going to show you what looks to be the
8 continuation. We are now looking at 7:55?

9 A. Uh-huh, yes, sir.

10 Q. And 7:56?

11 A. Yes, sir.

12 Q. And what happens to this PIP number between
13 7:55 and 7:56?

14 A. Yes, sir. So it's registering on a -- a
15 fairly high number.

16 Q. Okay.

17 A. That means you're -- you're -- you're bagging
18 air into the lungs.

19 Q. And then what happens to that FI02 number?

20 A. It's almost 100 percent.

21 Q. It goes -- it goes from -- what was it in the
22 last sheet that I showed you it was?

23 A. Twenty something, 30 something.

24 Q. Yeah, 20s, and then all of a sudden at 7:55,
25 7:56, it goes to 95?

1 A. Correct.

2 Q. And stays 98, 99, 100?

3 A. Correct.

4 Q. And, again, tell the jury why does it do that?

5 A. Because it's more accurately being read as
6 inspired and expired through -- through either a manual
7 bag mask, a closed system versus a nasal cannula where
8 a lot of it escapes.

9 Q. All right. Then in your -- Dr. Nelson's
10 notes.

11 (PAUSE.)

12 Q. Can you tell me -- tell the jury what,
13 according to these notes, was happening at that time;
14 7:55, what does that say?

15 A. "Patient turned supine from lateral."

16 Q. Okay.

17 A. "To establish better assisted bag mask
18 ventilation."

19 Q. All right.

20 A. "Nasal airway out, oral airway in."

21 Q. And then below that?

22 A. "Memo, came into room. Patient hypoxic with
23 junctional rhythm and no palpable pulse. ACLS protocol
24 initiated. Mayday team called."

25 Q. And so who was in the room doing this at 7:55

1 and 7:56?

2 A. Myself, Mark Payne, and whoever the nurse was
3 that day that I cannot recall, were all turning the
4 patient when Eric walked into the room and assisted us.

5 Q. Eric would be Dr. Nelson?

6 A. Yes, I'm sorry. Yes, yes.

7 Q. So based on that objective record that you
8 cannot change, right, those numbers we just looked at?

9 A. Correct. As I understand it, yes.

10 Q. Those are put in by the machine -- well --

11 A. Yes.

12 Q. -- did you ever change those -- did you ever
13 try to change --

14 A. No, no, not the -- not the O2 data, or any
15 data from the -- from the machine coming over, no,
16 absolutely not.

17 Q. So according to the computer at least, you
18 switched from the nasal cannula to bagging at 7:55 or
19 7:56?

20 A. Correct.

21 Q. Based on that objective data?

22 A. Correct, yes.

23 Q. All right. Let's go to part two. We're going
24 to talk about something that we really haven't talked
25 about much today, have we, and that is what did you

1 actually do that day -- but before we do that, I want
2 to talk about who you are and what your job is.

3 A. Yes, sir.

4 Q. You live in Charleston?

5 A. I do.

6 Q. How long have you lived here?

7 A. We have been in Charleston since 2007.

8 Q. Do you have family?

9 A. I do. My husband, Hans, and my older daughter
10 is outside of Atlanta, with her husband and two boys.
11 And Dillon is now 15 and a freshman at Wando High. And
12 Sara is a third grader Pinckney Elementary.

13 Q. Where did you grow up?

14 A. I grew up mainly in Columbia, South Carolina
15 from fifth grade on. And then went to USC there,
16 nursing school.

17 Q. And when did you graduate from nursing school?

18 A. Yes, sir, in 1987.

19 Q. What did you do after that?

20 A. I stayed in the Columbia area for a while. I
21 met my husband. We moved up to Charlotte and then down
22 to Florida. And when we were living in Vero Beach
23 around '93, '94, I became interested in furthering my
24 education -- you know, I've done just about everything
25 I could in the cardiac cath lab, and I was ready for

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1 something else. And my college roommate actually was a
2 CRNA student at -- at UCLA. And she's like you should
3 see what I'm doing. You would love it. And I'm like
4 it sounds great. I'm going to apply.

5 Q. So what did you have to do?

6 A. I did -- so I made out applications for three
7 or four schools. And I was accepted luckily to Barry
8 University, which was in Miami, and kind of a new
9 anesthesia school at the time.

10 Q. How long did you have to go to school there?

11 A. So our program was 28 months. And you
12 graduated with a Masters of Science in Anesthesiology,
13 and eligibility to sit for the nurse anesthesia boards.

14 Q. Did you do that?

15 A. Of course.

16 Q. Did you pass the boards?

17 A. I did.

18 Q. How long did you practice as a CRNA up until
19 now?

20 A. So I've been practicing since '96, so
21 November -- October, November will be 20 years.

22 Q. Where did you practice?

23 A. My full time job was at Memorial Regional in
24 Hollywood, a level one 800 bed trauma center. And I
25 hit the ground begging to do open hearts, because I

1 just love cardiac being in a cath lab. And about a --
2 about eight or nine months later, they gave me the
3 opportunity because one of the CRNAs was going on
4 vacation. And it was a CRNA MDA model, no residents.
5 So I got to do a lot. I did only open hearts for about
6 four years, which I loved. A lot of central lines. A
7 lot of -- a lot of different things. And after about a
8 year in that room, I wasn't afraid of anything.

9 Q. How did you wind up back here?

10 A. So we lived in Hollywood until 2004. And by
11 then, I had Dillon. He was a couple of years old. We
12 needed to inch a little closer to the grandparents.
13 Both sets were in South Carolina, and so we moved up to
14 Flager Beach. I practiced at a Florida Hospital,
15 Memorial Orman there, and loved it. Full time there.
16 But the flexibility and the schedule wasn't anything
17 that I absolutely loved.

18 So when I had Sara, I said, Hans, I think we
19 have to get in the same state as both sets of
20 grandparents and all of the aunties. And so if we're
21 going to go up there, let me look along the coast,
22 Hilton Head, Myrtle Beach, Charleston. Let me
23 interview there and we'll see what we can find.

24 Q. Did you get a job at the Medical University?

25 A. I did. I actually interviewed at Grand Strand

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1 to do open hearts alone, but they would not budge on
2 flexibility. And, of course, when I interviewed at the
3 Medical University, they were just about to open Ashley
4 River Tower in 2008, and they had a very flexible shift
5 coming up that would be manning the entire Ashley River
6 Tower Hospital. Unless there was a case going on, and
7 your attending anesthesiologist was coming in, and
8 present for the case, the CRNA -- whoever that was --
9 be it 24 hour overnight, once cases were done, or on a
10 Saturday, which I did, you were it as far as airway
11 management, intubations, et cetera. You were on your
12 own. You were manning the entire hospital for that.

13 So I did that for -- from '08 until '13, and
14 they decided to kind of restructure and get the
15 residents a little piece of that pie on the emergency
16 intubation and airway management, so.

17 Q. In 2010, were you still doing heart related
18 cases?

19 A. Oh absolutely, oh yes, uh-huh.

20 Q. What types of procedures were you doing?

21 A. Open, you know, just routine open hearts,
22 three and four vessel bypasses. We did arches. We did
23 -- we became transplant eligible, so we were doing
24 heart and lung transplants; valves as well with or
25 without the bypasses and arch work. So a little bit of

1 everything. A little bit of everything.

2 Q. Did you do some colonoscopies?

3 A. Oh, absolutely. So everybody -- everybody has
4 to kind of -- on Saturday, we did only emergencies.
5 And usually the emergencies, be it a general or
6 cardiac, were pretty emergent and pretty sick. But
7 then on my other one day a week that I did staffings --
8 other people, obviously, there were -- you know, 10 or
9 15 other CRNAs, I had to take -- we kind of worked out
10 a rotation that we would have to go down to DDC in the
11 procedural area. Not everybody loves doing procedural
12 work -- you know, everybody would prefer to be in the
13 OR doing the big cases, but we kind of made it fair,
14 and everybody kind of rotated in and out of that --
15 that area.

16 Q. How did you wind up on the team that was to
17 take care of Mr. Mikell on October 1, 2010?

18 A. I was assigned to Room D. I was assigned to
19 Room D that day with Eric Nelson.

20 Q. Now, Room D -- now, Dr. Guldan explained this,
21 but he talked a little fast and so -- it was a little
22 late in the day. Can you tell us what -- what these
23 NORA sites are? What's a NORA site?

24 A. Yes. So basically the NORA sites are
25 nonoperating room anesthesia sites. They're not the

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1 nine ORs that we have. So we have now, I believe,
2 eight at Ashley River Tower, which include three rooms
3 in the cath lab for EPs and ablations, splitting it
4 with interventional radiology. We have five in the DDC
5 doing endoscopic ultrasounds, ERCPs in one room, really
6 sick inpatient upper and lower endoscopies in one room.
7 And then another two rooms to do just out patient,
8 upper and lower endoscopies. So those are our eight
9 NORA sites that we have to staff, that are not in the
10 operating room.

11 Q. So how -- how is a NORA site, where you do a
12 colonoscopy in Room 4, different than a regular GI
13 suite in the -- in the Digestive Disease Center?

14 A. Well, all of the -- all of the DDC sites are
15 in -- are in there kind of grouped together, bunched
16 together, ERCP E West D, and now we have Room A and 3,
17 so.

18 Q. All right. Do -- do all of your colonoscopy
19 rooms have anesthesia service, the way that this
20 particular room did?

21 A. Absolutely, yes. They all have a computer for
22 charting and an anesthesia machine, a Phillips monitor,
23 and then a PICIS, which is your supplies, and your -- a
24 place for you to put your medication tray for the day.

25 Q. Who else -- who else was on your team that day

1 with Mr. Mikell?

2 A. Well, Dr. Nelson, was the supervising
3 anesthesiologist on the case that day.

4 Q. Did you know him?

5 A. Oh, absolutely, yes. Eric was a fellow at the
6 Med U, a cardiac fellow. And we worked together quite
7 a bit in the open heart room, and then an attending.

8 Q. And Dr. Payne was the gastroenterologist?

9 A. Absolutely. Yes, Mark Payne.

10 Q. Did you know him?

11 A. I did, yes. I've known Mark -- I've known
12 Mark since '07, when we started there.

13 Q. So I want you to walk the jury through what
14 you did for Mr. Mikell, how did you prepare for his
15 case, and what did you do different for him than you
16 would do for one of us if we came in for a colonoscopy?

17 A. Well, I looked him up in the -- in my
18 procedural area, to begin with, to see if I felt like I
19 needed anything -- anything special as far as what we
20 normally have, you know, to give maybe something for a
21 little low blood pressure or -- we have in that -- in
22 those areas especially, the off site areas, I tend to
23 be very prepared with my airway equipment. Because
24 there's such limited space as you saw on that
25 photograph, so I like to have everything readily

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1 available to grab should I need it via -- as in ET
2 tube, oral airways, nasal airways. I like everything
3 to kind of be there. I don't like to struggle on
4 things that I can -- that I can fix easily, so.

5 But I had looked him up. And actually I believe
6 that Eric had come into the room and said, hey, looked
7 at this guy -- ejection fraction is advertised as 30,
8 35 percent something -- you know, we just kind of went
9 over the thing. I said, you know, do you think we need
10 to use Etomidate? He's like, no, I think just an easy
11 Propofol drip --

12 Q. I'm sorry, use what?

13 A. Etomidate. I said, do you feel like we need
14 to use anything --

15 Q. You might not believe this, but I bet a lot of
16 these people in this room don't know what that is.

17 A. Right.

18 Q. Will you explain that?

19 A. So that's another induction agent that, in
20 fact, supports -- supports blood pressure. And, in
21 fact, usually raises it. And it's another induction
22 agent, hypnotic, that can essentially put the patient
23 to sleep.

24 Q. So, I'm sorry. I did interrupt you. What --
25 tell me about the conversation you had with Dr. Nelson.

1 A. So, we were discussing meds. You know, I
2 would have asked him do you feel like Versed is, you
3 know, a good idea. And, obviously, you know, we -- we
4 concurred. I usually -- with patients that have a
5 lower than normal ejection fraction, I'm kind of asking
6 what's your vive on it. Do you feel like he would
7 benefit from a little bit? You know, he's a younger --
8 you know, a younger man, so.

9 So we decided on Versed and just a -- just a
10 Propofol drip, just a Propofol drip starting at a much
11 lower rate than I would a healthy person --

12 Q. All right.

13 A. -- or with -- with a healthier heart.

14 Q. With -- with -- with a normal, uncomplicated
15 colonoscopy, is there a procedure where you don't
16 actually put the patient completely to sleep?

17 A. Okay. So if anesthesia is involved, the
18 endoscopists that are there -- there are many at the
19 Medical University -- okay. They do still many of
20 their cases with conscious sedation, meaning an RN is
21 giving the medication and the patient is maybe able to
22 verbalize or follow basic commands.

23 If anesthesia is employed, then they feel like
24 it is in our best interest to manage putting the
25 patient to sleep, as in them being sleepy enough not to

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1 know anything is going on, but to manage that safely.
2 So it's very rare that we will do anything but a sleepy
3 IVGA -- IV general anesthetic. If we're employed,
4 that's why he's employing us. If he thinks he can do
5 it with somebody that's kind of talking, and kind of in
6 and out, then they will do it with their RNs.

7 Q. Now, just so we don't confuse terminology,
8 when you say they decided to employ anesthesia, you
9 mean you and Dr. nelson? That's --

10 A. Yes.

11 Q. -- you're not talking about they used -- they
12 always use some anesthesia, I hope, for these
13 procedures?

14 A. Right.

15 Q. But when you say they use anesthesia --

16 A. Anesthesia personnel.

17 Q. Okay.

18 A. To manage the patient and medicate
19 appropriately.

20 Q. All right. So you don't necessarily have to
21 have a board certified anesthesiologist and an ACLS
22 trained CRNA to do a colonoscopy for most patients;
23 correct?

24 A. No. In other words, they do some of their
25 patients under conscious sedation, just with the

1 endoscopist and an RN. We are not involved at all.
2 And an endoscopist usually makes that call, who they
3 want anesthesia to manage, and who they want to manage
4 with an RN as a conscious sedation.

5 Q. I'm going to put this picture up, so we can
6 see what the room looked like, and have you give us a
7 little tour. All right. Now, there's some way that
8 you can make marks on that thing there -- how does --
9 how does she do point -- if you can point --

10 THE COURT: Use her finger. She can just use her
11 finger.

12 MR. COOKE: Just her finger -- permission to use
13 her finger. You can make marks on there. So why don't
14 you show the jury what --

15 THE COURT: James, why don't you show her how to
16 erase it while you're there. He's going to show you
17 how to use it. Okay.

18 (PAUSE.)

19 BY MR. COOKE:

20 Q. All right. So I'm going to let you do it the
21 way you want to. You just show us what the different
22 things are there, and where you would sit, and what you
23 would do?

24 A. So when you bring your patient in for a
25 colonoscopy, you have to reverse and back them in head

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1 first. Because the door is over here. You go around
2 the boom that holds the scope. And you would bring the
3 head of the bed toward the anesthesia machine. Again,
4 this is for a colonoscopy.

5 Before I would put the brake on, and get him
6 settled, right here is your PYXIS machine with my
7 medications -- my routine medications, my first line
8 medication supplies that I might need. So I will bring
9 up his name, open it, and leave it open for the case so
10 I can get to everything with the stretcher. You can
11 see that the stretcher doesn't allow much room between
12 the actual PYXIS --

13 Q. All right. Now, when you said PYXIS, that's
14 not the same as PICIS, is it?

15 A. No, PYXIS, P-Y-X-I-S, it's what our supply and
16 med -- medication machine is -- is termed. That's what
17 it's called, so. So -- open the doors, get the patient
18 put in there. And then you'll see that this is kind of
19 my area that I -- that I stay in, chart from, monitor
20 on, et cetera.

21 This is obviously the anesthesia machine here
22 that includes the machine data -- if you'll come over,
23 you'll see right here -- you could see a little meter,
24 and that's your O2 cannula, meaning you can dial in
25 usually two, three, four liters you'll start somebody

1 on, and usually keep them there while they're sleeping
2 and -- sleeping and unaware of what's -- what's going
3 on.

4 This is the monitor. It has an arm so that you
5 can turn it. You can turn it and see the monitor as
6 you're working. So I can turn -- as you can see, the
7 charting screen and my keyboard. I can turn this to
8 look exactly at the data and the monitors and
9 Mr. Mikell. So you can position yourself where you can
10 kind of do a sweep. Everything is kind of in front of
11 you and kind of to your left, right there. Very --
12 very handy. It's very cozy.

13 So for somebody else to get back there sometimes
14 is a little bit of a challenge. They have to duck the
15 overhead monitor that the endoscopist is using -- is
16 usually along -- along this side of the stretcher, up
17 in the air about four feet. So, you know, it's a
18 challenge if -- if more than you are -- are involved
19 with a patient. But that's it.

20 The patient's head is here. Something that I
21 always do is I put the -- I kind of get ready to manage
22 the airway should I need to on any case before it
23 starts. I'll put the -- the IV pole -- the pole for
24 fluids that's on the stretcher down, and I'll undo
25 the -- the handles on the stretcher, so nothing is

1 impeding me to the patient. He's right there, whether
2 he's lateral or he's supine. I do that for every case.
3 I do that first thing. It's just like monitors that,
4 positioning, oxygen cannula, everything, check.

5 Q. What things are actually hooked up to the
6 patient -- or what things were actually hooked up to
7 Mr. Mikell?

8 A. Okay. So, you'll see on some things coming
9 off here, and the three things that we monitor
10 continuously are the O2 sat, which is a probe that goes
11 on your finger. It's either a probe that clips on, or
12 a peel-on that attaches to a cable that stays on the
13 anesthesia monitor; a blood pressure cuff, and then EKG
14 leads. And, again, we monitor two NV (ph) for
15 everybody, that Phillips falls to it, and we monitor
16 two NV for everyone. So you have a -- you have a two
17 lead perspective.

18 Q. Do you have to check your machines?

19 A. Yes, sir, uh-huh. You go in -- usually that's
20 what you're doing in the morning. Before your case is
21 started, you are checking your machine. I'm making
22 sure that my airway equipment is as handy as I want it
23 to be. Putting a cannula on the -- nasal cannula, you
24 know, just kind of getting it ready to get ready.

25 Drawing up drugs for the case. Opening the

1 chart and looking at it, seeing if I can ascertain if I
2 need anything special for that particular case.

3 Q. Can you -- can you point on your thing there
4 to which monitor you're looking at to get the data in
5 real time? What do you call it, the Phillips monitor?
6 Is that what that's called?

7 A. Yes. So this -- this is your Phillips right
8 here.

9 Q. Okay.

10 A. And that's what your -- your 02 sat, your EKG
11 and your blood pressure are coming across on. And then
12 this is your anesthesia machine data, FI02, respiratory
13 rate, tidal volume, things that are specific with how
14 the oxygen is being delivered. Peak inspiratory
15 pressure is if you -- you know -- again, more accurate
16 if you have a breathing tube in, et cetera, but that's
17 your oxygen delivery data.

18 Q. And then what's -- what's over -- that black
19 one on the right, what is that? Is that your computer
20 monitor?

21 A. The black one right here (indicated)?

22 Q. Yes.

23 A. Yes, uh-huh. That is my computer monitor,
24 uh-huh, that I chart from.

25 Q. So is that where your electronic chart shows

1 up?

2 A. Yes.

3 Q. And there's a keyboard right under there?

4 A. Yes.

5 Q. Is that where you enter data?

6 A. Absolutely, yes.

7 Q. And so jumping ahead a little bit, but is
8 that -- by comparing what you are seeing on the
9 Phillips monitor and your anesthesia monitor, with what
10 was showing up in the chart in that computer, is that
11 how you knew whether the data was going into PICIS?

12 A. Yes. Because looking at the timeline on the
13 narrative that -- it looks like, you know, we
14 transferred -- I transferred around 35. I got
15 Mr. Mikell to the procedure area, oxygen monitors
16 positioned, everything. And it looks like at 39 was
17 the first time that I was like, oh -- was the first
18 time that I looked at the -- at the computer chart, and
19 said, oh, look, nothing is coming across, but we're
20 about ready to start. So I put a page into work, and
21 then got my Propofol drip ready to go, and just kept --
22 kept going --

23 Q. All right.

24 A. -- kept going.

25 Q. Will Dr. Payne start a procedure if the

1 monitors aren't hooked up?

2 A. Absolutely not. So Mark Payne's wife is Kim
3 Payne, an anesthesiologist at the VA. And Mark is very
4 in tune, more so than most endoscopists, I think, with
5 anesthesia issues. He did a mellampati exam, which is
6 an airway exam. I don't see other endoscopists doing
7 that, to give him an idea if we're going to maybe have
8 a problem securing his airway. You can, generally
9 speaking, sometimes tell that visually.

10 He also is very -- he's very acutely aware of
11 tone, you know. He'll say, everything okay? He's
12 very, very in tune with everything that's going on in
13 the room.

14 Q. So as he starts the procedure, what drug did
15 you give first?

16 A. So I had -- I had given, according to my
17 chart, I had given a Versed on the way from the holding
18 area -- you know, once Mr. Mikell was good, and Dr.
19 Nelson and I talked to him, Mark Payne had come in and
20 had him sign his consent. He was the first case in the
21 morning so -- which is generally 7:30.

22 So after all was good, consents were signed,
23 generally speaking, we'll give to -- a Versed as you're
24 kind of rolling to the room, which usually takes about
25 a minute, a minute and a half to get from a holding

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1 area -- this particular holding area to that procedure
2 room.

3 Q. And what does Versed do?

4 A. Versed is anxietlicitic. It's a benzo, as in
5 Valium, and kind of makes you not really give a rip.
6 And it also causes some retrograde amnesia. In other
7 words, you may be talking to me, but you may not
8 remember the conversation. So sometimes the amnesia
9 can be profound.

10 Q. Okay. And then what drug -- what anesthetic
11 agent did you decide to use?

12 A. Yes. So Dr. Nelson and I decided to use a
13 Propofol drip, and just started at a low rate and just
14 kind of -- just let it onset gently.

15 Q. Why Propofol?

16 A. Why Propofol, because it's our favorite drug.
17 It's the best drug anesthesia has come up with in the
18 last century. But besides that, it is a drug that you
19 can titrate on a dime. You can turn it on and it works
20 usually within 60 seconds to two or three minutes,
21 depending on what rate you got it on. You can turn it
22 off and the patient is awake and fairly clear four or
23 five minutes later, just depending on what rate you
24 have it at. So it's a perfect titratable drug for a
25 procedural area.

1 Q. You have been accused of spending your time
2 and attention texting and making phone calls when you
3 should have been paying attention to the patient; is
4 that true?

5 A. No, sir, not at all.

6 Q. Tell the jury what you did and how you dealt
7 with the issue of the chart, and how, if at all, that
8 affected the attention that you paid to Mr. Mikell that
9 morning?

10 A. Yes, sir. So I had texted or I had paged on
11 Simon page, is where you can put messages on pagers.
12 And so at 7:39, once I had Mr. Mikell hooked up and
13 positioned, and I was happy with all of that, I looked
14 back at my chart and realized the data was not coming
15 over. So I took a few seconds, and got on Simon page
16 -- Simon paging system -- S-i-m-o-n.

17 Q. You do that from your computer terminal?

18 A. I can, yes. Yes. So I minimized the chart,
19 got on Simon, says call me back -- or call me, NORA
20 patient not in -- not -- not able to transfer NORA
21 patient -- or however I put it. I can't recall
22 exactly.

23 Q. Where, in that picture, would the phone be
24 that they would call you back on, if they did call you
25 back?

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1 A. Okay. So the phone is right next to -- is
2 right next to the PYXIS machine right here about
3 maybe -- maybe about three more feet from the PYXIS
4 machine.

5 Q. Can you answer that phone without losing your
6 attention on the -- on the monitor?

7 A. Oh, absolutely. Absolutely, yeah. You can
8 pick it up and, you know, you can still sweep and
9 you're just feet away.

10 Q. Did she call you back?

11 A. Okay. It appears that I paged her at 39. We
12 proceeded and I still wasn't getting results as far as
13 the chart coming across, and so I re-paged her. And I
14 believe she called me back then, got the chart up at
15 47, 48.

16 Q. Okay. According to our notes, your first text
17 went out at 7:39; does that sound about right?

18 A. Yes, it does.

19 Q. And then your second one, hey, can you
20 call/page me back, was 7:46; does that sound right?

21 A. It does. Because by the time Eric walked in
22 at 48 to do his at -- and everything -- everything was
23 good. I was no longer -- I was no longer, you know,
24 the chart wasn't an issue, so.

25 Q. Did you have any more communication with the

1 IT people after 7:46?

2 A. No, no, no.

3 Q. And they did do whatever they do --

4 A. Yes.

5 Q. -- remotely -- they didn't have to send an IT
6 guy in to --

7 A. No.

8 Q. -- monkey with your equipment?

9 A. Usually you have to get -- give them the
10 computer number, which is usually listed at the bottom
11 of the screen. You give them that number, and they
12 remotely capture and do the transfer that for some
13 reason didn't work for me.

14 Q. Going back to your -- your note here 7:48,
15 anesthesiologist assessed patient, reviewed chart and
16 formulated anesthesia plan, medically directing --
17 those are notes that he made; correct?

18 A. Yes. Those are his attestations, yes.

19 Q. Okay. Anesthesiologist present for induction,
20 you explained what that meant earlier.

21 A. It's a range --

22 Q. And then I or another attending was
23 immediately available -- throughout -- throughout and
24 present for all key and critical portions of the case.
25 And then you write the note at 7:48 also, "Memo, Nelson

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1 MDA in; nasal airway in; O2 sat up to 94 percent;
2 patient remains lateral".

3 A. Yes.

4 Q. Now, you didn't actually type that in that
5 morning, did you? You typed that in later?

6 A. Correct. As I -- as I recall it, yes.

7 Q. Was that information correct?

8 A. Absolutely. Because I remembered that when
9 Eric came in to make his attestations, he's like, is
10 everything all right. I'm like, yeah, I put a nasal
11 airway in. He was obstructing a little bit, but
12 everything is fine now, you know, oxygen cannula. He's
13 still on cannula and sat is 94 percent.

14 Q. And just to remind you, when -- when the
15 machine started recording -- when the machine started
16 recording up there, what is your first reading for the
17 oxygen saturation?

18 A. So it appears to be 96.7.

19 Q. Okay. And but you're actually looking at it
20 in real time, even finer increments than that?

21 A. I absolutely was, yes.

22 Q. So based on -- was it based on your
23 observations of saturation that you wrote here that
24 the -- that the O2 sat was up to 94 percent?

25 A. Yes.

1 Q. Now --

2 A. Yes, I remember having a conversation, you
3 know, the conversation with Eric when he walked in, and
4 the number that I gave him, so.

5 Q. All right. Now, it's been suggested that
6 because you said O2 sat up to 94, that that implies
7 that it was less before, and therefore maybe Mr. Mikel
8 was in distress before when you were sending your text
9 messages; is that true?

10 A. His O2 sat after I had started the Propofol,
11 maybe five or six minutes earlier I believe -- it was
12 7:41-ish, and the procedure started at 42; so it had
13 dipped to the point that I felt like -- and he was
14 sleepy enough that I felt like that would be a good
15 intervention and to maintain it higher.

16 Q. You mean to put the nasal cannula in?

17 A. Nasal airway.

18 Q. Nasal airway.

19 A. Yes. You had the cannula breathing, but he
20 was obstructing, like snoring, and maybe completely
21 obstructing -- you know, somebody that snores and
22 doesn't take in air for, you know, a second or two.
23 He -- he had sleep apnea, so we knew that. So I knew
24 he might be airway amenable.

25 Q. So you were able -- you were able to actually

DONNA EMBREY -- CROSS

1 think about that even while you were texting with the
2 IT folks then?

3 A. So according to -- oh, what I was shown about
4 the times that I texted Annette --

5 Q. Right.

6 A. I texted her at 39, before anything had
7 started, the procedure or the Propofol. I said, hey,
8 got a problem. Call me back. So I believe that she
9 did not call me back. And then I sent another message,
10 I believe, at 7:46 -- correct -- so I had started the
11 Propofol, texted her, and then turned my attention to
12 Mr. Mikell. Two minutes later, I felt like a nasal
13 airway would be appropriate. So, yes, at no time was
14 my focus off Mr. Mikell, and what I needed to do with
15 his airway or his medication, his Propofol infusion.

16 Q. I want you to just -- in your own words, I
17 want you to look at this jury, and I want you to tell
18 them, under oath, do you believe -- looking back on
19 what happened on that day, do you believe that you were
20 concentrating on Mr. Mikell, and that you were properly
21 monitoring everything that you should have been
22 monitoring that day?

23 A. Absolutely. Absolutely. And, unequivocally,
24 I can say that, yes, yes.

25 Q. Do you think you -- could you have missed

1 something? Could you have missed a desaturation or
2 something wrong with these other vital signs? Is it
3 possible that you could have missed that because you
4 were busy on the phone or sending that text message?

5 A. No. No, not at all. Not at all. If it had
6 not been remedied by the second time, I would have just
7 let it go. And whatever is on the chart -- I mean, do
8 you follow what I'm saying? I mean, the patient is --
9 is always first. Charting can come later. Whether the
10 data can be repopulated or captured later accurately is
11 not my concern at the moment. My concern is the
12 patient.

13 If she can get the chart up and working, that's
14 even better obviously to reflect all the -- all the
15 monitor data that's coming across. Otherwise, I'm
16 looking at it, focusing on Mr. Mikell, and deciding
17 what I need to do with his airway management and
18 Propofol infusion management.

19 Q. And Dr. Nelson left room at what time?

20 A. So he -- you -- when he stepped in at 48 --

21 Q. Right.

22 A. And did his attestations, okay. So my -- my
23 estimate was -- he was in the room for about two to
24 three minutes. He came to talk to me and say, hey, is
25 everything good. I said, yeah. I put a nasal airway

DONNA EMBREY -- CROSS

1 in. He's back up to 94 percent, happy there. He's
2 like, okay. And so he would have come around behind
3 me, and done his computer work, et cetera. And so I
4 estimated about two to three minutes he was in the
5 room. It wasn't -- it wasn't less than that. It
6 wasn't less than that, but.

7 Q. So he would have left, according to your note,
8 at --

9 A. Correct.

10 Q. Nelson out --

11 A. Yes. I believe that's within a good 30 second
12 window, yes.

13 Q. Okay. One --

14 A. Yes. Yes.

15 Q. Did you feel comfortable allowing him to leave
16 the room under the circumstances?

17 A. Oh, absolutely. Absolutely, I would have told
18 him, listen, I need some help. I put the nasal airway
19 in and I'm not getting good results, or I'm -- I'm not
20 feeling -- or I would absolutely immediately let him
21 know if I -- if there was something that I felt like I
22 needed him to stay for or to help me with at the
23 moment.

24 Q. Did you know where he was going to be?

25 A. So not specifically and exactly, but I know

1 that he's within -- he's within quick access to me
2 should I page him or need him for any reason. Yes,
3 usually within the department, because he's
4 supervising, you know, depending on what's going on, at
5 least one CRNA. So he's kind of on a short leash for
6 the procedures.

7 Q. Tell us what happened after he left the room?

8 A. So, after he left the room, the Propofol
9 continued to infuse. And Mr. Mikell desaturated a
10 little more than I could make better as far as with the
11 nasal airway and the cannula.

12 Q. And so what did that mean to you?

13 A. So at I believe it was 55, I said to Mark
14 Payne, first, I said I'm having trouble keeping his
15 saturations up. I feel like I need to turn him over
16 supine where I can -- on his back and manage his airway
17 a little more -- a little more tightly than I can with
18 him in the lateral position.

19 So I'm going to do that now. I'm going to turn
20 the Propofol off. And I believe I said to the RN, will
21 you call Eric Nelson in, to come assist me and see what
22 it is we need to do. Can we give him a couple of bags.
23 He's a little bit better. And then he can support his
24 own airway with or without a nasal airway enough for us
25 to finish the procedure, so.

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1 Q. And did you -- I think, according to the
2 chart, you turned the Propofol off at 7:53?

3 A. Correct, yes, uh-huh. Yeah. That was the
4 point at which I felt like there was an issue, and we
5 might have to -- number one, take a break from the
6 Propofol. And, number two, you know, manage his airway
7 concurrently, just to get him back to an acceptable
8 saturation level.

9 Q. And how quickly did Dr. Nelson arrive after
10 you determined that you needed help?

11 A. Like almost immediately, almost immediately.

12 Q. And is that what's reflected in your notes
13 here?

14 A. Yes. Yes.

15 Q. Tell the jury what happened once he got there?

16 A. Yeah. So as we were -- as me, Mark, and the
17 nurse were turning the patient, Eric walked in the
18 room. Helped us complete the turn of Mr. Mikell on to
19 his back. I took the nasal airway out. I put an oral
20 airway in, and began -- and began to manually mask him
21 with an ambu bag, and just deliver a big, hundred
22 percent oxygen breaths to him, to try and support that
23 sat --

24 Q. Then what happened.

25 A. -- his oxygen saturation. He became -- I

1 didn't -- Eric was looking at the monitor, and also
2 getting out first line drugs here. Because at first he
3 got -- he had a very slow rhythm. And then it got so
4 slow, a lot of people will go into what they call a
5 junctional rhythm, where it's just kind of the
6 ventricle contracting without the atria really
7 responding. And you can tell because you don't see a P
8 wave with it. So he got kind so slow, he kind of
9 started into a junctional rhythm, became hypertensive,
10 and then became unstable from there.

11 Q. And he -- did he -- did he actually digress
12 down to the -- what they call the PEA?

13 A. He did. He did. Yes. I would have to look
14 back at the record to see if Eric got any medications
15 in before he went into pulseless electrical activity,
16 meaning there's sometimes -- electricity on the EKG,
17 but it's not really pumping and not causing a pulse.
18 So you're seeing something on the EKG, but nothing is
19 really happening in the body.

20 Q. Then what happened after that?

21 A. So we initiated CPR. He -- either myself or
22 he told the nurse to call -- to call a Mayday. And
23 that brings a lot of people, including pharmacy if you
24 need extra drugs that you may not have in your initial
25 first line set up. And I -- I believe I intubated

DONNA EMBREY -- CROSS

1 shortly thereafter, put the breathing tube down and --

2 Q. What's -- what's the purpose of putting the
3 breathing tube in?

4 A. Well, obviously, he's -- he's -- he's in a
5 very unstable situation. So if nothing else, you
6 definitely want to have your blood pressure, airway,
7 and EKG stabilized. So that's just one of the first
8 things that you -- you need to do until he's more
9 stable and figure things out. Obviously, it is the
10 optimal way to manage an airway versus just bagging
11 someone for 20 or 30 minutes, you know.

12 Q. Are you certificate in advanced cardiac life
13 support?

14 A. Absolutely.

15 Q. What does that mean?

16 A. So that means you are certified to give drugs
17 and initiate CPR, and to direct defibrillation. If you
18 have Vfib or Vtac, if the heart is just quivering, and
19 it needs to be shocked into a normal rhythm. That
20 means that you can direct -- you can yourself do, or
21 direct other people to do all of those things together.

22 Q. And was he shocked -- did somebody have to
23 shock him to get his heart back --

24 A. Yes. So generally speaking -- uh-huh --
25 every -- every nursing unit in the hospital has a

1 Mayday card, and they have an defibrillator on it. And
2 it's checked every day to make sure that it's got power
3 and it functions well. And you can kind of dial it
4 into 200, and kind of test shock it into -- into the
5 machine itself which is grounded, and it shows that,
6 yes, you can deliver a safe shock. Nothing -- no
7 problems with this machine. So they -- they check it
8 every day in the OR or the procedural areas that we
9 work in.

10 Q. So how did -- how did the procedure end?

11 A. Well, actually, I believe shortly after we
12 turned him supine, we were starting to manage a bunch
13 of different things. Obviously Mark Payne took the
14 scope out. That was the end of the -- of the endoscopy
15 procedure itself.

16 We initiated -- we called a code, started giving
17 meds, CPR; intubated, defibrillated; got a lot of other
18 anesthesia help. Dr. Guldan, two other CRNAs responded
19 to help me put a larger peripheral IV in for access.
20 Put in an arterial line that measures beat to beat
21 blood pressure versus a blood pressure cuff that can
22 maybe read it every 45 to 60 seconds. A manual blood
23 pressure cuff -- so the arterial line is a good beat to
24 beat blood pressure manage for someone that's unstable,
25 or you anticipate to be unstable. We put that in.

1 We put a central line in which again is access
2 and great for drips and things that you think you will
3 be running for a while. So we did all of that for him
4 in the space of about 30 minutes, I believe -- or 30 to
5 40 minutes before we were happy enough with his
6 hemodynamics -- his stability to transfer him to the
7 PACU.

8 Q. Did he -- did he eventually return to
9 spontaneous respiration and heart beat rhythm?

10 A. Oh, absolutely. Yes, yes.

11 Q. Did his heart ever actually stop?

12 A. Not -- not completely. No, he was in -- you
13 know, he was in PEA, so he had some electrical activity
14 after the junctional. And then after the -- after the
15 CPR and meds, his rhythm came back spontaneously, so.

16 Q. Well, ever since this has happened, I assume,
17 that you have had a lot of opportunity to think about
18 what happened that day, and what you did that day. As
19 you think back on it, can you think of anything, being
20 self critical as you can possibly be, anything that you
21 didn't do that you should have done, or anything that
22 you could have done better that day to try to help
23 Mr. Mikell?

24 A. I have reflected on this a lot obviously. You
25 know -- I'm sorry.

1 (Witness pause.)

2 A. I kind of like to think that -- that I set the
3 bar very high for myself as far as the anesthesia that
4 I deliver, and my job that I do every day. And I like
5 to think that my judgment on an anesthetic plan,
6 especially when it's in collaboration, obviously, with
7 an anesthesiologist or whoever I'm working with that
8 day, is the absolute best plan, and the safest plan for
9 our patient or, you know, whoever we're -- we're
10 undertaking to get their procedure done with the
11 anesthesia.

12 I've looked back on it. I've gone over my
13 conversation with Eric, and I -- I -- I truly believe
14 that we had a good anesthetic plan for Mr. Mikell. I
15 think that he became unstable, and we did -- we did a
16 lot of things for him very quickly and very
17 efficiently. But I look back on the plan, and I -- I
18 would do it all the same again, as far as the
19 anesthetic plan. I really do not see anything
20 differently that I would do as far as the anesthetic
21 that we had planned for him.

22 I also look back on how we responded to him
23 becoming unstable. And during that period, and the
24 procedural room, I'm -- I'm -- I'm very pleased with
25 what we did for him, and how we reacted to him becoming

1 unstable. But I -- I wouldn't change anything about my
2 plan of Versed or the Propofol infusion; I can say that
3 without reservation.

4 MR. COOKE: Thank you very much. That's all I
5 have.

6 THE COURT: All right. Madam Forelady, ladies and
7 gentlemen of the jury, we'll take a break at this time.
8 I believe we've been going about an hour and 40
9 minutes. Please leave your notepads in your chair. If
10 you need anything, let the bailiffs know. And we'll
11 take an afternoon break. Please follow the bailiff to
12 the jury room.

13 (WHEREUPON, the jury leaves the courtroom at
14 3:30 p.m.)

15 THE COURT: All right. Anything from the
16 plaintiff before we take a break?

17 MR. RANSOM: Nothing, Your Honor.

18 THE COURT: Anything from the defendant?

19 MR. COOKE: Nothing. Thank you.

20 THE COURT: All right. We'll take an afternoon
21 break. Thank you very much.

22 (WHEREUPON, a brief recess was taken.)

23 THE COURT: Let me know when you're ready to bring
24 the jury; okay?

25 MR. RANSOM: Yes, sir. I believe we are ready.

1 THE COURT: Well, if you're ready, is the defense
2 ready?

3 MR. COOKE: We're ready.

4 THE COURT: Okay. Bring us the jury please.

5 (WHEREUPON, the jury enters the courtroom at
6 approximately 3:48 p.m.).

7 THE BAILIFF: All jurors are present, Your Honor.

8 THE COURT: Thank you very much. Redirect.

9 MR. RANSOM: Thank you, Your Honor.

10 **REDIRECT EXAMINATION BY MR. RANSOM:**

11 Q. Ms. Embrey, you testified a little bit ago
12 about this number right here. And I'm pointing to page
13 504, down in the bottom. This number here at the top,
14 this 47 and a half, that's the blood oxygen saturation
15 value for the period between 7:45 and 8:00; do you
16 remember that?

17 A. Yes, sir.

18 Q. You said that that number was an average of
19 the blood oxygen saturation values during that period
20 of time?

21 A. As I understand it, and whatever the oxygen
22 saturation probe was able to pick up.

23 Q. Right. Okay. So that's the average between
24 7:45 and 8:00, and it's going to be 47 and a half.
25 Okay. And what we're talking about with respect to

DONNA EMBREY -- REDIRECT

1 this record that was marked as Defendant's Exhibit 6,
2 that's the one minute record, there are a couple of
3 pages -- the -- hold it -- okay. So 7:45 starts here
4 with an empty box; 7:46, 7:47 empty. And then we
5 actually get data for a number of boxes across there up
6 to 7:55?

7 A. Yes, sir.

8 Q. And a couple of pages later, in Defense
9 Exhibit 6, then we follow that along 7:56, 7:57, 7:58,
10 7:59, 8:00. And so what -- so what you're telling us
11 is that if we take the values that go in those 15
12 boxes, for 15 minutes, and we add them up, the average
13 is going to be 47 and a half?

14 A. My understanding as to what is actually
15 populated in the 15 minute record, I'm -- I'm -- I'm
16 guessing that that is what's happening. I mean, I see
17 higher numbers. I see lower numbers, obviously, during
18 the arrest and subsequent, you know, the PEA and --

19 Q. No, I'm just listening. So what we'll do then
20 is I just want to confirm with you that, I mean,
21 because this is -- this is your record. This is your
22 software. This is your institution, your job. You're
23 telling us that this number here is the average of the
24 values during that time, and I accept that. I just
25 want to make sure that I'm understanding you correctly.

1 A. That is my understanding of how on a 15 minute
2 record, one number is put there.

3 Q. Okay. So we'll come back later and do the
4 Math. Now, you had said, I think, Mr. Cooke had
5 pointed out with respect to the audit trail, which is
6 Plaintiff's Exhibit 10, that Dr. Nelson was over here
7 actually at the terminal keying in information at
8 7:48 -- I'm sorry -- at 7:49. And what he was putting
9 into the system at that time were these entries as to
10 what he was doing at 7:48?

11 A. All right, sir.

12 Q. And that was what -- that's what you and Mr.
13 Cooke talked about; right? So what I wanted to confirm
14 with you then, is if he's actually on the terminal at
15 7:49, we see that Mr. Mikell's oxygen saturation is 75.
16 All right.

17 Now, you had testified that when the patient's
18 oxygen saturation is less than 90, you need to be doing
19 something about it? Okay.

20 A. Yes, sir.

21 Q. Would standing at the terminal, entering
22 entries at 7:49 be the thing to be doing when your
23 patient's saturations are 75?

24 A. No, sir, but may I explain? There -- there
25 could have been some artifact on the O2 sat, because if

DONNA EMBREY -- REDIRECT

1 I had noticed that it was that low, or Eric had noticed
2 that it was that low, we would have done something very
3 differently than just leaving it at the nasal airway in
4 and the nasal cannula flowing at what it was, so.

5 Q. Well, I just want to make sure I understand
6 this because I'm gathering that your defense team is
7 basing your defense on the numbers up here. Okay. And
8 I want to know, can we rely on those numbers as being
9 accurate? Because if they're accurate for your
10 defense, they're accurate for my client, too. And it's
11 the same thing over here with this audit trail, if Dr.
12 Nelson is on the computer terminal at 7:49 --

13 A. Yes.

14 Q. -- when Mr. Mikell says are at 7 -- 75, that's
15 malpractice, isn't it?

16 A. I don't recall them being that low when -- you
17 know, until he started kind of becoming unstable a
18 little bit later and closer to the Mayday being called.

19 Q. Now, the next thing that you testified to was
20 over here on this board -- and this is page 494.
21 You've got this business here that Dr. Nelson at 7:51,
22 he's leaving the room at 7:51?

23 A. He was in there for two to three minutes,
24 right.

25 Q. Right. And this is the accurate rendition of

1 the record that you put together on the Mayday record?
2 All right.

3 A. On the anesthesia record, yes.

4 Q. Right. So what -- what's his oxygen
5 saturations at 7:50? It's 69.2. Okay. So you would
6 agree with me that during the times that you have
7 indicated --

8 A. Yes.

9 Q. -- and using the data that you're relying on,
10 Dr. Nelson is on the terminal when the patient is
11 desaturating, and he's leaving the room when the
12 patient is getting even worse?

13 A. I do not recall it happening that way, Mr.
14 Ransom.

15 Q. Now, I also want to ask you, to take a look
16 for me, if you will --

17 A. Yes.

18 Q. -- at this -- these real time graphs. And we
19 have this one that we marked on earlier this morning.
20 You said that it was at 7:55 that the patient was being
21 turned, and you were making an effort to do certain
22 things?

23 A. Yes.

24 Q. When we look at this downward trending graph,
25 all right, that you agree started at 7:45 or 7:46,

DONNA EMBREY -- REDIRECT

1 wouldn't you agree with me that 7:55 is going to be
2 somewhere right around there?

3 A. Again, I've seen that graph on several
4 different timelines. And I think the -- I think, if
5 anything, I think the variables and the numbers are
6 more accurate for whatever they were picking up than
7 the -- than the graph is. I've seen it on several
8 different timelines.

9 Q. Well -- and see this -- this is what we are
10 trying to figure out, Ms. Embrey, is -- you know, can
11 we rely on the real time graph, can we rely on the real
12 time variables, or do we just have to rely on you?

13 A. Good question, because as I recall it, after I
14 put the nasal airway in, his oxygen saturation jumped
15 back up to the mid 90s. I -- I said in my narrative 94
16 percent. The -- I think the number on that time
17 reflects even a better number than that. But I
18 intervened and it got better for a period of time.

19 I do not recall him having problems with his O2
20 sat while Eric was in the room. I cannot speak to the
21 fact if there was artifact on it. I -- but I can tell
22 you that there was no further intervention needed until
23 a little bit later when I felt like it was prudent to
24 turn off the Propofol. And then a of couple minutes
25 later, turn him on his back, manage his airway a little

1 more specifically.

2 Q. Ms. Embrey, can you be putting a nasal airway
3 in your patient when you're on the telephone?

4 A. No, sir.

5 Q. Can you be doing a chin lift to clear an
6 obstruction if you're on the telephone?

7 A. No, sir, absolutely not.

8 MR. RANSOM: Thank you. I don't have any other
9 questions.

10 THE COURT: Recross?

11 MR. COOKE: Just one, Your Honor.

12 **RECROSS EXAMINATION BY MR. COOKE:**

13 Q. Going back to the one minute. Mr. Ransom
14 circled these numbers here, and I don't know whether
15 you can see it from where you are. But your record --
16 your narrative record reflects that Dr. Nelson left the
17 room at 7:51; correct?

18 A. Yes. Yes.

19 Q. And can you see what the oxygen saturation is
20 up to at 7:51?

21 A. The number appears to be 90.1.

22 Q. And so is that what you're referring to when
23 you said that you recall it having increased
24 dramatically from the lower numbers before you inserted
25 the nasal airway?

1 A. Yes. Yes. Eric wouldn't have stepped out and
2 I wouldn't have let him if what I had done at 48 was
3 not effective -- an effective intervention for
4 Mr. Mikell. If it wasn't working then -- then I would
5 have had him stay or give me a hand or, you know.

6 Q. So at the time that he left, did it appear
7 that he had improved to 90.1 percent, and that that was
8 as a result of the insertion of the nasal airway?

9 A. Absolutely.

10 Q. Thank you.

11 A. Absolutely.

12 Q. That's all?

13 THE COURT: You may step down. Thank you very
14 much. May I see the attorneys up here just a second?

15 (WHEREUPON, a bench conference was had.)

16 THE COURT: All right. Madam Forelady, ladies and
17 gentlemen of the jury, we are going to take a break at
18 this time, and we'll start back in the morning at 9:30.
19 If you'll leave your notepads there.

20 And as I told you before, don't discuss the case
21 with anyone. And I'll see you in the morning at 9:30.
22 And, ma'am, you need to probably change your
23 appointment.

24 JUROR: ' Okay.

25 (WHEREUPON, the jury leaves the courtroom at

1 conversion action. Let me hear from you, Mr. Cooke.
2 It's your motion.

3 MR. COOKE: First of all, the card didn't belong
4 to him, and it didn't belong to his estate. There's no
5 evidence that it was intentionally taken away.

6 But second of all, the best thing that has ever
7 happened to Mr. Ransom in this case was that card being
8 gone. Because we know from the other records that --
9 that are -- that are undisputable, that the time -- the
10 only thing she could have gotten off of that
11 information was when did the code begin. That's the
12 first piece of data on there. And she used that to
13 help her know when Dr. Nelson was back in the room.

14 But we now know because of a record that she
15 couldn't have changed and nobody could have changed,
16 which is when the bagging began. That's -- that's the
17 FIO2 and the PIP, that both went up dramatically right
18 between 7:55 and 7:56, which proves absolutely
19 positively that without any doubt whatsoever, beyond
20 any capability of even Ms. Embrey to go back and change
21 records, that that's when the bagging occurred and
22 that's when Dr. Nelson was there helping her do it.

23 But, let's put all that aside. The very best
24 thing that has ever happened to the plaintiff's case is
25 for that record to be missing. Because their entire

JOHN FISHER -- DIRECT

1 JOHN FISHER, after having
2 been duly sworn, testified as follows:

3 THE CLERK: Please state your first and last name,
4 and spell the last name loudly and clearly into the
5 microphone.

6 THE WITNESS: John Fisher, F-i-s-h-e-r.

7 **DIRECT EXAMINATION BY MS. FLEMING:**

8 Q. Good morning, Mr. Fisher. Could you please
9 tell the jury where you are currently employed?

10 A. The Medical University of South Carolina.

11 Q. And how long have you been employed by MUSC?

12 A. Since October of 2012.

13 Q. And what is your educational background?

14 A. I went to Clemson and received a Bachelors in
15 Computer Science. And then continued to receive a
16 Masters in Computer Science also at Clemson.

17 Q. What year was that?

18 A. In 2005, 2008 respectively.

19 Q. And what is your current position at MUSC?

20 A. I am the manager of Enterprise Application
21 Development.

22 Q. In that position, do you -- do you supervise
23 other employees?

24 A. Yes, ma'am.

25 Q. And what are some of your responsibilities?

JOHN FISHER -- DIRECT

1 A. So, we have an electronic medical system
2 called Epic. And as great as it is, it can't do
3 everything that the doctors would like. So things that
4 it can't do, come to my team, and then we develop these
5 applications for the doctors, for administration, for
6 research, et cetera.

7 Q. Are you familiar with the PICIS electronic
8 medical record?

9 A. Yes, I am.

10 Q. And when was that discontinued from use at
11 MUSC by the Department of Anesthesia?

12 A. PICIS went dormant on July -- July 1, 2014,
13 when the University switched over to Epic.

14 Q. And why -- what is your understanding of why
15 the University switched to the Epic chart?

16 A. Prior to Epic, the University had a myriad of
17 different systems, about seven or eight, each were
18 purchased to do certain things. In the case of PICIS,
19 PICIS was used by surgery, perioperative services, and
20 anesthesia. We had another system for medical records;
21 another system for medication; another system for labs.
22 And they wanted to consolidate it down into one system
23 and Epic was able to do that for us.

24 Q. What -- what is PICIS?

25 A. So PICIS is an application that was used by

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1 machines in the operating room, the anesthesia machine
2 and the Phillips monitor at one minute intervals. So
3 based on what I've discovered, in looking at this one
4 minute report, the values that you see here on this
5 report are accurate.

6 Q. Now, what did you do to confirm -- how did you
7 confirm that none of this data had been altered,
8 destroyed, deleted or modified in any way?

9 A. So the only way that data can be modified in
10 any manner in PICIS is through the user application.
11 PICIS has what's called an audit trail. It tracks
12 everything that is done in the system. I know that
13 it's been mentioned a few times in prior testimonies,
14 and there is literally audit trails for everything in
15 PICIS.

16 And so what I did is I looked at all the real
17 time variables for Mr. Mikell's case, and then crossed
18 it with this audit trail, and found absolutely no
19 modifications whatsoever between the two.

20 Q. And when you say real time variables, is there
21 -- is that a title that appears on the top of
22 anesthesia record?

23 A. It's -- it's right here (indicated).

24 Q. And. So when we're talking about the real
25 time variables, you're talking about the numerical

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1 values that we see in from 7:48 through the rest of the
2 record; is that correct?

3 A. Correct. That is the only information that
4 comes from those machines.

5 Q. And, Mr. Fisher, have you seen this document
6 before?

7 A. Yes, I have.

8 Q. And could you tell the jury what it
9 represents?

10 A. So if you were to look at a database, a
11 database -- if you're familiar with Microsoft Excel, a
12 database is an enormous Excel sheet. This represents
13 the real time data for Mr. Mikell in that format. I
14 believe there are about 136 columns in this report.

15 Q. And so why -- why did you create this -- or
16 how did you create this report, I guess, when -- maybe
17 I should have asked that differently. Does this report
18 represent all of the values that we see in the one
19 minute version of the record?

20 A. Yes. So the way that this report is laid out,
21 the column here listed as started, that's the time in
22 which information was recorded. And then these
23 different columns here -- and even though you can't
24 really understand what they mean because says C -0-0-1,
25 C-0-0-0 -- they are corresponding to the different

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1 vital data that's coming into the machines. The reason
2 that they're named as such, as new machines are
3 introduced -- it's kind of an expanding system, so if
4 MUSC were to purchase a new kind of anesthesia machine,
5 then that would start populating in the new column, and
6 not corrupt data in older columns.

7 Q. And so all of the data that you have entered
8 or you have -- you have collaborated in the document
9 that you're looking at, is all data that's directly
10 derived from the PICIS database for Mr. Mikell's case?

11 A. Yes, ma'am.

12 Q. And does it correspond with what we see in the
13 one minute version of the anesthesia record?

14 A. Yes, ma'am.

15 Q. I should have asked you this before, but how
16 does PICIS -- how does PICIS obtain, or at what
17 interval does it -- does it -- did it record data from
18 the monitors?

19 A. It received data at one minute intervals.

20 Q. Now, how many hours, during the discovery
21 process in this case, how many hours have you spent
22 trying to determine whether Mr. Mikell's anesthesia
23 record was unchanged?

24 A. I spent approximately about 500 hours in the
25 last six months.

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1 Q. Why did you do that?

2 A. I believe when the legal printout
3 documentation from PICIS was presented to Mr. Ransom,
4 he had proposed that the values were modified. And so
5 knowing that the database was unmodifiable, we wanted
6 to see if that was, in fact, true or not.

7 Q. And what was your final conclusion?

8 A. That the data was not modified in any manner.

9 Q. And so when you say the data was not modified,
10 would it be fair to say that all of the vital sign data
11 that we see throughout the one minute version of
12 Mr. Mikell's anesthesia record, is accurate and
13 reliable?

14 A. All of the numeric data on top of this report
15 is reliable.

16 Q. So that would include the continuation of the
17 chart through whenever he was discharged from the PICIS
18 system; correct?

19 A. Yes, ma'am.

20 Q. Now, we've seen different versions of the
21 PICIS record throughout the week. We've seen a 15
22 minute version and the one minute version. And I'd
23 like to just have you just clarify something with
24 regard to the 15 minute version..

25 A. Sure.

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1 Q. Do you recognize this copy of the record?
2 Does this copy represent the 15 minute version of the
3 anesthesia record?

4 A. Yes. Yes, ma'am.

5 Q. Do you know -- or what is your understanding
6 of how the values for the different parameters that we
7 see on the left side of the screen, how -- how did
8 PICIS plot the numerical values that we see for 7:45
9 for each 15 interval?

10 A. Well, we're talking about just the numbers at
11 the top right now?

12 Q. Yes.

13 A. I know that internally in the program, it's an
14 averaging out rhythm. But admittedly, I don't know
15 what averaging out rhythm they're using. And it's not
16 something that's really in the control of MUSC. That's
17 a PICIS program decision.

18 Q. And so does the 15 -- which version is the
19 most accurate version of the record?

20 A. Definitely the one minute version.

21 Q. Now, were you able to confirm at what time
22 PICIS started capturing data for Mr. Mikell's case?

23 A. The first time we started seeing information
24 for Mr. Mikell's case was at 7:48. .

25 Q. Okay. So, we see on the one minute version of

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1 the record, that we don't have any vital signs yet
2 other than the heart rhythm prior to 7:48 a.m. And why
3 -- what is your understanding of why PICIS did not
4 start capturing information or data for Mr. Mikell's
5 case before 7:48 a.m.?

6 A. Typically, this happens when the patient is
7 unable to be transferred from the pre-op area to the
8 surgical area, at least through the -- as far as the
9 program is concerned. And this could happen for -- for
10 any number of reasons: User error possibly, one of
11 them; program error; communication error between the
12 two systems.

13 Q. Was it uncommon to have issues like this, what
14 happened in this case with the PICIS system?

15 A. It was fairly rare, but not -- it could
16 happen.

17 Q. And did PICIS -- did PICIS offer an
18 application that allowed IT to help the user or the
19 doctor, CRNA remedy the problem or issue?

20 A. Yes, ma'am.

21 Q. And how was that done in this case?

22 A. I believe that if I'm to understand correctly,
23 I believe that the support person would log into PICIS
24 themselves. They have a bit more rights than the
25 physician does, and they would finish the transfer of

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1 the patient into what's called a transfer bucket. And
2 then from there, they are able to transfer the patient
3 then to the OR setting in PICIS.

4 Q. And at that point, could the -- could the CRNA
5 or physician then see the record on their computer
6 screen and start charting?

7 A.. Yes, ma'am.

8 Q. And how would -- how would the user -- we've
9 heard a lot about text messages and pages to IT, does
10 MUSC have a paging system in place for doctors and
11 nurses to put a page into IT?

12 A. Yes. So the paging system at use at the
13 Medical University is a system called Simon, S-i-m-o-n.
14 And as a part of this system, they also have a web
15 interface in which you can go search for a doctor or
16 really anyone who has a pager -- it wasn't limited to
17 just doctors. So in this case, the support team have
18 their own pagers. You could select that pager, then
19 type a brief message, hit enter and it would go off and
20 go to that pager.

21 Q. So it would notify IT that someone needed help
22 with the record?

23 A. Exactly.

24 Q. And was that a fairly common practice? You
25 had a team in place to help with that?

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1 A. MUSC has various IT support teams for all
2 programs that they use. And all of them, my team
3 included, we all have a pager that if something were to
4 go wrong, or if a user is having an issue, or not
5 really sure how to use the program or -- not able to
6 provide care or whatever, they can -- then text these
7 teams, and we would respond as fast as possible to
8 alleviate the problem for them.

9 Q. Okay. Now, we've seen on the -- on the
10 anesthesia record, we see this -- we see this real time
11 data graph on the bottom of the record; are you
12 familiar with that graph?

13 A. Yes, ma'am.

14 Q. Okay. And I think we've seen various versions
15 of this graph throughout the week. We've seen what's
16 depicted here as a graph that appears on the one minute
17 version of the record; can you see these, Mr. Fisher?

18 A. Yes.

19 Q. Okay. And we've also seen a graph that
20 appears on the 15 minute version of the record. Now,
21 if you've confirmed that no vital sign information was
22 populating in the PICIS system prior to 7:48 a.m, is
23 the graph that appears on the one minute version of the
24 record accurate or reliable?

25 A. No, ma'am. The graph that appears on both of

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1 these reports derives from the numeric data from the
2 top. It's not separate data. It's not independent.
3 They -- they are intended to reflect the same data. So
4 knowing that the database shows that no information,
5 outside of the EKG rhythm, was being plotted prior to
6 7:48, the graph being shown on the one minute report
7 must be wrong.

8 Q. And so the graph on the 15 minute version of
9 the record, can you explain how the data -- how the
10 graph plots the data on this 15 minute version of the
11 record?

12 A. According to the documentation we have from
13 the PICIS vendor, it is for each column, which
14 represents 15 minutes, it takes three points
15 representing the closest to the five minute values. So
16 between 7:45 and 8:00, 7:45, 7:50 and 7:55. And then
17 it would plot those points. And then in the case of
18 the SP02 line, would then draw a line between those
19 points.

20 Q. And at the top of the 15 minute record, do you
21 have any understanding of how PICIS plotted the
22 information in the 15 minute version of the record?

23 A. As I said before, I know it is an averaging
24 algorithm, but I don't know what algorithm it is. It's
25 not your typical add up the value, divide by the

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1 number. But that's -- it's beyond MUSC's control.

2 Q. So would it be fair to say that the number
3 that appears for -- for instance, in the 15 minute
4 version of the chart, at 7:45 for the pulse ox being
5 47.5, would it necessarily be the average of the pulse
6 ox symmetry value over that 15 minute period?

7 A. Correct.

8 Q. Now, we've talked a lot this week about an
9 audit trail; are you familiar with the audit trail
10 that's been --

11 A. Yes, ma'am.

12 Q. -- placed in front of you. Can you explain to
13 the jury how -- what each column on the audit trail
14 represents? And we start with the column on the left
15 hand side of the page.

16 A. So the first column here, the date, that's the
17 time on the record that the event happened.

18 Q. You can mark it. Okay.

19 A. So, this is the date. It's -- these are the
20 times in which the event in this column occurred
21 according to the medical record. This is the type of
22 event -- the kind of -- the classifying of different
23 types. I'm not really fully certain of the
24 classification.

25 This is -- if the user made a comment when they

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1 were putting in the event, it would go here. This is
2 the action taken upon the event. You can see we have
3 created a deleted, modified. This date/time column
4 here is the date/time in which the action occurred. So
5 typically, upon creation, so on -- so on this top line
6 here, you could see that this is a transfer to action.
7 And its creation date up here is 7:35:09. And the date
8 here on the medical record is 7:35. So typically when
9 it's created, it should match what the medical record
10 is. Finally, this last column is the user that did the
11 action.

12 Q. * Once the -- once the PICIS chart was open,
13 could two different users chart in the system from
14 different locations?

15 A. No, ma'am.

16 Q. And have you confirmed, could this audit trail
17 be altered, deleted, destroyed, modified in any way?

18 A. No, ma'am.

19 Q. And so any changes to the narrative portion --
20 and I'll show you the narrative portion up here on the
21 anesthesia record -- so would any changes to this, what
22 we've been calling the narrative portion under the
23 anesthesia event section of the record, appear in the
24 audit trail?

25 A. Yes, ma'am.

1 Q. Now, do you see the several entries on the top
2 portion of the record by Dr. Eric Nelson?

3 A. Yes, ma'am.

4 Q. What time were those -- according to this
5 audit trail, what time did Dr. Nelson make those
6 entries into the record, where it says
7 "anesthesiologist assessed patient, anesthesiologist
8 present for"?

9 A. It appears to be 7:49 and four seconds; 7:49
10 and five seconds.

11 Q. So does that indicate the time in which Dr.
12 Nelson was actually physically entering those values --
13 or that information into the medical record?

14 A. Yes, ma'am.

15 Q. Nothing further. Thank you, Mr. Fisher.

16 THE COURT: Cross-examination.

17 MR. RANSOM: Thank you, Your Honor.

18 **CROSS EXAMINATION BY MR. RANSOM:**

19 Q. Good morning, Mr. Fisher.

20 A. Good morning.

21 Q. You've -- you've testified that you have been
22 able -- excuse me -- to verify that the information in
23 the spread sheet has not been modified, deleted or
24 altered in any way?

25 A. The numeric data, yes, sir.

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1 Q. Okay. What have you done, if anything, to
2 confirm that it's actually accurate?

3 A. I'm not sure how I would be able to do that.
4 It's coming from the machine itself.

5 Q. Okay. So in other words, you can tell us that
6 these numbers haven't been modified, altered or
7 tampered with in some way, but you can't tell us that
8 they actually accurately represent, for example, what
9 Mr. Mikell's blood oxygen saturation was at 7:48?

10 A. I don't know anything about those machines.
11 If they're not accurate, then there would be a problem
12 with those machines.

13 Q. Okay. So in terms of the validity, if you
14 will, of all of these numbers, you can't confirm or
15 deny that? There's nothing that you can do in looking
16 at the system to determine that?

17 A. With these numbers, no. But it's also
18 important to know that these reports do not reflect
19 what was shown on the monitors in the operating room.
20 These are for reference.

21 Q. Well, but those are numbers that are being
22 electronically recorded by the machines that are in the
23 room; right?

24 A. I suppose what I'm saying is that if you're
25 implying that these numbers on this report are wrong,

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

SHON TURNER, as Personal
Representative of the Estate
of Charles Mikell, deceased

Plaintiff

vs.

MEDICAL UNIVERSITY OF
SOUTH CAROLINA,

Defendant

THE COURT OF COMMON PLEAS

DOCKET NO. 2012-CP-10-7275

TRANSCRIPT OF RECORD

July 18, 2016
Charleston, South Carolina

B E F O R E:

THE HONORABLE J. C. NICHOLSON, JR., JUDGE

A P P E A R A N C E S:

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No exhibits were introduced

1 PROCEEDINGS

2 THE COURT: All right, Turner versus Medical
3 University, MUSC. All right, we're here because I
4 believe the defense counsel wanted to depose or cross
5 examine the Mr. Ransom concerning the affidavit for
6 attorney privileges, is that correct?

7 MR. COOKE: Correct. And there's also plaintiff's
8 motion for a new trial, too.

9 THE COURT: All right. Okay.

10 MR. COOKE: Judge, I notice that we're infringing
11 on the court's lunch break and we don't mind coming back
12 if you want to take a break ---

13 THE COURT: --- well, whatever y'all want to do.
14 Mr. Ransom? How long do think the cross examination is
15 going to take on the...

16 MR. COOKE: I'm thinking it could take 45 minutes,
17 maybe something like that?

18 THE COURT: On the attorney's fees?

19 MR. COOKE: Yes, Your Honor.

20 THE COURT: How long do you think the motion is
21 going to take for a new trial?

22 MR. RANSOM: Fifteen minutes, Your Honor.

23 THE COURT: Why don't we hear the motion for a new
24 trial, take a short -- take a break and if you don't mind
25 we'll come back in for the attorney's fees because I

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Proceedings
July 18, 2016

1 really don't want to rush you.

2 MR. COOKE: I know.

3 THE COURT: And I'm ready to get out of here for a
4 little while, okay?

5 MR. COOKE: That's why I brought it up.

6 THE COURT: Okay.

7 MR. COOKE: You've had a long morning already.

8 THE COURT: All right, I'm sorry y'all had to wait
9 but I sort of got tangled up in a couple of things that I
10 got to try to untangle somehow. Yes, sir, on the new
11 trial.

12 MR. RANSOM: May it please the court, Your Honor?
13 You sat through the trial, entertained arguments on the
14 issues at various points during the trial. The motion
15 has been filed and I'm grateful to you for giving me the
16 ten days after the verdict to do that. They filed a
17 responsive memorandum to which I have filed a reply.
18 Your Honor, I can highlight the arguments for you, if you
19 would like, or answer any questions that you may have,
20 but I don't want to belabor the issues because they have
21 been discussed at length at various times during the
22 proceedings.

23 THE COURT: Well, tell me why you think I should
24 grant a new trial ---

25 MR. RANSOM: --- sure ---

1 THE COURT: --- in a nutshell real quick, if you
2 don't mind.

3 MR. RANSOM: Sure. Judge, the primary ground is
4 that if you will recall you had granted the Medical
5 University's motion for partial summary judgment at the
6 close of all the evidence finding that there was no
7 reason to submit the claims against Dr. Nelson to the
8 jury for their consideration. You had originally denied
9 the Medical University's motion for a directed verdict at
10 the close of the plaintiff's case finding that there was
11 sufficient evidence on the claims against Dr. Nelson to
12 go to the jury. And then, at the close of the Medical
13 University's case on Friday afternoon Mr. Cooke made a
14 motion for partial summary judgment which you took under
15 advisement over the weekend.

16 And as you may recall, it was during the charge
17 conference Monday morning that the jury instructions and
18 the motion for partial summary judgment were being
19 discussed and you ultimately made the decision that you
20 were going to grant the motion for partial summary
21 judgment. But, you also made the determination that you
22 wouldn't inform the jury that you were removing the
23 claims against Dr. Nelson from their consideration. You
24 simply instructed me not to address those claims during
25 closing argument. The jury then got the case late

1 Monday afternoon, as you will recall one of the jurors
2 had childcare arrangements that we let them go around six
3 and then when we came back to court Tuesday morning, it
4 was at least my impression and I think Mr. Apostolou
5 shared this, that you had considered the matter again
6 over the course of the evening and believed, perhaps, it
7 had been a mistake to grant the motion for partial
8 summary judgment.

9 And as you may recall, we then had a discussion Mr.
10 Cooke and Mr. Apostolou and Ms. Fleming and I about how
11 that could be corrected. There was discussion about
12 informing the jury about certain things about submitting
13 a revised verdict form, but because Mr. Cooke and I were
14 not able to agree about how this could be resolved you
15 ultimately determined that you weren't going to intervene
16 in any fashion.

17 And my point that I'm trying to make her is that our
18 position, the plaintiff's position is, that it was a
19 mistake to take those claims against Dr. Nelson out of
20 the jury's consideration. It was my impression that you
21 yourself perceived that, but the verdict came in before
22 really anything could be done try to correct that in the
23 absence of an agreement between counsel. So, that's the
24 primary basis for the motion for a new trial is that
25 those claims were withdrawn from the jury's consideration

1 when they should have been submitted if there was issues
2 of fact for the jury to determine. There were a number
3 of other grounds that we cited in the written motion that
4 we filed. One related to the introduction of a blank
5 Mayday form into evidence. It's our position that this
6 was done in a backdoor attempt to defeat the best
7 evidence rule.

8 We also raised the issue of the opinion testimony
9 that was permitted to be introduced from Dr. Zile. You
10 will recall that he was one of the Medical University's
11 cardiologists who had treated Mr. Michael prior to the
12 colonoscopy and he gave opinion testimony about his life
13 expectancy. It had been your ruling that since we were
14 not advised, since the plaintiff's were not advised that
15 Dr. Zile was going to be called as an expert witness and
16 provide that type of opinion testimony, that it was not
17 appropriate for the jury to hear it.

18 But, Ms. Fleming repeatedly asked Dr. Zile questions
19 designed to illicit that opinion and it ultimately came
20 in. I asked to strike it, you declined to do that, we
21 think that that influenced the jury's determination.
22 There was also the issue, Judge, as you will recall a
23 very lively discussion at sidebar on Monday morning about
24 the jury instructions and what was to be instructed
25 relevant to the claim for medical malpractice. The form

1 had an instruction, that Your Honor had used defines
2 negligence, professional negligence, malpractice and puts
3 the matter in several different contexts which I had
4 objected in a very concise way after the jury
5 instructions that I believe was confusing to the jury.

6 And then lastly, was the issue of the manner in
7 which the discovery abuse that's the subject of the much
8 ballyhooed motion for sanctions affected the plaintiff's
9 ability to prepare for trial. And all of these issues,
10 again, are set forth in the memoranda that have been
11 submitted by the parties, but I think when you put all
12 those things together and most especially the taking of
13 the claims against Dr. Nelson from the jury's
14 consideration that the plaintiff would be entitled to a
15 new trial. Thank you, sir.

16 THE COURT: Thank you very much.

17 MR. COOKE: Thank you, Your Honor. We, too,
18 submitted a memorandum in opposition. As to Dr. Nelson,
19 first of all I believe it was a motion for partial
20 directed verdict. I -- maybe I misspoke at the time and
21 said summary judgment, but I think the court treated my
22 motion ---

23 THE COURT: --- I think you probably meant directed
24 verdict.

25 MR. COOKE: Well, either way, I mean it could have

1 been ---

2 THE COURT: --- maybe ---

3 MR. COOKE: --- it could have been ---

4 THE COURT: --- but obviously it had to be directed
5 verdict not summary judgment.

6 MR. COOKE: Right. Because you were in the course
7 of trial and of course the rule allows you to direct a
8 verdict as to specific issues within the case. But, what
9 I think had troubled you when you were thinking about it
10 afterwards was the fact that in retrospect, Dr. Nelson
11 wasn't actually a party and you were wondering how can
12 you grant a partial directed verdict.

13 But, you remember the issue was there physician
14 negligence or was there other personnel negligence. And
15 the difference would be the cap on liability. Then of
16 course, physician negligence the cap would be 1.2 million
17 and it would be 300,000 if it was a nurse or somebody
18 else. So that's why -- that's why it was important and
19 that's why you were concerned about it.

20 But in the end, first of all it didn't make -- first
21 of all you were correct in doing it. And second of all,
22 it didn't make any difference because the jury found that
23 there was no negligence on the part of Ms. Embry either.
24 And the negligence that was claimed against Dr. Nelson
25 was in failing to supervise her. And, as you recall the

1 licensing statute for nurses says that the nurse must act
2 under the supervision of a physician. And the
3 plaintiff's were arguing that essentially that -- I don't
4 want to put words in their mouth either -- caused by
5 careless liability or some sort of non-delegable duty or
6 strict liability on the part of the doctor. We argued
7 that the Hurst v Sandi [phonetic] case said that
8 licensing statutes don't create a duty of care the
9 violation of which gives rise to a cause of action. In
10 this particular case it's not even the physicians
11 licensing statute, it's the nursing statute. So, that
12 doesn't create a duty.

13 Plaintiff's expert Dr. Koffkey [phonetic] said that
14 it was appropriate for the anesthesiologist to supervise
15 up to four nurse anesthetists at a time and in this case
16 -- and that they should be rule of thumb he said as long
17 as you can get there within about two minutes or so after
18 you're called that's sufficient.

19 So, he didn't give any testimony from which a jury
20 could reasonably have inferred that Dr. Nelson deviated
21 from the accepted standard care because he was relying on
22 Donny Embry [phonetic] to call him if something went
23 wrong. We know absolutely for a fact that he was in the
24 room at 7:49. How do we know that, because the audit
25 trail, you remember that -- I know this is bringing back

1 fond memories but, the audit trail showed that he was
2 actually there, in the room, entering data in the
3 computer at 7:49. So, no matter what anybody testified
4 to that's one that you can't get away from.

5 We know that the note says that there was a decrease
6 in the saturation, at which time the nasal cannula was
7 inserted. He was present for that. The oxygen rate,
8 according to the note, came up to 94 percent. At 7:50 we
9 know it was at 90 percent. The nurse's note says he left
10 the room at 7:51 and we now know -- we know that he was
11 back in the room at least by 7:56 assisting in the
12 resuscitation.

13 Their experts said that well, I think the nurse must
14 not have known how to intubate or bag mask him correctly
15 because everybody else seemed to be able to bag mask him
16 but yet, in this case, he continued to desaturate when
17 the nurse was bag masking. Well, the testimony was that
18 Dr. Nelson was there with her assisting in the bag
19 masking. That they turned him in the lateral position,
20 they took the nasal airway out, and they bagged him --
21 bagged him during the resuscitation.

22 So, at most there was four to five minutes when Dr.
23 Nelson was not even -- was not in the room. But, the
24 expert's testimony and the testimony of our own experts
25 was that it was within the accepted standard of care for

1 the physician to rely on the nurse anesthetist to monitor
2 the patient and to call if he was needed. So, there was
3 no evidence of negligence on his part. But, second even
4 if there was it was harmless error because it could have
5 been a concern if the jury had found that she was
6 negligent and therefore the failure to supervise her
7 might have been an issue. But, in this case because the
8 jury found that she was not negligent the failure to
9 supervise her could not have been negligent.

10 And in Mr. Ransom's brief he says well maybe the
11 jury felt sorry for her because she was tearful and she
12 felt so bad about how things happened. And so maybe they
13 could have found that he was responsible and she wasn't.
14 Nobody tried to blame anything on Dr. Nelson. Even their
15 expert, our expert, Donna Nelson, she never said that I
16 was helpless because Dr. Nelson wasn't there to help me.
17 Their testimony was completely consistent with one
18 another and that is that she was doing what the nurse
19 practice act and his standard of care permitted her to do
20 which was to monitor the patient and be there.

21 So, we think the court was correct in granting a
22 partial directed verdict just to Dr. Nelson. It would be
23 a much more interesting argument had the jury found
24 against the Medical University then we'd be arguing about
25 whether the 1.2 million dollar cap should apply or the

1 lesser. As to the other grounds, the code sheet was
2 allowed and we had a big argument about it and you
3 wouldn't let him testify as to anything that was in the
4 missing code sheet. But, we were allowed to -- you
5 remember the testimony was that the code sheet didn't
6 even start until the code was called.

7 In other words, the arrest had already occurred and
8 so there wouldn't be anything -- the inference would be
9 that there wouldn't be anything on the code sheet that
10 reflected what happened before the code was called. We
11 were going to talk about that in a little while too
12 because you brought that up with regard to the sanctions
13 as well.

14 So, we put into evidence the blank code sheet to
15 simply corroborate that testimony and that is that if you
16 look at that form the blanks that are on the sheet,
17 there's nothing in there that caused for you to say what
18 caused the arrest or what was happening or what the
19 oxygen saturation numbers were prior to the arrest
20 occurring.

21 The -- over our objection, the court gave a
22 spoliation charge, but even under the -- even if the
23 Spartanburg hospital cases is the law and we argued a lot
24 in our brief why it shouldn't be just to preserve the
25 issue on appeal. But, even if it is, it's a rebuttable

1 presumption and various charges are rebuttable
2 presumption. So, we were allowed to put in evidence that
3 showed the jury that there wasn't anything damning in
4 that report that there wouldn't have been anything in
5 that report that was relevant to this case. And that's
6 exactly the kind of rebuttal that you're allowed to put
7 in in response to spoliation charge.

8 The issue of Dr. Zile, as you remember we moved at
9 the start of the trial to exclude the new testimony of
10 Dr. Koffkey[phonetic] because a week before trial we'd
11 gotten a letter from Mr. Ransom supplementing the
12 testimony that Dr. Zile was going to give to where he was
13 now going to say, instead of just saying that well I
14 think that -- I don't know the cause of death and I think
15 that certainly this insult, unless he returned to his
16 normal state before it had to have had some causative
17 effective. And you remember we filed -- we filed long
18 excerpts from his testimony where he said basically, I
19 don't know what caused him to die.

20 Well, now, a week before we get a supplementation
21 that says following his debilitating hospitalization, Mr.
22 Michael never returned to his pre-event baseline.
23 Several medications, which have been used to keep him
24 stable were changed while he was in the hospital. This
25 made him more susceptible to the type of heart

1 dysfunction described as being the likely cause of his
2 death. So, the cardiac arrest, physical injuries,
3 hospitalization, debilitation, medical management,
4 etcetera all contributed to his death. Now, that's brand
5 new. It wasn't based on any newly discovered evidence or
6 newly produced evidence. This goes back to the medical
7 records that when Dr. Koffkey [phonetic] was deposed he
8 said, I haven't really paid any attention to the records
9 of what happened after the arrest. My focus was on that.

10 And now, if you remember, at trial he was allowed to
11 testify that certain medications that Mr. Michael had
12 been on were changed during his recovery from the arrest.
13 And that he believed now that that made him more
14 susceptible to what was the most likely cause of his
15 death. Even though previously he said he didn't know
16 what that was.

17 So, the logical way that you would address that is
18 to call the treating physician and ask him about the
19 medications that were changed and would you have changed
20 those medications if you thought it would have made him
21 more susceptible to injury. And, you wouldn't let us
22 give -- you wouldn't let him give an opinion as to
23 whether, in fact, it contributed to the death or not.
24 But, you allowed him to testify as to the medications
25 that he was on and the reason for the change, and the

1 reasonable prognosis given his condition. So that was a
2 perfectly normal testimony that you would expect to come
3 from a treating physician. And it was the least the
4 court could do, with all due respect, to allow us to
5 respond to this last minute addition to Dr. Koffkey's
6 [phonetic] testimony. I think those were all of the
7 issues.

8 THE COURT: Okay. Thank you so very much. Is
9 there anything you want to add very briefly in rebuttal?

10 MR. RANSOM: Judge, the only -- as you will recall
11 there was a wealth of disputed evidence and testimony and
12 documents about what actually transpired during this ten
13 or fifteen minute period of time between when they first
14 administered the anesthetic to Mr. Michael and when he
15 was resuscitated from the cardiac arrest. And two things
16 that I want to make sure that you remember.

17 And the first was that Dr. Nelson himself testified
18 that he should not have left the room if his patient
19 wasn't stable. And when we look at the data that's in
20 the anesthesia record, questionable as it may be, it
21 shows these oxygen saturation levels -- forgive me, Dr.
22 Nelson's testimony was that if his oxygen saturations
23 were not consistently in the 90's then he shouldn't have
24 left the room. Dr. Koffkey's [phonetic] testimony was
25 that he shouldn't have left the room if the patient

1 wasn't stable. Well, the anesthesia records show that
2 Mr. Michael's oxygen saturations are up and down and up
3 and down. And it's interesting, Mr. Cooke, again
4 conflates did he leave the room at 7:48? Did he leave
5 the room at 7:49? Was he on the computer terminal at
6 7:48? Was he on the computer terminal at 7:49? That's
7 really important because his oxygen saturation level is
8 recorded as being about 90 at 7:48 and something like 60
9 at 7:49. And 60, of course, according to the nurse
10 anesthetist was real bad and required immediate
11 attention.

12 So, a bunch of disputed evidence about what's
13 actually taking place, when is he going in when is he
14 going out? As you'll recall when we got the audit trail,
15 the audit trail actually showed that Nurse Embry was
16 reconstructing all of these times when these things
17 supposedly happened and reverse engineering all of that
18 trying to fit it back together. And the question that
19 was asked of her was, how are you able to remember how
20 all of these things went down? And her testimony was
21 because I had the Mayday card.

22 And so, they continually took the position
23 throughout the case, and I don't fault them for trying
24 this because they're right, they had that Stokes case
25 adverse inference that was killing them. So, they had to

1 come up with some way to explain this Mayday record in a
2 benign fashion. And what they came up with was, well
3 let's just get a blank form and we'll put the blank form
4 in evidence and that will show that there wasn't anything
5 important in that Mayday record.

6 Well, that's exactly the effort that the best
7 evidence rule is designed to prohibit. And, taken in
8 addition to that was Nurse Embry's testimony that it was
9 the Mayday record that served as the guide for the
10 timeline of events that -- that she reconstructed in the
11 narrative.

12 The Medical University's position time and time
13 again has been that there was nothing in that Mayday
14 record that predated, or that came before the arrest
15 itself. Well that's their position. But when we look at
16 the narrative that Nurse Embry created by her own
17 testimony using that Mayday record it includes such
18 events as checking to make sure that the equipment is
19 working and functioning properly.

20 So, you know, it was completely within the jury's
21 domain, I think, to determine what pieces of evidence to
22 accept and reject. What testimony to accept and reject
23 and how they wanted to weave together the picture of what
24 actually happened, based on the totality of the
25 circumstances. It's true, I don't dispute Mr. Cooke put

1 up a good case and if the jury believed his version of
2 events that would explain why we lost the case. But,
3 they were certainly entitled to consider the evidence
4 that Dr. Nelson left when the patient's vital signs were
5 not stable, when they were not consistently in the 90's.
6 When he was actually headed down, you will remember the
7 slope into the valley of death as I called it.

8 And the jury could have accepted that evidence and
9 given a verdict against Dr. Nelson. And, again, in the
10 context, Judge of the statute that requires him to be
11 present, supervise, and directing the administration of
12 that anesthetic. Do you recall, that the evidence in the
13 anesthesia records show that the drug was given at 7:42.

14 THE COURT: You said a verdict against Dr. Nelson.
15 Dr. Nelson was never sued. The only issue with Dr.
16 Nelson was whether -- what cap was going to apply.

17 MR. RANSOM: Well, that's true and I agree to that
18 ---

19 THE COURT: --- he was never sued, so it could
20 never be a verdict against him. The issue was how were
21 we going to determine the cap. And he made a motion to
22 direct a verdict as to liability so he would -- so we
23 could predetermine the cap if I remember correctly. Is
24 that correct or incorrect?

25 MR. COOKE: That's correct.

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1 MR. RANSOM: That's correct.

2 THE COURT: Okay. When you said the jury could
3 return a verdict against Nelson ---

4 MR. RANSOM: --- well, finding that Dr. Nelson is a
5 physician ---

6 THE COURT: --- well ---

7 MR. RANSOM: --- that his conduct had been
8 substandard ---

9 THE COURT: --- if, in fact, we had put some
10 interrogatories to the jury yes they could have found
11 that Dr. Nelson had improperly supervised the nurse and
12 that would have affected the cap.

13 MR. RANSOM: That's right.

14 THE COURT: But, it wasn't directed verdict as to
15 liability.

16 MR. RANSOM: I believe it was, Your Honor. I
17 believe it was ---

18 THE COURT: --- I don't think so, but go ahead. Go
19 ahead with your argument.

20 MR. RANSOM: In any event ---

21 THE COURT: --- in any event, go ahead ---

22 MR. RANSOM: --- you're remembering this and you ---

23 THE COURT: --- I'm trying to bring it all back ---

24 MR. RANSOM: --- that's fine ---

25 THE COURT: --- while y'all talking but its ---

1 MR. RANSOM: --- again, my point is simply, Judge,
2 is there was a wealth of disputed evidence that I think
3 the jury was entitled to consider in order to determine
4 -- if you'll remember the verdict form initially proposed
5 by Mr. Cooke, it included a line do you find malpractice
6 by a physician or words to that effect. This is what he
7 had proposed to submit to the jury. And so, if you had
8 not granted this motion that form would have gone back
9 with the jury and they could have answered that question
10 ---

11 THE COURT: --- well, let me ask you -- well, I'll
12 just -- let me read your memorandums because I'm having
13 trouble bringing it all back ---

14 MR. RANSOM: --- yes, sir ---

15 THE COURT: --- to my mind. But, let me ask you
16 one question and I don't remember. I believe there was a
17 dispute as to when Nelson was in the room. The records
18 showed one thing and the records got changed and there
19 was a time frame before and nobody really knew. But, my
20 question, how did the Mayday card have anything to do
21 with that because the Mayday card wasn't even coming into
22 existence until they declared the Mayday. Until he was
23 going into the valley of death, as you recall it ---

24 MR. RANSOM: --- well, the way that I would answer
25 that, Judge, is to say that you can only reach that

1 conclusion by accepting the Medical University's
2 narrative about what's in this Mayday record. And I keep
3 coming back to; we don't know what's in the Mayday ---

4 THE COURT: --- well we don't know because it was
5 destroyed ---

6 MR. RANSOM: --- right. But what we do know is that
7 the anesthesia narrative, which existed in three
8 different forms in four different records, no two of
9 which were ever the same and which was highlighted by the
10 auditor ---

11 THE COURT: --- when did he start -- when did he --
12 at what time frame did he start falling off? Was it 46,
13 47 or do you remember?

14 MR. RANSOM: Well, as I say he came -- the testimony
15 evidence was that prior to 7:48 he had dipped and then
16 come back up. And there was a statement in the narrative
17 that his stats are back up to, I think, 94. We were
18 never able to actually identify that 94 on a record ---

19 THE COURT: --- but he had decreased prior to 48,
20 if I remember correctly somewhere about 45 or 46, is that
21 correct?

22 MR. RANSOM: The evidence would allow that
23 conclusion, yes, sir.

24 THE COURT: Right. Okay.

25 MR. RANSOM: All right. And then at 7:48 he's, the

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1 data is reporting that at 7:48 his O2 sat is 90. And
2 also, Dr. Nelson was making the entry in the record that
3 he has to make in order for them to be able to bill
4 Medicare, all right. Has to show that he's present,
5 directing and supervising the provision of the
6 anesthetic. Which, anecdotally was absolutely false
7 because they gave that at 7:42, undisputed in the record
8 if he has ---

9 THE COURT: --- well after 7 ---

10 MR. RANSOM: --- but he doesn't make that entry
11 until 7:48 ---

12 THE COURT: --- after 7:42, when did he first show
13 signs of deterioration?

14 MR. RANSOM: The ---

15 THE COURT: --- time wise ---

16 MR. RANSOM: --- the slope started down at 7:48 and
17 went from 90 down to 40 and was fairly a consistent slope
18 downward ---

19 THE COURT: --- how about prior to 48, was there
20 anything prior to ---

21 MR. RANSOM: --- well, there was if you'll recall
22 Judge, prior to 48 the boxes were all empty because there
23 had been this software glitch.

24 THE COURT: Right.

25 MR. RANSOM: So we were having to accept everybody's

1 testimony from the Medical University that he was just
2 fine and dandy.

3 THE COURT: Okay. All right. Thank y'all very
4 much. I'll just have to read memorandums to refresh my
5 memory -- what time do y'all want to come back on the
6 other, it's now 1:25.

7 MR. COOKE: We're at your disposal, so ---

8 THE COURT: --- well, y'all got schedules too; I
9 don't want to impose too much on you. Is an hour okay?

10 MR. COOKE: An hour is plenty, I'm going to go down
11 and get crackers out of the snack machine so I can be
12 back as soon as you want us to come back.

13 MR. RANSOM: Your Honor, I've got Mr. Kefalos here
14 on my behalf and his request and mine would be two
15 o'clock unless Your Honor has something else.

16 THE COURT: You've got to do what now?

17 MR. RANSOM: I said, we would like to come back at
18 2:00, we'll be ready at 2:00 if that ---

19 THE COURT: --- you want to come back at 2:00?

20 MR. RANSOM: --- yeah, that seems ---

21 THE COURT: --- All right, we'll come back at 2:00
22 then, okay?

23 MR. COOKE: Thank you.

24 [Whereupon, the court is in recess from 1:30 to 2:30
25 p.m.]

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1 THE COURT: All right. Raise your right hand
2 please.

3 [Whereupon, the witness is duly sworn by the Court]

4 THE COURT: And state your full name please; spell
5 your last.

6 THE WITNESS: Rob Ransom. R-A-N-S-O-M.

7 THE COURT: All right, Mr. Ransom, you have
8 presented some affidavits -- affidavits and attorney's
9 fees in the case of Shon Turner as personal
10 representative of the estate of Charles Mikell versus the
11 Medical University of South Carolina and I had given
12 defense counsel the opportunity to cross-examine you
13 concerning your affidavits. Yes, sir.

14 MR. COOKE: Thank you, Your Honor. We've got some
15 documents that we're going to ask him about and I've got
16 another one for Your Honor and a notebook for Mr. Ransom,
17 so it'll be easy to follow along.

18 THE COURT: What are the documents?

19 MR. COOKE: They're discovery documents and
20 depositions and correspondence and so this will be broken
21 down into three parts ---

22 THE COURT: --- okay, all right ---

23 MR. COOKE: --- there are three grounds for the
24 sanctions. One was the Mayday record, contention that
25 MUSC deliberately misled the plaintiff's about the

1 existence of the Mayday record and that he was forced to
2 incur legal fees to get to the bottom of that. Second
3 was that the plaintiff was deliberately misled about the
4 alterations to the anesthesia record and the existence of
5 the audit trail. And the last is that he was misled
6 about the data in the anesthesia record and you recall
7 the issue about it not recording properly and there being
8 a graph ---

9 THE COURT: --- all right, well, let me say this
10 about that. Those are court findings, those are factual
11 court findings. That decision has been made. I'm not
12 going to rehash that decision and this is an improper
13 person to do it. The court made those findings in that
14 order. That's not his findings. We here today, to
15 question whether his attorney's fees are appropriate or
16 not appropriate as to the court awarding those attorney's
17 fees, not to rehash whether or not I'm going to issue
18 sanctions ---

19 MR. COOKE: --- okay ---

20 THE COURT: --- and I have said that repeatedly.
21 Do you understand?

22 MR. COOKE: I do understand.

23 THE COURT: I'm not going in to all through these
24 forms and what he did, and what you did, and what
25 everybody did. That decision has been made. We here for

1 one narrow purpose today; he has requested 129.8 hours
2 and I forget the hourly rate. We here under the rules to
3 give you an opportunity to cross-examine him about the
4 129.8 hours and what his hourly bill is, not make a
5 determination who did what. And I thought I made myself
6 very clear about that.

7 MR. COOKE: You did, Your Honor ---

8 THE COURT: --- all right ---

9 MR. COOKE: --- but, all right, so ---

10 THE COURT: --- you understand what I'm doing; I'm
11 not proffering anything on it either. Okay, you can
12 proffer what you want if you want to proffer this book
13 today, but I'm not going into it today.

14 MR. COOKE: Okay. Then, Your Honor, I've had and
15 I'm really not going to try to circumvent your order, but
16 can I explain what I was going to try to do and see if
17 you think that that's okay?

18 THE COURT: Yeah. Please do because we're not
19 going to rehash what was done, what wasn't done, whose
20 fault it was etcetera, etcetera, etcetera.

21 MR. COOKE: Well, the problem it's almost like a
22 proximate cause question because he's claiming 110,000
23 dollars in legal fees which he says was proximately
24 caused by the misrepresentations that were made to him by
25 the Medical University. So, what I had proposed to do

1 would be to go back through the representations that were
2 made and challenge the contention that they had to go do
3 all this work because they were misled. And I know the
4 court's made its findings about what is sanctionable, but
5 it still leaves open the question of well what injury did
6 that cause to the plaintiff in terms of how ---

7 THE COURT: --- I'm not worrying what injuries it
8 caused. I'm worried about how much time it took him to
9 ultimately get you to produce what you should have
10 produced two years earlier.

11 MR. COOKE: Right.

12 THE COURT: Okay?

13 MR. COOKE: And I really think that that's what I'm
14 addressing is, but the problem is -- can I give you an
15 example of what I was going to ask?

16 THE COURT: Pardon?

17 MR. COOKE: Can I give you an example of what I was
18 going to ask?

19 THE COURT: Why don't you just go ahead and take it
20 question by question and we'll deal with it that way. If
21 I think it's improper under my guidelines I'm trying to
22 lay out, I'll stop you ---

23 MR. COOKE: --- okay ---

24 THE COURT: --- well, I got a lawyer standing up
25 over there how you want to handle it?

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1 MR. KAFALIS: That's fine with me. I'm here
2 representing Mr. Ransom in this matter.

3 THE COURT: All right, well let me do this since
4 you represent Mr. Ransom in this matter I'll let you make
5 whatever objection you want to make to his questions and
6 I'll rule on those objections. I think I've tried to lay
7 out the groundwork of what we're trying to do.

8 MR. KAFALIS: Thank you.

9 THE COURT REPORTER: Counsel, could I get your name
10 for the record please?

11 MR. KAFALIS: I'm George Kefalos.

12 THE COURT REPORTER: Could you spell the last name
13 for me?

14 MR. COOKE: And Your Honor ---

15 THE COURT: --- of course I don't want to interject
16 myself too much and be too proactive; I'd rather for Mr.
17 Ransom's attorney to make those decisions.

18 MR. COOKE: Well, and I'll invite you to do it
19 because I really I don't want to violate what you've
20 already made up your mind on, but it's going to look like
21 I am because I'm trying to establish a chronology to show
22 that he did not spend 110,000 dollars on legal fees as a
23 result of being misled. And George is only here about
24 work product and ---

25 THE COURT: --- well, let me say this about the

1 129.8 hours, I haven't said I'm going to award that
2 amount. I haven't said the amount I'm going to award ---

3 MR. COOKE: --- right ---

4 THE COURT: --- okay. And that doesn't necessarily
5 mean I'm going to give him 129.8 hours, of course that
6 doesn't necessarily mean I will give him whatever -- I
7 don't remember the hourly rate he asked ---

8 MR. KAFALIS: --- 450 dollars an hour ---

9 THE COURT: --- 450 dollars per hour. I haven't
10 committed to that, okay?

11 MR. COOKE: I know. And I think that was part of
12 what we were here for today was to give Your Honor a
13 basis to decide that. So, anyway, with your permission
14 I'll proceed and if I start going to where I shouldn't
15 then either George or Your Honor can stop me.

16 THE COURT: Do you have any objections to that or
17 do you want me to be proactive throughout?

18 MR. KAFALIS: I'd rather you be proactive, Your
19 Honor. If there's something that I feel that you've
20 missed, of course I doubt it, I'll be happy to say
21 something.

22 THE COURT: Okay. All right. Go ahead.

23 MR. COOKE: All right.
24
25

1 ROBERT RANSOM

2 Having been first duly sworn,

3 Was examined and testified as follows:

4 CROSS-EXAMINATION

5 BY MR. COOKE:

6 Q. So, Mr. Ransom, first thing I just want to address
7 briefly, you explained in your brief how you came up with
8 450 dollars an hour. But it is fair to say for the most
9 part of your career and my career we don't typically
10 charge 450 dollars an hour for most of the work we do do
11 we?

12 A. I charge 450 dollars an hour for the hourly work
13 that I do.

14 Q. You do now? How much hourly work do you do?

15 A. Well, not nearly as much as I do contingency fee
16 work. But, I've got at least two cases or two files in
17 my office right now where that's what I'm charging.

18 Q. All right, but the vast majority of your work is not
19 done on an hourly rate, right?

20 A. I think that's true, yes.

21 Q. And you're aware that very few, if any, malpractice
22 defense lawyers are charging anything like 450 dollars an
23 hour in South Carolina.

24 A. I don't really know what insurance companies pay
25 defense lawyers.

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Robert Ransom-Cross- Examination by Mr. Cooke
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1 Q. Do you know what the insurance reserve fund rate is?
2 Do you know what their maximum rate is?
3 A. I don't.
4 Q. It's not 450 dollars, it's about a third of that.
5 A. I don't know what they pay.
6 Q. Have you ever done any insurance reserve fund work?
7 A. Not in -- not since probably the early to mid
8 1990's.
9 Q. Did I give you a notebook up there?
10 A. Yes, sir.
11 THE COURT: --- All right. So that, you're saying
12 150 dollars an hour for insurance reserve?
13 MR. COOKE: That's what it is.
14 THE COURT: I'd like to know because I didn't know.
15 MR. COOKE: That's the max ---
16 THE COURT: --- I've got to set it at some point in
17 time, if it's 150 dollars, I'd like to know.
18 MR. COOKE: That's the maximum rate. It's a scale
19 based on years of experience ---
20 THE COURT: --- for the insurance reserve fund ---
21 MR. COOKE: --- and the maximum is 150 dollars an
22 hour.
23 THE COURT: Okay. Okay.
24 THE WITNESS: That's why I don't do that work.
25 MR. COOKE: Mr. Ransom is worth more than that, but

1 for purposes of benchmark that's what it is.

2 Q. [Mr. Cooke] All right, we're going to talk first
3 about the Mayday record and the question I want to give
4 to you is, ultimately is, what additional work did you
5 have to do because of being misled by the Medical
6 University about the existence of the Mayday record?

7 I'm going to establish a chronology here for the
8 court's convenience. So, look at tab number one in your
9 notebook there. And you'll see that your first discovery
10 request was served on March 19, 2013, correct?

11 [Whereupon, the witness reviews document]

12 A. Correct.

13 Q. And the response, which is at tab number 2, to that
14 was given to you on May 17, 2013 or thereabouts. Do you
15 see that?

16 [Whereupon, the witness reviews document]

17 A. That's correct.

18 Q. And you see that with that was produced a volume of
19 medical records?

20 A. Yeah. I think what we received at some point in
21 time, Mr. Cooke, was a password protected C.D.

22 Q. And that comprised some 2500 pages or so?

23 A. Yeah. I think that's right. 2,115 is the number
24 that sticks in my head.

25 Q. And I think we all agree that there was no code

1 sheet included in those records.

2 A. That's correct.

3 Q. And to this day we've never seen one.

4 A. I've never seen one.

5 Q. Okay. All right. Maybe we have and we just hid it

6 from you.

7 A. Ms. Embrey [phonetic] saw one.

8 Q. Okay. And we'll get to that in just a second. So,

9 do you recall taking the deposition of Ms. Embrey

10 [phonetic] on August 26, 2014?

11 A. I do.

12 Q. And that's at tab three?

13 [Whereupon, the witness reviews document]

14 A. Yes, sir.

15 Q. All right. And you understood did you not that she

16 would not have been the one to complete the record itself

17 because she was the nurse anesthetist and that was not

18 part of the anesthesia record?

19 A. No, I didn't understand that.

20 Q. Did she tell you that in her deposition?

21 A. At one point in time she made the comment that it

22 was a nursing record and not an anesthesia record, but I

23 wasn't aware that it was a record she had nothing to do

24 with.

25 Q. All right. Page 84 of her deposition if you could

1 look at that?

2 [Whereupon, the witness reviews document]

3 Q. She says I mean, this is up to the -- you said so
4 that should be a part of Mr. Mikell's chart, the Mayday
5 card. Answer, I mean, that is up to the nursing staff I
6 guess to fill that out appropriately and chart who was in
7 there and what they were doing. That's kind of the
8 nursing record, not so much anesthesia record.

9 A. That's what she said, but the information that I had
10 received from my consultants were that the Mayday record
11 or code sheet would include the names of everybody that
12 was in the room and it would also detail everything that
13 they were doing. So, even though Nurse Embrey attempted
14 to deny any knowledge of it, my information was to the
15 contrary.

16 Q. And that deposition was taken almost four years
17 after the event, correct? The event was October first of
18 2010. This deposition was August 26th of 2014.

19 A. Yeah, I think that's accurate.

20 Q. Look to tab five. That was a letter that you wrote
21 on September 4 asking for the code sheet or Mayday card,
22 see item number one that you asked for?

23 [Whereupon, the witness reviews document]

24 A. Yes, sir.

25 Q. Do you remember deposing Martha Zweener [phonetic]

1 or Zwimmer [phonetic], excuse me, on September 5th?
2 A. I remember there was a nurse Zwimmer [phonetic] and
3 there was a Doctor Zwerner [phonetic] and I don't recall
4 what date they were ---
5 Q. --- and just ---
6 A. --- deposed on ---
7 Q. --- take a look at pages 15 and 16 of her deposition
8 and you asked, do you recall whether a Mayday card was
9 made out for the code of Mr. Mikell and she said I do
10 not.
11 [Whereupon, the witness reviews document]
12 A. Yep, that's what her response was.
13 Q. And then you said, can you think of any reason why
14 it wouldn't have been, she couldn't think of a reason.
15 A. That's right.
16 Q. Look at tab nine.
17 [Whereupon, the witness reviews document]
18 Q. That was a defendant's response to your request to
19 admit about the existence of a Mayday record and at that
20 time you were produced a copy of the policy and procedure
21 concerning Mayday records, is that correct?
22 A. It appears to be, yes.
23 Q. And then, on -- if you'll turn to tab twelve, do you
24 remember Dr. George Gulden [phonetic]?
25 A. Yes I do.

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1 Q. And he is the one who responded to the Mayday. He
2 is an anesthesiologist who responded to the Mayday call,
3 correct?

4 A. Well, he was the one that was identified by the
5 Medical University as their Rule 30(b)(6) designee. I
6 didn't know that he had any involvement in the actual
7 code itself until I took his deposition.

8 Q. Right. But he actually came and testified at trial
9 and testified that he was on the code team that came,
10 correct?

11 A. I don't recall if he testified to that at trial, but
12 that was his position was that he did come in response to
13 the Mayday that was called.

14 Q. And then in his deposition on page eleven, he says,
15 if I can paraphrase, that he does not believe that
16 because this code was called in the operating room he did
17 not believe that a code sheet was called for, correct?

18 A. I think that's what his testimony was. But the
19 whole course of his deposition was my effort to try to
20 get him to acknowledge that that was not consistent with
21 the Mayday policy or the code documentation policy.

22 Q. But even at trial, he still was insistent that there
23 shouldn't have been a code sheet, right? Do you remember
24 that?

25 A. Uh, yeah, somewhat hard to believe that that was his

1 position, but it was.

2 Q. Well, and his rationale was that you've got
3 anesthesia already on site in an operating room and
4 therefore it's a code, it's not a Mayday and therefore
5 you do not do a Mayday sheet. Isn't that the thumbnail
6 of what he said?

7 A. Well, that's actually that was a narrative that
8 originally proposed by someone other than Dr. Gulden
9 [phonetic], but he was consistent with it.

10 MR. KAFALIS: Your Honor, excuse me I'm going to
11 object this point. This sort of narrative is getting
12 afield from what normally would be contemplated by an
13 examination of an attorney for attorney's fees. Usually
14 he'd focus on did you spend four hours preparing for this
15 deposition, did you do an hour for these interrogatories.

16 But this sort of chronology that we're going through
17 is coming very close to rehashing whether the Medical
18 University improperly failed to produce these documents
19 which the court's already made that decision.

20 THE COURT: Mr. Cooke?

21 MR. COOKE: And, he's right, it is coming close ---

22 THE COURT: --- it's getting close, okay ---

23 MR. COOKE: --- what I'm trying to do is establish
24 a chronology that you can then prepare ---

25 THE COURT: Get on with the chronology but we're

1 getting y'all starting to argue about what he said and
2 what he didn't say and all this.

3 MR. COOKE: It's close and I'll keep it moving. In
4 my view, the timing and chronology is important because
5 it shows ---

6 THE COURT: --- I have no problem with you doing
7 the chronology, I do have a problem with you arguing
8 about what the doctor said and what he didn't say and
9 whether it was right or whether it was wrong or whether
10 it violated the rules or didn't violate the rules. Okay?

11 MR. COOKE: I'll keep moving.

12 THE COURT: Okay.

13 MR. COOKE: Thank you.

14 Q. [Mr. Cooke] You filed a motion to compel, tab 18 on
15 January 29 of 2015 and then at tab 20, Judge Stillwell
16 directed that we identify a witness to testify regarding
17 applicable policies if any that govern the circumstances
18 of Mr. Mikell's colonoscopy and cardiac arrest code that
19 occurred on October 29, 2010 correct?

20 A. Yeah, that's right.

21 Q. And, in response to that, you were sent a letter at
22 tab 23 identifying Sheila Scarborough [phonetic],
23 correct?

24 A. That's correct.

25 Q. And then at tab 26, you took her deposition. And do

1 you recall that?

2 A. Yes, I do.

3 Q. That deposition was taken on August 24, 2015.

4 A. Yes.

5 Q. I'm not -- I want to stay away from arguing with
6 you, but she testified that she, in her position of
7 putting data into the American Heart Association had seen
8 a faxed copy of the code sheet, correct?

9 A. Yeah. She testified that she had actually been in
10 receipt of a fax of the Mayday record, which she then
11 used to create a database.

12 Q. Not that she'd ever seen the original, but she had
13 gotten a faxed copy of it.

14 A. That's right.

15 Q. And after she had entered the data, she discarded
16 the faxed copy that she had.

17 A. That's right, she shredded it.

18 Q. And she testified at trial as well,

19 A. That's correct.

20 Q. So, was that the first time that is August 24, 2015,
21 that anybody recalled having, anybody in the course of
22 discovery recalled actually having seen a code sheet?

23 A. I think that's accurate, yeah. So from the point
24 where I had served the first discovery request in March
25 of 2013 until she testified on August 24 of 2015 the

1 Medical University's consistent position had been that
2 there never was any Mayday record. That the anesthesia
3 record just was the code documentation for Mr. Mikell's
4 cardiac arrest.

5 Q. And so what you had up to that point was you had Ms.
6 Embrey [phonetic] who said she didn't remember seeing
7 one, you had the other nurse who said she didn't recall
8 preparing one and you had Dr. Gulden [phonetic] saying he
9 didn't think there should be one, up to that point?

10 A. In addition to that there was Dr. Payne's [phonetic]
11 procedure note that made some reference to code
12 documentation to the details of what had taken place.

13 Q. Right. And, you understood also that Ms.
14 Scarborough [phonetic] was not involved in the care of
15 Mr. Mikell correct?

16 A. I'm not aware that she was. I thought that she was
17 an administrative role.

18 Q. Correct, okay.

19 MR. COOKE: So, that's the chronology as far as the
20 code sheet, Your Honor.

21 Q. [Mr. Cooke] I want to go back now and talk about the
22 chronology regarding the gaps in the anesthesia record
23 with the oxygen saturation and other vital signs.

24 A. The empty boxes.

25 Q. Right, the empty boxes.

1 A. Right.

2 Q. So, we'll go back again and you were produced as of
3 May 17, 2013 some 2,500 pages of records, correct?

4 A. That's true, but we had the anesthesia record before
5 that.

6 Q. Okay. But, do you agree that you were produced
7 different versions of the anesthesia record that were
8 printed at different intervals? You have a one minute
9 interval, fifteen minute interval, and then I believe a
10 10 second interval for certain parts?

11 A. Yeah, what had happened was Mr. Turner had gone to
12 the records office at the Medical University and
13 submitted a HIPAA request and ultimately got himself
14 appointed as personal representative by the Probate
15 Court.

16 And so the Medical University turned over some
17 number of pages from Mr. Mikell's chart that included the
18 anesthesia record, which I then sent to Dr. Koffkey
19 [phonetic] in Philadelphia for his review and his
20 response to me was where's the rest of it?

21 And he said that they should have back-up anesthesia
22 data saved on a computer storage server and that they
23 ought to be able to reproduce the chart at various
24 intervals including, I think, one minute, ten seconds,
25 and one second. So, at some point I specifically asked

1 for the one minute, ten second, and one second printouts
2 and those were produced.

3 Q. Then you deposed Ms. Embrey [phonetic] again it was
4 August -- August 26, 2014 in tab three of your notebook
5 there.

6 A. That's right.

7 Q. Do you remember whether you ever asked her about the
8 numbers for the one minute interval chart?

9 A. I think that I asked her about a couple different
10 parts of the -- my recollection was that I handed her
11 some number of pages from one of the printouts and she
12 looked at it and was speechless for some number of
13 minutes. And then I handed her another printout and she
14 said oh this is the one that's accurate.

15 Q. All right. I'm going to direct you to three
16 different things in your notebook. One is page 93 of her
17 deposition, which is at tab three. Another one is going
18 to be at tab 38 and it'll be page 499 of that.

19 THE COURT: What was the first tab page 93?

20 MR. COOKE: Yes, that was tab 3 which was the
21 deposition of Nurse Embrey [phonetic].

22 A. [Mr. Ransom] Page 93 of her testimony, Mr. Cooke?

23 Q. Yes.

24 A. Okay.

25 Q. And then, if you could stick your finger in tab 38

1 page 499 of 2,115.

2 A. Okay.

3 Q. And then, at least in my notebook it's tab 40, if
4 you could look at that. It's the first page of your tab
5 40 page one of 99.

6 A. Yeah, okay. I think I got that.

7 Q. So, go all the way, about half way or a little bit
8 more through that stack and find page 36 of 99.

9 A. Got it.

10 Q. And that's the one minute printout, correct?

11 [Whereupon, the witness reviews document]

12 A. Mr. Cooke, I'm not sure at this point in time if
13 it's the one minute or the ten second.

14 Q. Look across the top and you'll see that the numbers
15 are written at one minute intervals, right?

16 A. Right. But they were always written in one minute
17 intervals on all of these records.

18 Q. Okay. And then, back to one on page 499, does that
19 appear to be the fifteen minute interval?

20 A. Yes, that does appear to be the fifteen minute
21 interval.

22 Q. All right, and then both of those there's a -- there
23 are numbers at the top and then there's a graphic
24 representation in the middle of the page.

25 A. The real-time graph line?

1 Q. Yes.
2 A. Yeah.
3 Q. If you flip back and forth between those two you see
4 that they're shaped exactly the same, but they're placed
5 in different places on the chart, right?
6 A. Yes, that's true.
7 Q. And that little V thing there you have referred to
8 as the valley of death, right?
9 A. Death valley, yeah, that's it.
10 Q. Death valley or valley of death. So, let's go back
11 to tab three where you asked Ms. Embrey [phonetic] about
12 that chart. What page did I say, 93?
13 A. Yes, sir.
14 Q. It says, did you see where the gap in data begins at
15 7:38 then it picks back up at 7:40? I do.
16 Q. And so you must have been showing her the one that,
17 is it page 36 of 99, is that right?
18 A. Let's see on page 93 it's referring to page 119 of
19 342, which would be the one second record.
20 Q. Okay. You said, do you see the gap and she says, I
21 do. She says is that when the patient was being moved to
22 the PACU? She says, no sir, that's not when the patient
23 was moved to PACU, so it must have been that's the exact
24 same tracing. So, I believe that the data graph was
25 incorrect on one or the other because it's the exact same

1 tracing that's conveyed on the fifteen minute interval
2 page. So, I'm not sure exactly. So does she point out
3 there that she thinks that there's an error in the
4 representation of the graph?

5 A. I think what she was saying was she couldn't explain
6 it.

7 Q. Right, but she said ---

8 A. --- which is different than saying there was error.

9 Q. Well she says, so I believe the data graph was
10 incorrect or one or the other because it's the exact same
11 tracing that's conveyed on the 15-minute interval page.
12 Do you see that?

13 A. Yeah, right.

14 Q. You also deposed Dr. Nelson, right? At tab four.

15 [Whereupon, the witness reviews document]

16 A. Yep.

17 Q. And look to page 41 of his deposition, if you would.
18 And his deposition was taken on August 26, 2014.

19 [Whereupon, the witness reviews document]

20 A. Yes, sir.

21 THE COURT: When was it taken?

22 MR. COOKE: August 26 of 2014.

23 THE COURT: Okay.

24 MR. COOKE: So that would have been two days -- two
25 days later.

1 Q. [Mr. Cooke] And on page 41 and 42 you're asking him
2 look at the real time data graph in the center of the
3 page. Uh-huh. Do you see where it cuts off from 7:38 to
4 7:40? Yes. And it indicates that Mr. Mikell had
5 desaturated around 7:35. Yes. Is that what happened?
6 No, I don't believe so.

7 And do you have any explanation for why the graph
8 cuts off there for about a two minute period of time?
9 Answer, I think this one is wrong actually. So, if you
10 compare this page 36 here to under tab one MUSC page 499
11 of 215, the actual graph the graphs match up and they're
12 correct. However, the time stamps appear to be off.

13 MR. KAFALIS: Let me object, excuse me. I don't
14 mean to interrupt, but he's -- Mr. Cooke seems to be
15 trying to establish a justification or a good faith basis
16 for a misunderstanding and is going into what the court
17 has already found earlier about discovery abuse. It is
18 not an inquiry into the hours and time. It is a review
19 of what, couldn't this have been a mistake -- wasn't this
20 an accident ---

21 THE COURT: --- Mr. Cooke?

22 MR. COOKE: The point here is to establish that as
23 of August 26, 2014 two different witnesses had both
24 testified that that -- that you can't go by that graph
25 that shows the valley of death there. And so that's --

1 that's a very early explanation of there being an error
2 in the way the data was recorded. And so the argument
3 would be that from that point forward, you're not being
4 misled and so whatever time was spent to get the audit
5 trails and all that other information was not as a result
6 of misrepresentation being made by the Medical
7 University.

8 THE COURT: I think that depends on how you view
9 what was going on ---

10 MR. COOKE: --- right ---

11 THE COURT: --- okay. And that decision has been
12 made, so let's move on chronologically.

13 MR. COOKE: All right, I will.

14 THE COURT: I mean, right or wrong that decision
15 has been made, correct?

16 MR. COOKE: Right, but ---

17 THE COURT: --- and that argument with him was
18 over.

19 MR. COOKE: It is -- I guess to make my analogy I'd
20 say you've already decided liability but now we're
21 talking ---

22 THE COURT: --- that's exactly right.

23 MR. COOKE: Okay.

24 THE COURT: And I'm not trying to be hard with you
25 on it, but I decided those issues ---

1 MR. COOKE: --- I know ---
2 THE COURT: --- okay, that you did mislead, okay.
3 And that's my decision, not his. So arguing with him
4 about it is immaterial.
5 MR. COOKE: Right, but ---
6 THE COURT: --- okay, so let's get on with the time
7 issues. I understand it has a bearing on time and I'll
8 agree with you on that, okay?
9 MR. COOKE: Okay.
10 THE COURT: I have no problem with time, the
11 chronological sequence of what transpired, okay?
12 MR. COOKE: Okay.
13 THE COURT: Because that goes to how much time he
14 had to do -- define what he ultimately got, okay?
15 MR. COOKE: I understand completely.
16 THE COURT: Okay.
17 Q. [Mr. Cooke] Let me -- you can take your fingers out
18 of those pages if you'd like and go to page nine.
19 A. Tab nine?
20 Q. Tab nine, yes. And look at your response to request
21 to admit number four. And by the way, this was served on
22 October 24, 2014, do you see that?
23 A. Yes.
24 Q. So there you asked the Medical University to admit
25 that blood oxygen saturation data is missing from the

1 anesthesia record for Mr. Mikell's colonoscopy for each
2 of the following times, 7:42 on to 7:47 and then 7:59,
3 8:07, 8:09, 8:11, so forth.

4 A. Yeah, those were all the times when the boxes were
5 blank ---

6 Q. --- boxes were blank ---

7 A. --- right.

8 Q. And you see the response the objection first was
9 that you asked too many, but then it says without waiving
10 and subject to the foregoing objection denied.

11 Defendant, MUSC cannot produce the data requested because
12 it was not recorded in the record at the intervals
13 indicated in request number four.

14 However, the data was continuously viewed during the
15 colonoscopy procedure on October 1, 2010. So, would you
16 agree that at least as of October 24, 2014 you were made
17 aware by the Medical University that the data was not --
18 is not available for that period because it was not
19 recorded. However, the data was continuously viewed
20 during the colonoscopy procedure on October 1, 2010?

21 A. Well, what I can tell you, Mr. Cooke is that when I
22 got this I was confused and didn't really understand what
23 this meant because my technical people were telling me
24 that you can't view data that's not being captured. And
25 if it's being captured it's got to be recorded. But,

1 more importantly, what this response doesn't say is that
2 there had been a malfunction with the equipment and that
3 Nurse Embrey [phonetic] had been engaged in making a
4 series of phone calls and sending text messages to try to
5 correct it and that that was why those boxes were blank
6 or empty.

7 That was the critical information that was never
8 produced, that was vital, to my understanding of what was
9 actually taking place in the room at the time.

10 Q. Well, to whom had you asked that question up to that
11 point?

12 A. Well, as you'll recall when we had finished up the
13 depositions of Nurse Embrey [phonetic] and Dr. Payne
14 [phonetic] and Dr. Nelson, I wrote a letter to you asking
15 you about the Mayday record.

16 And then I wrote a letter to Ms. Fleming asking a
17 series of questions about what I considered to be a
18 number of anomalies in the anesthesia record; things that
19 neither I, nor Dr. Koffkey [phonetic], nor my other
20 consultants could understand. I never got any response
21 to either one of those letters.

22 Q. Is that tab thirteen?

23 [Whereupon, the witness reviews document]

24 A. Uh, no, it's not.

25 Q. How about tab fourteen?

1 A. No, it's not. Those letters were dated September
2 fourth and September 24th of 2014. So once we took those
3 depositions in late August and I got the preliminary
4 transcripts and I read through that testimony and
5 realized that the witnesses hadn't been able to explain
6 any of these things to me that I wrote those very lengthy
7 letters to both you and Ms. Fleming hoping to get some
8 explanation for a number of issues, one of which was
9 where's the Mayday record and the other of which was why
10 are these boxes empty?

11 Why is this data not being recorded? Why don't
12 these graphs all line up? And I never got any response
13 of any kind to either one of those letters.

14 Q. Is that your letter, I'm sorry, tab five?

15 [Whereupon, the witness reviews document]

16 A. Uh, yeah, that's one of them.

17 Q. Okay. All right, look at tab 16.

18 A. Right.

19 Q. This is Ms. Fleming's letter to you of January 22,
20 2015 ---

21 A. --- yep ---

22 Q. --- and you see the very middle paragraph it says
23 you could ask for a witness who can testify about how the
24 anesthesia machine works and how it's data is displayed,
25 captured, recorded, stored, and printed out. In response

1 to this subject matter MUSC defers to the manufacturer of
2 the anesthesia machine regarding how it works. MUSC
3 designates the following witnesses to testify regarding
4 how the information on the anesthesia machine is
5 displayed, captured, recorded, stored and printed. Pat
6 Iecy [phonetic], Desiree Tillman [phonetic], and Lucinda
7 Banks ---

8 A. --- right. And what we don't see though, is any
9 explanation of how these records fit together, why these
10 boxes are empty. There's no disclosure of any software
11 glitch, there's no mention of text message or emails.

12 But equally important, Mr. Cooke, as you will recall
13 you and I spent two weeks down here at the court house
14 about two weeks after this in the Nieto [phonetic] trial.
15 And then the week after that I was in a two week trial up
16 in Columbia.

17 So, the way I viewed this was I was being invited to
18 schedule the depositions of three, four, five more
19 witnesses at a time when I was busy and couldn't do it.

20 Q. All right ---

21 MR. KAFALIS: --- excuse me ---

22 THE COURT: Yes, sir?

23 MR. KAFALIS: I may redo my objection. This is an
24 inquiry into whether the Medical University properly
25 responded to the discovery and that is a matter that the

1 court has already decided.

2 MR. COOKE: This, again, goes to the causation
3 because the, again, chronologically at least as of
4 January 22, 2015 three witnesses were identified who
5 could explain all those questions about whether you can
6 view things on the screen that aren't being recorded and
7 ---

8 THE COURT: --- okay, go ahead, move on.

9 Q. [Mr. Cooke] Okay, to move on suffice it to say, you
10 did not avail yourself with opportunity to depose Desiree
11 Tillman [phonetic] or Lucinda Banks. You did depose Pat
12 Iecy [phonetic] later after she was formally identified
13 in answers to interrogatories ---

14 A. --- no that's right, and because of the timing
15 issues that I just mentioned with these other cases that
16 I was trying. Rather than try to set up four, five more
17 depositions, instead I sent another written discovery
18 request.

19 Q. Where is that? Do you see that in here?

20 A. Uh, I think it was this third request for admission
21 dated January 29th. That's under tab 17. And you'll
22 notice that there's the cover letter of January 29th where
23 I said rather than deposing five or six more witnesses in
24 order to establish any of this I'm enclosing the
25 plaintiff's third request for admissions in an effort to

1 resolve these lingering issues once and for all.

2 Q. And then the response to those is on tab 19,
3 correct?

4 A. Yes, that's correct.

5 Q. And you were produced at that time the ---

6 A. --- the audit trails ---

7 Q. --- the audit trails.

8 A. Which raised a whole series of new issues. So none
9 of the -- the response of the request to admit didn't
10 answer any of those questions and the production of the
11 audit trail raised a whole series of new questions.

12 MR. COOKE: All right, Your Honor, that's the
13 chronology on the issue of the anesthesia and so now
14 we're going to talk about the ---

15 THE COURT: --- refresh my memory. What was
16 ultimately produced on the anesthesia records?

17 THE WITNESS: Well, we as you'll recall there were
18 four ---

19 THE COURT: --- I'm just trying to refresh ---

20 MR. COOKE: --- different printouts ---

21 THE COURT: --- my memory ---

22 THE WITNESS: --- yeah. And so one was a record
23 that had a couple of missing pages. And then the second
24 was a fifteen minute record. And then the third was the
25 one minute record. And then the fourth one was the ten-

1 second record and I think there was actually a fifth one
2 which was a one-second record so there were ---

3 THE COURT: --- and those were ultimately, later on
4 produced?

5 THE WITNESS: Well, no it's true that those records
6 were produced fairly early on ---

7 THE COURT: --- okay, all right. Was anything else
8 produced concerning anesthesia records later on?

9 THE WITNESS: Well, the audit trails related to the
10 narrative portion of the anesthesia records ---

11 THE COURT: --- okay, all right.

12 MR. COOKE: --- and Your Honor, you'll recall ---

13 THE COURT: --- I'm just trying to refresh my
14 memory, okay?

15 MR. COOKE: And you'll recall we actually had a
16 hearing, we brought the IT people here ---

17 THE COURT: --- right ---

18 MR. COOKE: --- they met afterwards ---

19 THE COURT: --- you said it's going to cost a
20 million dollars to recover it, I remember that.

21 MR. COOKE: Something like that. And then we sat
22 down afterwards at the court's suggestion ---

23 THE COURT: --- was it three million? You say
24 three million or a million?

25 MR. COOKE: I don't remember.

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1 THE WITNESS: It was three million.
2 THE COURT: I think you said three million it was
3 going to cost you to recover it. Go ahead.
4 MR. COOKE: Right. And you remember they brought a
5 stack of ---
6 THE COURT: --- right ---
7 MR. COOKE: --- documents like this and they did
8 review those with Mr. Ransom. All right, so that's the
9 chronology on the anesthesia record and I want to talk
10 now about the audit trail issues.
11 Q. [Mr. Cooke] Go back, if you would, to tab three,
12 the deposition of Ms. Embrey [phonetic].
13 [Whereupon, the witness reviews document]
14 A. Yes, sir.
15 Q. Do you recall showing her the PACU record, and just
16 to refresh the Judge's recollection compare -- go to tab
17 38 and the very first page there as an entry at 7:56 and
18 it says, under D-B-E which is Nurse Embrey's [phonetic]
19 initials it says memo, came into room, patient hypoxic
20 junctional [phonetic] rhythm and no palpable pulse. ACLS
21 protocol initiated, Mayday team called.
22 A. Under tab 38, Mr. Cooke, I've got the first page is
23 MUSC page 611 of 2,115 and that entry is under Dr.
24 Nelson's initials.
25 Q. Our tab may be different than your tab then, let's

1 see. I've got that under tab 39.

2 A. Oh, okay, I'm sorry. I was at 38. Yeah, I mean 39
3 notice that entry is under nurse -- do you have the
4 document control number, Mr. Cooke?

5 Q. Yeah, uh, the first one I'm looking at is page 494
6 of 2,115 and the second one that I was going to direct
7 your attention to is at tab 39 and that's page 611 of
8 2,115 ---

9 A. --- yeah. Yeah, I see it -- yeah, I mean, as you're
10 aware that's the juxtaposition is that pages 494 and 611
11 ---

12 Q. --- all right ---

13 A. --- are not the same.

14 MR. COOKE: And then, and Judge, part of this I'm
15 just doing to refresh your recollection that you may
16 recall that at trial Mr. Ransom brought out the fact that
17 in the PACU record you recall that the testimony was that
18 the O-R record is taken up to the PACU and then that data
19 is entered up there.

20 And so, there's a difference that same note appears
21 on the PACU record as being entered under the name of Dr.
22 Nelson and at eight o'clock instead of under the name of
23 Ms. Embrey at 7:56.

24 THE COURT: And as she said that she did it on a
25 routine basis.

1 MR. COOKE: That she checked it, right, that she
2 went and changed the Audit ---

3 THE COURT: --- I remember that ---

4 MR. COOKE: --- and so she did that ---

5 THE COURT: --- okay ---

6 Q. [Mr. Cooke] And so, my question to you, Mr. Ransom
7 was, when you took her deposition on August 24th of 2014,
8 did you show her the discrepancy between the PACU record
9 and the operating room record? Or did you simply show
10 her the operating room record and ask her how it got in
11 the record?

12 A. My recollection was one of the first exhibits that I
13 gave to her was page 611 and she sort of stared at it
14 speechless for three, four minutes and then I can't
15 remember how it was that she determined that she liked
16 page 494 a lot better. And I don't remember asking her
17 about any of the differences between the two.

18 Q. All right. On page 70 of her deposition, if you
19 could look at that page three -- tab three.

20 [Whereupon, the witness reviews document]

21 Q. Take a look at that and see if you'd agree with me
22 that you were asking her about the entry that was taken
23 7:56 timed at 7:56?

24 A. Yeah and that's where her answer was is there a
25 charting under my name.

1 Q. All right. And that would appear to be what was
2 done here, correct? Because it says D-B-E, but the
3 action being described is the action of Dr. Nelson.

4 A. Yeah. And when I first went over these records, as
5 I recall, I didn't understand how their system worked and
6 so the description that she gave was that the record is
7 left open under her initials so that all of the entries
8 made by everybody were going to show up as being under
9 her initials even though some of the entries were being
10 made by people other than her. And it wasn't until we
11 got the audit trail that we realized what was really
12 happening.

13 Q. You deposed Dr. Nelson on the 26th, correct?

14 A. Yes, that's true.

15 Q. That was two days later. And did you ask him what
16 time he came back into the room?

17 A. I can't recall. I thought I deposed Dr. Nelson and
18 Ms. Embry [phonetic] on the same day, but I may be
19 misremembering ---

20 Q. [Mr. Cooke] --- Okay, I'm sorry, I think I told you
21 that hers was the 24th, but maybe it was the 26th.

22 A. Yeah because you attended both of those depositions.

23 Q. Right. And then you deposed him again on August 17
24 of 2015, correct?

25 A. Yes, that's right, last fall.

Shon Turner v Medical University of South Carolina
Robert Ransom-Cross- Examination by Mr. Cooke
July 18, 2016

1 Q. And do you recall his testifying that he was in the
2 room when the patient was turned supine?
3 A. I don't recall that ---
4 Q. --- turned from the supine position.
5 A. But I don't know at that point in time I wasn't
6 crediting anything that any of these people were saying.
7 Q. All right. Look at tab 14.
8 [Whereupon, the witness reviews document]
9 A. Yes, sir.
10 Q. Does that appear to be where you requested the audit
11 trail?
12 A. Can you point to it specifically, Mr. Cooke because
13 I'm asking about a lot of things in this letter.
14 Q. Right. Look at the very end, second to last
15 paragraph ---
16 A. --- yeah ---
17 Q. --- finally I want to know everybody who logged onto
18 the anesthesia system to access Mr. Mikell's anesthesia.
19 There should be an audit trail in the electronic medical
20 record system that provides this information.
21 A. Correct.
22 Q. You made that request on December 5th 2014 and do you
23 agree that that was provided to you on ---
24 A. --- in March, late March ---
25 Q. --- looks like actually February 27, 2015 on tab 19.

1 A. Yes, but there was -- if I'm remembering correctly
2 there was an issue with the production of the audit trail
3 because as you'll notice these records are referred to
4 only by document control numbers.

5 And my recollection was when I first got this that a
6 disk, and I may misremembering this, but I do remember on
7 one of these record productions there was a disk or there
8 was not a disk. And I remember looking at those document
9 control numbers and thinking wait a minute, this is some
10 part of the medical record that I already have.

11 Why is this being... so my point is, I think it was
12 some number of days or some period after the service of
13 the response before we finally received the audit trail
14 itself.

15 Q. But that does appear to be the audit trail attached
16 to that response to the question then on February 27th?

17 A. In this notebook, yes.

18 Q. And does that audit trail cover the period of the
19 anesthesia record that reflects the changes that Ms.
20 Embry says that she made?

21 A. Yes it does.

22 Q. Did you depose any I.T. witnesses?

23 A. Yes.

24 Q. And when did you first do that? That was John
25 Fisher [phonetic]?

1 A. I think that's right.
2 Q. When was that? That was not until 2016 ---
3 A. --- yeah, I think that was in April.
4 Q. Of April this year?
5 A. This year, yeah.
6 Q. Was there a -- well that would be work product, I'm
7 not going to ask you why you waited until then.
8 A. Because that's when he was made available, but ---
9 Q. --- well, do you recall -- you recall Mr. Fisher
10 [phonetic] and his boss actually being here in the court
11 room?
12 A. Yes. And I remember we met with them in the
13 attorney's conference room and John had a notebook with I
14 don't know 10,000 pages and ---
15 Q. --- did they offer to make available to you a
16 computer terminals so that you could look at the record
17 yourself?
18 A. I don't remember that, but if they did it was very
19 kind of them. They were agreeable fellows and I remember
20 being pleased that finally I was getting some level of
21 cooperation after; I think that was at the end of the
22 second or the third hearing on the motion for sanctions.
23 Q. And then, you would agree with me would you not that
24 after looking at all the audit trail information that you
25 never were able to find any evidence that data had been

1 deleted from those boxes in the anesthesia record?

2 A. You know, my recollection was that the big notebook
3 that Mr. Fisher had was the back-up anesthesia data and
4 not actually an audit trail. Not in the sense of an
5 audit trail that I recognized as an audit trail.

6 Q. But you took his deposition and he showed you all
7 those notebooks. And didn't he testify that it was --
8 actually would have been impossible for anybody to delete
9 data from those boxes?

10 A. Well, he testified that he had conducted an
11 experiment of some sort. And his conclusion from that
12 experiment was that he couldn't do it. But again, I
13 wasn't convinced, but at that point in time we were a
14 week away from trial and I'm out of time.

15 Q. And at trial you did argue spoliation to the jury.
16 You argued that Donna Embry [phonetic] had falsified
17 records by changing them and you actually used the audit
18 trail to show when changes had been made and what changes
19 had been made to the various records.

20 A. Yeah, I mean, it wasn't just my argument, that's
21 actually what happened was that she had changed the
22 record using the Mayday or the code sheet to reverse
23 engineer the time line.

24 Q. But you argued that she actually falsified it not
25 that she had just changed it, correct?

1 A. Yeah, I probably did because I think she did.

2 MR. COOKE: Your Honor, that's it. I just wanted to
3 establish a chronology of what was told to him when and
4 then that would correspond to this 110,000 dollars worth
5 of legal time. And we would respectfully submit to the
6 court that the vast majority of the work that Mr. Ransom
7 did was -- and I'll be the first to say that it was very
8 diligent work of trying to create an issue of spoliation.

9 That it became an integral if not the centerpiece of
10 the plaintiff's presentation and their argument to the
11 jury and for that reason we don't believe it would be
12 appropriate to award those as sanctions for any discovery
13 abuses that the court finds occurred.

14 THE COURT: Okay. Thank you very much.

15 MR. COOKE: Thank you.

16 THE COURT: Anything else? You may step down if
17 you want since you been on cross-examination any
18 statement you would like to make? I'd be happy to
19 receive it.

20

21

22

23

24

25

1 MR. RANSOM: Yeah, the only thing that I would add
2 Judge is as you'll notice that the affidavits that I
3 submitted relate to my time only. Mr. Apostolou,
4 likewise, submitted an affidavit. I think, in fairness,
5 I'd like to add that, you know, Ms. Metts [phonetic]
6 who's seated next to Mr. Kefalos at counsel table is a
7 legal assistant in my office and she spend numerous hours
8 working with me to try to sort through these issues.

9 I haven't submitted any affidavit seeking to recover
10 the costs of her time. What I attempted to do through
11 these affidavits was to be conservative. For each of the
12 entries that I created, there is some sort of hard copy
13 document or record in my office file, either a letter or
14 an email or a pleading or a deposition transcript, or
15 some notes.

16 So, I just want to assure the court that I have not
17 -- I am not reaching to try to create an amount of time
18 that isn't, you know, accurate to what was spent. And,
19 in fact, left out all of my assistant's time in an effort
20 to be fair to the Medical University.

21 THE COURT: Okay. Thank you very much. You may
22 step down.

23 [Whereupon, the witness is excused and exits the
24 witness stand]

25

1 THE COURT: All right, anything else?

2 MR. COOKE: I think the -- one thing I do want to
3 say in candor to the court and in fairness to Mr. Ransom
4 is his reply brief he takes issue with one particular
5 statement that we made in our brief where it said that
6 counsel at one point Donna Embry [phonetic], after we
7 went through all this discovery and the information from
8 Ms. Scarborough came out, Ms. Embry then remembered and
9 she was re-deposed on this she did remember that oh yeah,
10 I had seen the code sheet on the evening of October 1st
11 when I was fixing the record. And you remember the
12 testimony about that.

13 In our brief, we said that Mr. Ransom was
14 immediately informed when that information came to our
15 knowledge. He challenged that and said that's completely
16 false and he challenged us to find records. And we've
17 gone back and actually cannot find where that was ever
18 put in writing. There were many, many conversations back
19 and forth between Ms. Fleming and Mr. Ransom, but I'm
20 here to concede that he is correct; that we don't have
21 any proof that that information was provided until Ms.
22 Embry was re-deposed. And she was re-deposed, you know,
23 pretty promptly after that information was discovered.

24 So, I just didn't want to leave something incorrect
25 in our brief. Mr. Ransom challenged us on it and, in

1 fact, we don't have documentation that that information
2 was conveyed except in Ms. Embry's [phonetic] deposition.

3 THE COURT Okay. Thanks so very much.

4 MR. COOKE: Thank you.

5 THE COURT: Let me go back and refresh my memory
6 about it all and look at his affidavit and I will give
7 you a decision as soon as I have made it.

8 MR. COOKE: Thank you.

9 THE COURT: Thank y'all very much.

10 MR. RANSOM: Judge, the only clarification I'd like
11 to make is I actually submitted three affidavits for my
12 time. Two were in January a day apart and then the last
13 was earlier.

14 THE COURT: I think we -- law clerk says we got
15 them all, okay?

16 MR. RANSOM: Thank you very much.

17 THE COURT: All right, thank you very much. One
18 question Mr. Apostolou you never asked to do his cross
19 did you?

20 MR. COOKE: No.

21 THE COURT: Okay.

22 MR. COOKE: I think he had a conflict this week, he
23 was on vacation or something so we would just say
24 chronologically ---

25 THE COURT: --- I mean he's got 22.7 hours ---

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July 18, 2016

1 MR. COOKE: --- yeah ---

2 THE COURT: --- at 250 an hour. Do you question
3 that?

4 MR. COOKE: No.

5 THE COURT: Okay, all right. Thank you very much.

6 MR. COOKE: Thank you.

7 MR. RANSOM: Thank you, Judge.

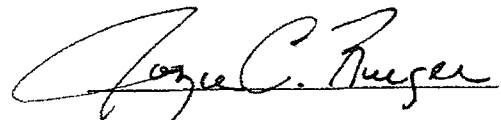
8 *****END OF TRANSCRIPT OF RECORD*****
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C E R T I F I C A T E

I, the undersigned, Joyce C. Rueger, Official
Circuit Court Reporter for the Ninth Judicial Circuit of
the State of South Carolina, do hereby certify that the
foregoing is a true, accurate, and complete Transcript of
Record of the proceedings had and evidence introduced in
the trial of the captioned case, relative to appeal, in
the Court of Common Pleas for Charleston County, South
Carolina on the 18th day of July, 2016.

I do further certify that I am neither of kin,
counsel, nor interest to any party hereto.

December 27, 2016



Joyce C. Rueger, CVR-M

Court Reporter

MUSC Health
SURGICAL SERVICES

Allergies:
No known medication allergies

POST ANESTHESIA CARE UNIT RECORD

Account #: 270428782
Patient Name: MIKELL, CHARLES
DOB: 1/25/1961
CPI: C01400764
Physician:

Age: 49 years
Sex: M

Height (cm): 175
Weight (Kg): 137.26983

BMI: 44.73
Admission Date: 10/1/2010

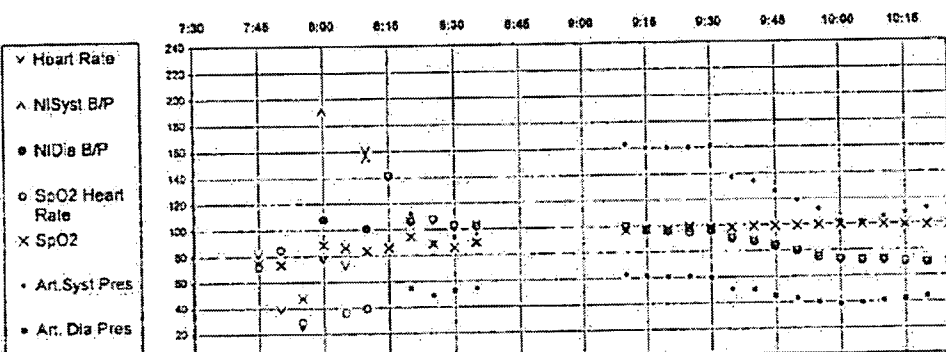
Arrival in PACU: 10/01/00 08:45

Ready for Discharge from PACU: 10/01/10 13:40

Discharge from PACU:

Procedure: C_45378 - DIAGNOSTIC COLONOSCOPY (Pre-op)
C_45378 - DIAGNOSTIC COLONOSCOPY (Surgical)

Anesthesia Type:



VITAL SIGNS

[illegible]

CONTINUOUS INFUSION (DOSAGE)

[illegible]

ELECTRONIC SIGNATURES

ALT -- Annette Thompson, R.N. (THOMPASA)
DBE -- Donna Embrey, CRNA (EMBREY)
EWN -- Eric Nelson, MD (NELSONEW)
JGT -- Jeffrey Toohay, R.N. (TOOHEYJ)

ELECTRONIC SIGNATURES

Printed on: 10/01/2010 13:47

Post Anesthesia Care Unit Flowsheet
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Page 1 of 8

Patient: MIKELL, CHARLES L

MRN: 1400764

Encounter:270428782

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MUSC PAGE 604 OF 2115

POST ANESTHESIA CARE UNIT RECORD

Allergies:
No known medication allergies

Account #: 270428782
Patient Name: MIKELL, CHARLES
DOB: 1/25/1981
CPI: 001400764
Physician:

Age: 49 years
Sex: M

Height (cm): 175
Weight (Kg): 137.25933

BMI: 44.73
Admission Date: 10/1/2010

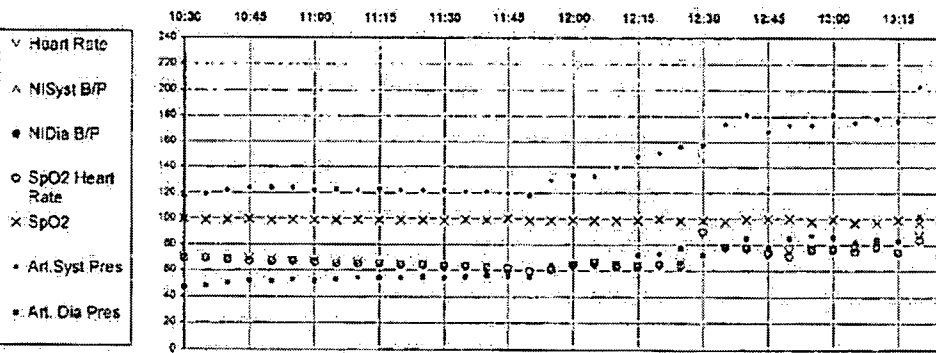
Arrival in PACU: 10/01/10 08:45

Ready for Discharge from PACU: 10/01/10 13:40

Discharge from PACU:

Procedure:

Anesthesia Type:



VITAL SIGNS

[illegible]

CONTINUOUS INFUSION (DOSAGE)

[illegible]

ELECTRONIC SIGNATURES

ALT -- Annette Thompson, R.N. (THOMPSON)
DBE -- Donna Embrey, CRNA (EMBREY)
EWN -- Eric Nelson, MD (NELSONEW)
JGT -- Jeffrey Toohey, R.N. (TOOHEYJ)

ELECTRONIC SIGNATURES

LEG. MONITORING WATCHES	ELECTRONIC SIGNATURES
ALT -- Annette Thompson, R.N. (THOMPAS)	
DBE -- Donna Embrey, CRNA (EMBREW)	
EWN -- Eric Nelson, MD (NELSONEW)	
JGT -- Jeffrey Toohy, R.N. (TOOHEYJ)	

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Post Anesthesia Care Unit Flowsheet:

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POST ANESTHESIA CARE UNIT RECORD

Allergies:
No known medication allergies

Account #: 270428782
Patient Name: MIKELL, CHARLES
DOB: 1/25/1961
CPI: C01400784
Physician:

Age: 49 years
Sex: M

Height (cm): 175
Weight (Kg): 137.29983

BMI: 44.73
Admission Date: 10/1/2010

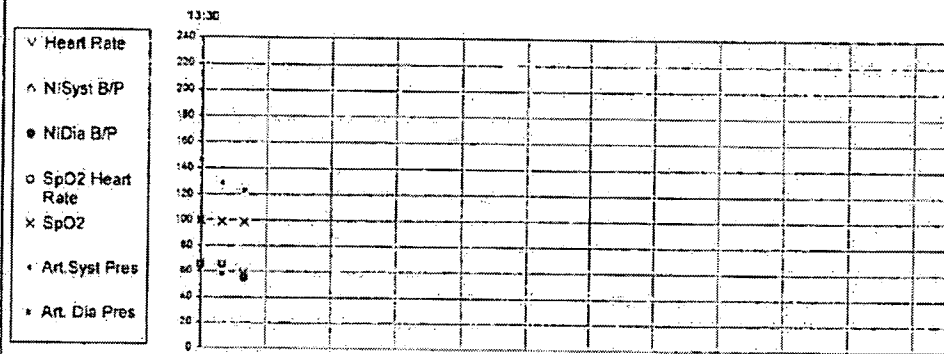
Arrival in PACU: 10/01/10 08:45

Ready for Discharge from PACU: 10/01/10 13:40

Discharge from PACU:

Procedure:

Anesthesia Type:



VITAL SIGNS

[illegible]

CONTINUOUS INFUSION (DOSAGE)

[illegible]

ELECTRONIC SIGNATURES

ALT -- Annette Thompson, R.N. (THOMPSON)
DBE -- Donna Embrey, CRNA (EMBREY)
EWN -- Eric Nelson, MD (NELSONEVA)
JGY -- Jeffrey Tooney, R.N. (TOONEY)

ELECTRONIC SIGNATURES

SELF HANDWRITTEN SIGNATURES	ELECTRONIC SIGNATURES
ALT --- Annette Thompson, R.N. (THOMPSON)	
DBE --- Donna Embrey, CRNA (EMBREY)	
EWN --- Eric Nelson, MD (NELSONEW)	
JGT --- Jeffrey Tooney, R.N. (TOONEYJ)	

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Post Anesthesia Care Unit Flowsheet

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Patient: MIKELL, CHARLES L

MRN: 1400764

Encounter: 270428782

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ACFID: N° 270479787

Patent Name: MIKELL, CHARLES

DOB: 1/25/1961

CPI: 001403784

Physician:

520

Age: 45 years

Sex	M

POST ANESTHESIA CARE UNIT RECORD

Height (cm): 175
Weight (Kg): 137.26983

BMI: 44.73
Admission Date: 10/1/2010

[illegible]

Printed on: 10/01/2010 13:47

Post Anesthesia Care Unit Flowsheet

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Patient: MIKELL, CHARLES L

MRN:1400764

Encounter: 270428782.

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POST ANESTHESIA CARE UNIT RECORD
Nursing diagnosis and Outcomes / Memos

Account #: 270428782
Patient Name: MIKELL, CHARLES
DOB: 1/25/1951
CPI: 001400764
Physician:

Age: 49 years
Sex: M

Height (cm): 175
Weight (Kg): 137.29983

BMI: 44.73
Admission Date: 10/1/2010

Dr/Tm Initials	NURSING DIAGNOSIS AND OUTCOME	Dr/Tm Initials	NURSING DIAGNOSIS AND OUTCOME

Chart Dt/Tm Initials	MEMOS Memo (Documentation time)	Chart Dt/Tm Initials	MEMOS Memo (Documentation time)
10/01/2010 09:12 JGT	(Pain: Scale (Self report)) >12 years and able to understand numerical values (10/01/2010 09:12)		
10/01/2010 10:08 JGT	(Foley Catheter: Placed) 16 french no difficulty (10/01/2010 10:08)		
10/01/2010 13:44 JGT	(Propofol) restarted. (10/01/2010 13:44)		

Printed on: 10/01/2010 13:48

Post Anesthesia Care Unit Flowsheet
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POST ANESTHESIA CARE UNIT RECORD
Scores and Assessments Sheet

Account #: 270428782
Patient Name: MIKELL, CHARLES
DOB: 1/25/1961
CPI: 001400764
Physician:
Age: 48 years
Sex: M

Height (cm): 175
Weight (Kg): 157.29983
BMI: 44.73
Admission Date: 10/1/2010

DvTm Initials	Assessments Category	Assessment Items and comments	DvTm Initials	Assessments Category	Assessment Items and comments
10/01/2010 09:12 JGT	Oxygen: FIO2 %	-60%	10/01/2010 09:12 JGT	Arterial Line #1: Site	-Intact
10/01/2010 09:12 JGT	Airway:	-ETT Tube	10/01/2010 09:12 JGT	Central Line #1	-Intact
10/01/2010 09:12 JGT	ETT: Measurement	-Measurement at Lip:	10/01/2010 09:12 JGT	Central Line #1: Assessment	-Clean Dry Intact
10/01/2010 09:12 JGT	ETT: Size	-Size 8.0	10/01/2010 09:12 JGT	Central Line #1: Assessment	-CVP: Triple Lumen
10/01/2010 09:12 JGT	Cardiac Rhythm	-Cuffed	10/01/2010 09:12 JGT	Central Line #1: Assessment	-Femoral Right
10/01/2010 09:12 JGT	Oxygen: Mode	-Sinus Tachycardia	10/01/2010 09:12 JGT	Central Line #1: Assessment	-Intact
10/01/2010 09:12 JGT		-Mechanical Ventilation (PRVC: rate 15, TV 500, PEEP 5)	10/01/2010 09:12 JGT	Central Line #1: Site/Assessment	-Clean Dry Intact
10/01/2010 09:12 JGT	Pulse Strength: Corals/Pedals	-Normal +2 Left	10/01/2010 09:12 JGT	Central Line #1: Site/Assessment	-Patent
10/01/2010 09:12 JGT		-Normal +2 Right	10/01/2010 09:12 JGT	Peripheral IV #2	-22 gauge
10/01/2010 09:12 JGT	Pulse Strength: Radial	-Normal +2 Left	10/01/2010 09:12 JGT	Peripheral IV #2: Assessment	-Hard Right
10/01/2010 09:12 JGT	Abdominal Assessment: Abdomen	-Normal +2 Right	10/01/2010 09:12 JGT	Peripheral IV #2: Assessment	-IV Fluids Infusing
10/01/2010 09:12 JGT		-Soft	10/01/2010 09:12 JGT	Peripheral IV #3	-Intact
10/01/2010 09:12 JGT		-Distended	10/01/2010 09:12 JGT	Peripheral IV #3	-Clean Dry Intact
10/01/2010 09:12 JGT	Nausea/Vomiting	-Nausea Absent	10/01/2010 09:12 JGT	Peripheral IV #3	-16 gauge
10/01/2010 09:12 JGT	Pain: Scale (Self report)	-Unable to Assess	10/01/2010 09:12 JGT	Peripheral IV #3: Assessment	-Antecubital Left
10/01/2010 09:12 JGT	Eyes: Opening	-No response 1	10/01/2010 09:12 JGT	Peripheral IV #3: Assessment	-IV Fluids Infusing
10/01/2010 09:12 JGT	Level of Consciousness	-Nonresponsive	10/01/2010 09:12 JGT	Peripheral IV #3: Assessment	-Intact
10/01/2010 09:12 JGT	Motor Strength: Arm	-No Response Left	10/01/2010 09:12 JGT	Peripheral IV #3: Assessment	-Clean Dry Intact
10/01/2010 09:12 JGT		-No Response Right	10/01/2010 09:12 JGT	Peripheral IV #3: Assessment	-Clean Dry Intact
10/01/2010 09:12 JGT	Motor Strength: Leg	-No Response Left	10/01/2010 09:12 JGT	Peripheral IV #3: Assessment	-Clean Dry Intact
10/01/2010 09:12 JGT		-No Response Right	10/01/2010 09:12 JGT	Peripheral IV #3: Assessment	-Clean Dry Intact
10/01/2010 09:12 JGT	Pupils: Reaction	-Closed Left	10/01/2010 10:00 JGT	Genitourinary Tube #1: Device/Method	-Foley Catheter
10/01/2010 09:12 JGT		-Closed Right	10/01/2010 10:00 JGT	Genitourinary Tube #1: Drainage	-Clear
10/01/2010 09:12 JGT	Verbal: Adult	-Trach or Intubated	10/01/2010 10:00 JGT	Genitourinary Tube #1: Drainage	-Amber
10/01/2010 09:12 JGT	Pupils: Size	-3 mm Left	10/01/2010 10:00 JGT	Genitourinary Tube #1: Drainage	-Amber
10/01/2010 09:12 JGT		-3 mm Right	10/01/2010 10:00 JGT	Genitourinary Tube #1: Drainage	-Amber
10/01/2010 09:12 JGT	Peripheral IV #1	-16 gauge	10/01/2010 12:00 JGT	Oxygen: Mode	-Mechanical Ventilation (SIMV)
10/01/2010 09:12 JGT	Peripheral IV #1: Assessment	-Antecubital Left	10/01/2010 12:00 JGT	Oxygen: FIO2 %	-40%
10/01/2010 09:12 JGT		-IV Fluids Infusing	10/01/2010 12:00 JGT	Oxygen: FIO2 %	-40%
10/01/2010 09:12 JGT		-Intact	10/01/2010 12:00 JGT	Oxygen: FIO2 %	-40%
10/01/2010 09:12 JGT		-Clean Dry Intact	10/01/2010 12:00 JGT	Oxygen: FIO2 %	-40%
10/01/2010 09:12 JGT	Arterial Line #1:	-Radial Left	10/01/2010 12:00 JGT	Oxygen: FIO2 %	-40%
10/01/2010 09:12 JGT		-Patent	10/01/2010 12:00 JGT	Oxygen: FIO2 %	-40%
10/01/2010 09:12 JGT		-Leveled to Phlebostatic Axis	10/01/2010 12:00 JGT	Oxygen: FIO2 %	-40%
DvTm Initials	Score Category	Score Total and Items with score			

Printed on: 10/01/2010 13:48

Post Anesthesia Care Unit Flowsheet:

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POST ANESTHESIA CARE UNIT RECORD
Medications and Fluids In and Out Sheet

Account #: 27042878Z
Patient Name: MIKELL, CHARLES
DOB: 1/25/1961
CPI: 001400764
Physician:

Age: 49 years
Sex: M

Height (cm): 175
Weight (Kg): 137.29983

BMI: 44.73
Admission Date: 10/1/2010

[illegible]

Electrolyte replacement documented in IVF

Printed on: 10/01/2010 13:48

Post Anesthesia Care Unit Flowsheet:
Confidential

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POST ANESTHESIA CARE UNIT RECORD

Nursing Documentation Sheet

Account #: 270428782
Patient Name: MIKELL, CHARLES
DOB: 1/25/1961
CPI: 001400764
Physician:

Age: 49 years
Sex: M

Height (cm): 175
Weight (Kg): 137.29983

BMI: 44.73
Admission Date: 10/1/2010

[illegible]

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Post Anesthesia Care Unit Flowsheet

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Patient: MIKELL, CHARLES L

MRN:1400764

Encounter:270428782

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POST ANESTHESIA CARE UNIT RECORD
Nursing Documentation Sheet

Account #: 270428782
Patient Name: MIKELL, CHARLES
DOB: 1/25/1961
CPI: 001400764
Physician:

Age: 49 years
Sex: M

Height (cm): 175
Weight (Kg): 137.29983

BMI: 44.73
Admission Date: 10/1/2010

NURSING CARE		NURSING CARE	
Dt/Tm Initials	EVENTS	Dt/Tm Initials	EVENTS
10/01/2010 08:58 DBE	discussed and understood		
10/01/2010 09:04 DBE	Procedural site marking(s) verified where appropriate		
10/01/2010 09:12 JGT	Transfer from LCAAn		
10/01/2010 09:46 JGT	Transfer to PACU		
10/01/2010 10:54 JGT	Family at Bedside mother		
10/01/2010 12:18 JGT	Family at Bedside mother		
	Memo Dr. Guidan at bedside, Propofol off at this time to evaluate patients Neuro status.		
10/01/2010 12:17 JGT	Family at Bedside pastor		
10/01/2010 13:40 JGT	Discharge criteria not met		
10/01/2010 13:40 JGT	Transfer to ICU:		
10/01/2010 13:40 JGT	Transported via stretcher/bed stretcher		
10/01/2010 13:40 JGT	With Oxygen		
10/01/2010 13:40 JGT	With monitors		
10/01/2010 13:40 JGT	Ready for Discharge from PACU (RDPACU)		
10/01/2010 13:42 JGT	Memo ice packs applied to pulse points, Dr. Guidan at bedside to evaluate patients neuro status. No response to verbal or noxious stimuli. Placed back on sedation for transfer to MSICU		

Printed on: 10/01/2010 13:48

Post Anesthesia Care Unit Flowsheet

Page 9 of 9

Confidential

Patient: MIKELL, CHARLES L

MRN: 1400764

Encounter:270428782

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ANESTHESIA

VRN: 001400764

Name: MIKELL, CHARLES L.

DOB: 01/25/1961

PatCom: 270428782

Surgeon: Payne, Mark

(cm): 175.20001

Weight(kg): 137.25683

BMI: 44.7

Sex: M

Age: 49 years

Anesthesia Record

Surgery Date: 10/01/2010

Case Times			Staff and Electronic Signature Legend (Initials)	
Anest Start: 10/01 07:20	Surge Start: 10/01 07:35	Proc Start: 10/01 07:42	Role: Scheduled Surgeon - Payne, Mark (MAP)	
Anest End:	Surge End: 10/01 08:37	Proc End: 10/01 07:56	Role: Primary Surgeon - Payne, Mark (MAP)	
Anest Total:	Surge Total: 01:02	Proc Total: 00:14	Role: Pre/Postoperative Registered Nurse - Toohay, Jeffrey (JGT)	
Surgical Procedure DIAGNOSTIC COLONOSCOPY			Role: Anesthesia Attending - Nelson, Eric (EWN)	
			Role: CRNA - Embrey, Donna (DBE)	
			Anesthesia Attending Documentation Electronically Signed By:	
Pre-op Diagnosis			10/01 07:48 EWN Anesthesiologist assessed patient, reviewed chart and formulated anesthesia plan	
Post-op Diagnosis			10/01 07:48 EWN Anesthesiologist medically directing case and present for all critical portions	
Allergies			10/01 07:48 EWN Anesthesiologist present for induction	
No known medication allergies			10/01 07:48 EWN I (or another attending anesthesiologist) was immediately available throughout and present for all key/critical portions of case	
			10/01 07:48 EWN Anesthesiologist present for airway device placement	
			Anesthesia Type	
			General Anesthesia	
			ASA	
			III	
Anesthesia Events				
10/01 07:25 DBE Anesthesia machine checked, alarms on and functioning	10/01 07:42 DBE Plan spontaneous ventilation throughout case	10/01 08:01 DBE Cuff inflated with minimum volume to create seal		
10/01 07:25 DBE Integrity of Anesthesia circuit confirmed	10/01 07:48 EWN Anesthesiologist assessed patient, reviewed chart and formulated anesthesia plan	10/01 08:01 DBE Breath sound equal and bilateral		
10/01 07:25 DBE Standard monitors available, alarms on and functioning	10/01 07:48 EWN Anesthesiologist medically directing case and present for all critical portions	10/01 08:01 DBE ETCO2 confirmed via CO2 Monitor		
10/01 07:25 DBE Suction available and functioning	10/01 07:48 EWN Anesthesiologist present for induction	10/01 08:01 DBE Memo Eyes taped		
10/01 07:25 DBE Airway equipment available and functioning	10/01 07:48 EWN I (or another attending anesthesiologist) was immediately available throughout and present for all key/critical portions of case	10/01 08:11 DBE Arrhythmia identified; v E6 noted when compressions halted		
10/01 07:25 DBE Anesthesia and resuscitation drugs available	10/01 07:48 EWN Anesthesiologist present for induction	10/01 08:11 DBE Delirium - Jaws: 200		
10/01 07:25 DBE NPO status verified	10/01 07:48 EWN I (or another attending anesthesiologist) was immediately available throughout and present for all key/critical portions of case	10/01 08:12 DBE CPR stopped Palpable pulse present		
10/01 07:25 DBE Patient chart and preoperative assessment reviewed	10/01 07:48 DBE Memo Nelson MDA in Nasal airway in O2 sat up to 94% Pt remains lateral	10/01 08:16 DBE Arterial line placed by CRNA		
10/01 07:25 DBE Patient identified by 2 methods	10/01 07:51 DBE Memo Nelson out	10/01 08:16 DBE Left radial artery		
10/01 07:25 DBE Pre-op vital signs reviewed	10/01 07:51 DBE Memo Pt turned supine from Lateral to establish better assisted Bag-Mask ventilation. Nasal airway out. Oral airway in	10/01 08:16 DBE Sterile technique		
10/01 07:25 DBE Surgical consent verified and appropriate	10/01 07:56 DBE Memo Came into room. Pt. hypoxic with junctional rhythm and no palpable pulse. ACLS protocol initiated, Mayday team called.	10/01 08:16 DBE Skin prep with chlorhexidine		
10/01 07:25 DBE Risks, benefits, and complications of anesthetic plan discussed and understood	10/01 07:57 DBE Non-palpable pulse	10/01 08:16 DBE 20 ga arterial catheter over wire		
10/01 07:25 DBE Procedural site marking(s) verified where appropriate	10/01 07:57 DBE Chest compressions initiated and continuous until noted.	10/01 08:16 DBE Attempter 1 per Dushenko, CRNA.		
10/01 07:25 DBE Peripheral IV placed preoperatively	10/01 07:57 DBE Patient Oxygenated w/100% O2 per Bag-mask	10/01 08:16 DBE Good arterial waveform		
10/01 07:25 DBE 22 gauge peripheral IV catheter in situ in HA.	10/01 08:01 DBE Atraumatic laryngoscopy DVL x 1 per Embrey, CRNA.	10/01 08:16 DBE Arterial catheter taped and sterile dressing applied		
10/01 07:25 DBE Right hand	10/01 08:01 DBE Intubation - Tube size: #8.0 + ETT @	10/01 08:23 DBE Peripheral IV placed after induction		
10/01 07:35 DBE Transfer to:		10/01 08:23 DBE 16 gauge peripheral IV catheter		
10/01 07:42 DBE Patient evaluated immediately prior to induction		10/01 08:23 DBE Left antibiotic 1:1 per Dushenko, CRNA.		
10/01 07:42 DBE Standard monitors applied		10/01 08:25 DBE Aseptic technique used		
10/01 07:42 DBE Respiratory rate monitored		10/01 08:25 DBE Central line placed by Attending Anesthesiologist		
10/01 07:42 DBE ETCO2 wave form present		10/01 08:25 DBE Hand hygiene prior to donning gloves		
		10/01 08:25 DBE Maximum barrier precautions utilized for strict sterile technique including sterile body drape, hat, mask, and sterile gloves.		
		10/01 08:25 DBE Skin preparation with chlorhexidine		
		10/01 08:25 DBE Landmarks identified		

ALL CH 12/10

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10/2/2010 18:15

Patient: MIKELL, CHARLES L

MRN: 1400764

Encounter: 270428782

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ANESTHESIA

MRN: 001400764

Name: MIKELL, CHARLES L.

DOB: 01/25/1961

PatCom: 270428782

Surgeon: Payne, Mark

Room: 175 20001

Weight(kg): 137.29983

BMJ: 44.7

Sex: M

Age: 49 years

Anesthesia Record

Surgery Date: 10/01/2010

Case Times			Staff and Electronic Signature Legend (Initials)		
Anest Start: 10/01 07:20	Surg Start: 10/01 07:35	Proc Start: 10/01 07:42			
Anest End:	Surg End: 10/01 08:37	Proc End: 10/01 07:56			
Anest Total:	Surg Total: 01:02	Proc Total: 00:14			
Surgical Procedure			Anesthesia Attending Documentation Electronically Signed By:		
Pre-op Diagnosis					
Post-op Diagnosis					
Allergies			Anesthesia Type		
			General Anesthesia		
Anesthesia Events					
10/01 08:25	D8E	Introducer needle inserted into vessel, free blood flow	10/01 09:46	JGT	Family at bedside mother
10/01 08:25	D8E	Tidate lumen catheter RL femoral vein.	10/01 10:54	JGT	Family at bedside mother
10/01 08:25	D8E	Blood return through all lumens. Lumens flushed.	10/01 12:16	JGT	Memo Dr. Guldin at bedside. Propofol off at this time to evaluate patient's Neuro status.
10/01 08:25	D8E	Sterile transparent dressing placed over insertion site	10/01 12:17	JGT	Family at bedside pastor
10/01 08:31	EWN	Anesthesiologist present for airway device placement	10/01 13:40	JGT	Discharge criteria not met
10/01 08:31	D8E	Patient Oxygenated w/100% O2 and remains on vent.	10/01 13:40	JGT	Transfer to ICU:
10/01 08:31	D8E	ETT in place as per above.	10/01 13:40	JGT	Transported via stretcher/tied stretcher
10/01 08:31	EWN	Patient stabilized	10/01 13:40	JGT	With Oxygen
10/01 08:31	D8E	Post resuscitation rhythm: SR.	10/01 13:40	JGT	With monitors
10/01 08:37	D8E	To recovery area in stable condition.	10/01 13:42	JGT	Memo ice packs applied to pulse points. Dr. Guldin at bedside to evaluate patient's neuro status. No response to verbal or noxious stimuli. Placed back on sedation for transfer to MSICU
10/01 08:37	D8E	Patient transported with O2			
10/01 08:37	D8E	Transported via stretcher/bed			
10/01 08:45	JGT	Phase I PACU admission			
10/01 08:45	JGT	Report received from Donna Embry CRNA			
10/01 08:45	JGT	Side rails up			
10/01 08:45	JGT	Wheels locked			
10/01 08:45	JGT	Connected to monitors			
10/01 08:45	D8E	To PACU in stable condition with O2/ambu/MDA/RT/monitors for transport. VSS. Pt to vent in PACU on arrival per RT. SBAR report to PACU RN.			
10/01 09:00	D8E	Postoperative Location: PACU			
10/01 09:00	D8E	Mechanical ventilatory support			
10/01 09:00	D8E	Requiring vasoactive/inotropic drips			
10/01 09:00	D8E	Pain managed by primary care service			
10/01 09:00	D8E	Cardiac arrest during procedure.			

ALB 08/12/10

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10/2/2010 18:15

Patient: MIKELL, CHARLES L

MRN: 1400764

Encounter: 270428782

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"ANESTHESIA"

MRN: 001400764

Name: MIKELL, CHARLES L.

DOB: 01/25/1961

PatCom: 270428782

Surgeon: Payne, Mark

Height: 75.20001

Weight(kg): 137.29983

BMI: 44.7

Sex: M

Age: 49 years

Surgery Date: 10/01/2010

Anesthesia Record

TIME	07:30	07:45	08:00	08:15	08:30	08:45	09:00	09:15	09:30	09:45	10:00	10:15	10:30	10:45	11:00	11:15	11:30	11:45	12:00	12:15	Totals
Medications																					
Amiodarone (mg) (IV)				3																	3.00
Atropine (mg) (IV)			1																		1.00
Epinephrine 1:1000 (mg) (IV)			1																		1.00
Midazolam (Versed) (mg) (IV)	2			4																	6.00
Phenylephrine (micropipette) (IV)				720																	720.00
Rocuronium (mg) (IV)				50																	50.00
Drips																					
Phenylephrine (microgram/kg/min)				0.8>	0.8>	0.8>	0.8>	*	*	X											77.8
Propofol (microgram/kg/min)	75>	*	*	*	*	*	*	54.5>	54.5>	54.5>	54.5>	54.5>	54.5>	54.5>	54.5>	54.5>	54.5>	54.5>	*	*	352.6
Amiodarone(mg/min) / DSW (mL)							0.999>	>	>	>	>	>	>	>	>	>	>	>	>	>	326.5
Amiodarone(mg/min) / DSW (mL)				1>	>	>>	X														16.7
Fluids IN																					
Normal Saline 0.5% (mL)	500>	>	>	X																	500.00
Normal Saline 0.5% (mL)				1000>	>	>	>	>	>	>		X									0.00
Normal Saline 0.5% (mL/h)							50>	50>	50>	50>	50>	50>	50>	50>	50>	50>	50>	50>	50>	50>	470.28
Fluids OUT (mL)																					
Urine										350											370.00

10/2/2010

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10/2/2010 18:15

Patient:MIKELL,CHARLES L

MRN:1400764

Encounter:270428782

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Surgeon: Payne, Mark

Age: 49 years

Surgery Date: 10/01/2010

10/2/2010 19:15



ANESTHESIAN

MRN: 001400764

NAME: MCKEL, CHARLES L.

008: 01/25/1961

PatCom: 276478782

Surgeon: Payne, Mark

Height(cm): 180

Weight(kg): 137.29983

But 44.7

Sec 14

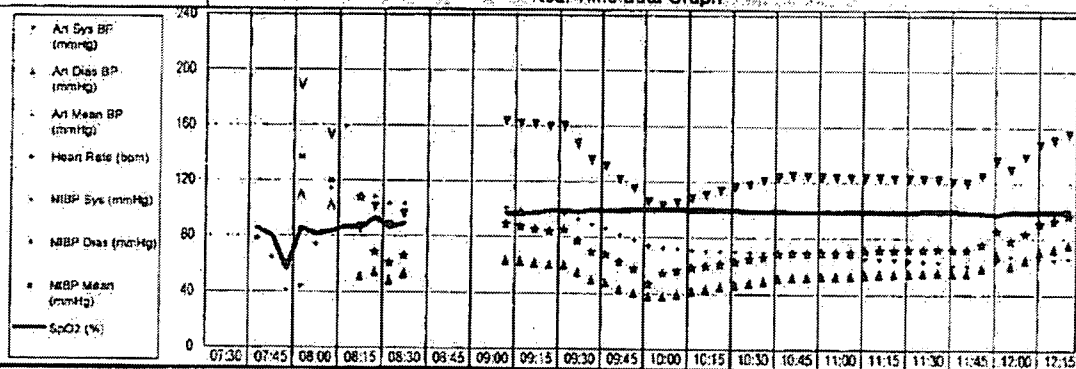
Age: 49 years

Anesthesia Record

Supply Date: 10/01/2010

TIME	07:30	07:45	08:00	08:15	08:30	08:45	09:00	09:15	09:30	09:45	10:00	10:15	10:30	10:45	11:00	11:15	11:30	11:45	12:00	12:15
	Real Time Variables																			
FiO2 (%)		99.0	96.0	97.0	98.0															
SpO2 (%)		47.5	85.5	86.7	89.6		56.9	59.4	59.2	59.9	59.6	59.4	58.7	58.6	58.6	58.6	58.7	59.2	59.5	59.0
EtCO2 (mmHg)		0.0	62.6	34.0	34.8															
Das out (%)			0.0	0.9	0.0															
EKG Rhythm	SR	PEA*	SR*	SR*	SR	SR	SR*	SR*	SR*	SR*	SR*	SR*	SR*	SR*	SR*	SR*	SR*	SR*	SR*	SR*
Rsp_m		15.0	24.0	16.0	16.0															
Tidal volume (mL)		72.0	904.0	604.0	563.0															
PiP (cmH2O)		30.0	55.0	30.0	23.0															
Temperature (°C)						36.6									36.5*				33.6	

Real Time Data Graph



Laboratory Results

[illegible]**U.S. 021210**

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10/2/2010 18:15

Patient: MIKELL, CHARLES L.

MRN: 1400764

Encounter: 270428782

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ANESTHESIA

MFN: 001400764

Name: MIKELL, CHARLES L

008: 07/25/1961

P4Com: 270428782

Surgeon: Payne, Mark

Height (cm): 2001

Weight(mg): 137.29953

BME 447

Sex: M

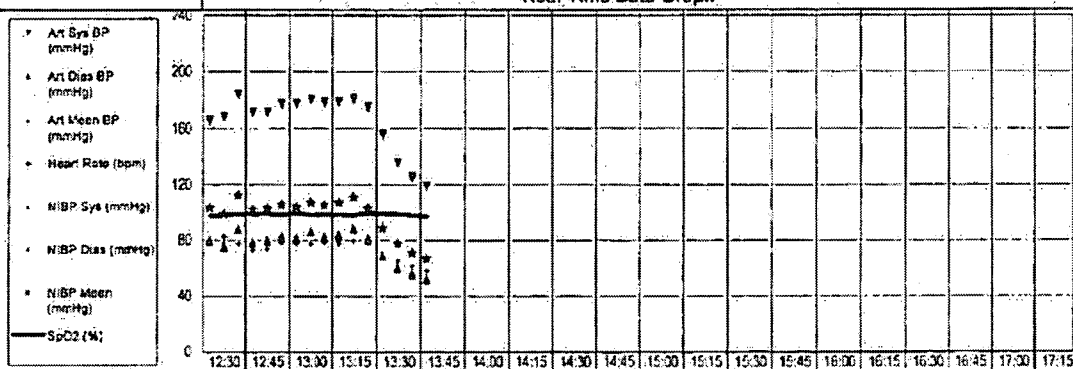
Age: 49 years

Anesthesia Record

Surgery Date: 10/01/2019

[illegible]

Real Time Data Graph



Laboratory Results

[illegible]

2018-08-22

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10/2/2010 18:15

Patient: MIKELL, CHARLES L

MRN: 1400764

Encounter: 270428782

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ANESTHESIA

MRN: 001400764

Name: MIKELL, CHARLES L.

DOB: 01/25/1961

PatCon: 270428782

Surgeon: Payne, Mark

Height(cm): 175.301

Weight(kg): 137.29933

BMI: 44.7

Sex: M

Age: 49 years

Anesthesia Record

Surgery Date: 10/01/2010

TIME 17:30 17:45 18:00 18:15

Real Time Variables

FiO2 (%)

SpO2 (%)

EtCO2 (mmHg)

Desat (%)

EKG Rhythm

Rsp m

Tidal volume (mL)

PIP (cmH2O)

Temperature (°C)

Real Time Data Graph

• Art Sys BP (mmHg)

• Art Dias BP (mmHg)

• Art Mean BP (mmHg)

• Heart Rate (bpm)

• NIBP Sys (mmHg)

• NIBP Dias (mmHg)

• NIBP Mean (mmHg)

• SpO2 (%)

240

200

160

120

80

40

0

17:30 17:45 18:00 18:15

Laboratory Results

HEMOGLOBIN

GLUCOSE

KLS 08/21/10

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10/2/2010 18:15

Patient: MIKELL, CHARLES L

MRN: 1400764

Encounter: 270428782

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R_1187

MUSC PAGE 501 OF 2115



ANESTHESIA
Anesthesia/PACU Record

MRN: 001400764	Height(cm): 175.20002
Name: MIKELL, CHARLES L.	Weight(kg): 137.29966
DOB: 01/25/1961	BMI: 44.7
PatCom: 270428782	Sex: M
Surgeon: Payne, Mark	Age: 49 years

Surgery Date: 10/01/2010

Case Times	
Anest Start: 10/01 07:20	Surg Start: 10/01 07:35
Anest End: 10/01 09:12	Surg End: 10/01 08:37
Anest Total: 01:52	Surg Total: 01:02
Proc Start: 10/01 07:42	PACU Start: 10/01 08:45
Proc End: 10/01 07:56	PACU End: 10/01 13:40
Proc Total: 00:14	PACU Total: 04:55
Stepdown Start:	Stepdown End:
Stepdown Total:	
Surgical Procedure	Staff and Electronic Signature Legend (Initials)
DIAGNOSTIC COLONOSCOPY	Role: Scheduled Surgeon - Payne, Mark (MAP)
	Role: Primary Surgeon - Payne, Mark (MAP)
	Role: Pre/Postoperative Registered Nurse - Toohy, Jeffrey (JGT)
	Role: Anesthesia Attending - Nelson, Eric (EWN)
	Role: CRNA - Embrey, Donna (DBE)
Pre-op Diagnosis	Anesthesia Attending Documentation Electronically Signed By:
	10/01 7:48 EWN Anesthesiologist assessed patient, reviewed chart and formulated anesthesia plan
	10/01 7:48 EWN Anesthesiologist medically directing case and present for all critical portions.
	10/01 7:48 EWN Anesthesiologist present for induction
	10/01 7:48 EWN I (or another attending anesthesiologist) was immediately available throughout and present for all key/critical portions of case
	10/01 8:31 EWN Anesthesiologist present for airway device placement
Post-op Diagnosis	
Allergies	
No known medication allergies	
Anesthesia Type	ASA
General Anesthesia	III
Anesthesia Events	
10/01 7:25 DBE Airway equipment available and functioning	10/01 7:48 DBE Memo Nelson, MDA in Nasal airway in O2 sat up to 94%. Pt remains lateral.
10/01 7:25 DBE Surgical consent verified and appropriate	10/01 7:48 EWN Anesthesiologist assessed patient, reviewed chart and formulated anesthesia plan
10/01 7:25 DBE Pre-op vital signs reviewed	10/01 7:48 EWN Anesthesiologist present for induction
10/01 7:25 DBE Risks, benefits, and complications of anesthetic plan discussed and understood	10/01 7:51 DBE Memo Nelson out.
10/01 7:25 DBE Procedural site marking(s) verified where appropriate	10/01 7:55 DBE Memo Pt turned supine from Lateral to establish better assisted Bag-Mask ventilation. Nasal airway out. Oral airway in.
10/01 7:25 DBE Anesthesia machine checked, alarms on and functioning	10/01 7:56 DBE Memo Came into room. Pt hypoxic with junctional rhythm and no palpable pulse. ACLS protocol initiated, Mayday team called.
10/01 7:25 DBE Integrity of Anesthesia circuit confirmed	10/01 7:57 DBE Non-palpable pulse
10/01 7:25 DBE Standard monitors available, alarms on and functioning	10/01 7:57 DBE Chest compressions initiated and continuous until noted.
10/01 7:25 DBE Suction available and functioning	10/01 7:57 DBE Patient Oxygenated w/100% O2 per Bag-mask
10/01 7:25 DBE Anesthesia and resuscitation drugs available	10/01 8:01 DBE Atraumatic laryngoscopy DVL x 1 per Embrey, CRNA.
10/01 7:25 DBE Patient identified by 2 methods	10/01 8:01 DBE Intubation - Tube size: #8.0 Ir ETT @ 23 cm @ lips.
10/01 7:25 DBE Patient chart and preoperative assessment reviewed	10/01 8:01 DBE Cuff inflated with minimum volume to create seal
10/01 7:25 DBE NPO status verified	10/01 8:01 DBE Breath sound equal and bilateral
10/01 7:25 DBE Peripheral IV placed preoperatively	10/01 8:01 DBE ETCO2 confirmed via CO2 Monitor
10/01 7:25 DBE Right hand	10/01 8:01 DBE Memo Eyes taped.
10/01 7:25 DBE 22 gauge peripheral IV catheter in situ in HA.	10/01 8:11 DBE Arrhythmia identified: v fib noted when compressions halted.
10/01 7:35 DBE Transfer to:	10/01 8:11 DBE Desfibrillation - Joules: 200
10/01 7:42 DBE Patient evaluated immediately prior to induction	10/01 8:12 DBE CPR stopped Palpable pulse present.
10/01 7:42 DBE Standard monitors applied	10/01 8:16 DBE Skin prep with chlorhexidine
10/01 7:42 DBE Respiratory rate monitored	10/01 8:16 DBE Sterile technique
10/01 7:42 DBE ETCO2 wave form present	10/01 8:16 DBE Arterial line placed by CRNA
10/01 7:42 DBE Plan spontaneous ventilation throughout case	10/01 8:16 DBE Arterial catheter taped and sterile dressing
10/01 7:48 EWN Anesthesiologist medically directing case and present for all critical portions.	
10/01 7:48 EWN I (or another attending anesthesiologist) was immediately available throughout and present for all key/critical portions of case	
	10/01 8:16 DBE Left radial artery
	10/01 8:16 DBE 20 ga arterial catheter over wire
	10/01 8:16 DBE Attempts: 1 per Dushenko, CRNA.
	10/01 8:16 DBE Good arterial waveform
	10/01 8:23 DBE Peripheral IV placed after induction
	10/01 8:23 DBE Aseptic technique used
	10/01 8:23 DBE 16 gauge peripheral IV catheter
	10/01 8:23 DBE Left antecubital x1 per Dushenko, CRNA.
	10/01 8:25 DBE Skin preparation with chlorhexidine
	10/01 8:25 DBE Landmarks identified
	10/01 8:25 DBE Introducer needle inserted into vessel, free blood flow
	10/01 8:25 DBE Triple lumen catheter RL femoral vein.
	10/01 8:25 DBE Sterile transparent dressing placed over insertion site
	10/01 8:25 DBE Maximum barrier precautions utilized for strict sterile technique including sterile body drape, hat, mask, and sterile gloves.
	10/01 8:25 DBE Hand hygiene prior to donning gloves
	10/01 8:25 DBE Blood return through all lumens. Lumens flushed.
	10/01 8:25 DBE Central line placed by Attending Anesthesiologist
	10/01 8:31 DBE Post resuscitation rhythm: SR.
	10/01 8:31 DBE Patient Oxygenated w/100% O2 and remains on vent.
	10/01 8:31 DBE ETT in place as per above.
	10/01 8:31 EWN Anesthesiologist present for airway device placement
	10/01 8:31 EWN Patient stabilized
	10/01 8:37 DBE Patient transported with O2
	10/01 8:37 DBE To recovery area in stable condition

XLS 11182010



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R_1188

4/2/2013 13:14

BWPH 1:554 (Mikell)
MUSC
2116



"ANESTHESIA"
Anesthesia/PACU Record

MRN: 001400764
Name: MIKELL, CHARLES L.
DOB: 01/25/1961
PatCom: 270428782
Surgeon: Payne, Mark

Height(cm): 175.20002
Weight(kg): 137.29966
BMI: 44.7
Sex: M
Age: 49 years

Surgery Date: 10/01/2010

Case Times				
Anest Start: 10/01 07:20	Surg Start: 10/01 07:35	Proc Start: 10/01 07:42	PACU Start: 10/01 08:45	Stepdown Start:
Anest End: 10/01 09:12	Surg End: 10/01 08:37	Proc End: 10/01 07:56	PACU End: 10/01 13:40	Stepdown End:
Anest Total: 01:52	Surg Total: 01:02	Proc Total: 00:14	PACU Total: 04:55	Stepdown Total:
Surgical Procedure		Staff and Electronic Signature Legend (Initials)		
Pre-op Diagnosis		Anesthesia Attending Documentation Electronically Signed By:		
Post-op Diagnosis				
Allergies				
Anesthesia Type				
General Anesthesia		ASA III		
Anesthesia Events				
10/01 8:37 DBE Transported via stretcher/bed				
10/01 8:45 JGT Phase I PACU admission				
10/01 8:45 JGT Report received from: Donna Embry CRNA				
10/01 8:45 JGT Side rails up				
10/01 8:45 JGT Wheels locked				
10/01 8:45 JGT Connected to monitors				
10/01 8:45 DBE To PACU in stable condition with O2/ambu/MDA/RT/monitors for transport. VSS. Pt to vent in PACU on arrival per RT. SBAR report to PACU RN.				
10/01 9:15 DBE Postoperative Location: PACU				
10/01 9:15 DBE Cardiac arrest: during procedure.				
10/01 9:15 DBE Requiring vasoactive/inotropic drips				
10/01 9:15 DBE Mechanical ventilatory support				
10/01 9:15 DBE Pain managed by primary care service				
10/01 9:46 JGT Family at Bedside mother				
10/01 10:54 JGT Family at Bedside mother				
10/01 12:16 JGT Memo Dr. Guldán at bedside. Propofol off at this time to evaluate patients Neuro status.				
10/01 12:17 JGT Family at Bedside pastor				
10/01 13:40 JGT Discharge criteria not met				
10/01 13:40 JGT Transfer to ICU:				
10/01 13:40 JGT Transported via stretcher/bed stretcher				
10/01 13:40 JGT With monitors				
10/01 13:40 JGT With Oxygen				
10/01 13:42 JGT Memo ice packs applied to pulse points. Dr. Guldán at bedside to evaluate patients neuro status. No response to verbal or noxious stimuli. Placed back on sedation for transfer to MSICU				



Anesthesia/PACU Record

MRN: 001400764

Name: MIKELL, CHARLES L.

DOB: 01/25/1961

PatCom: 270428782

Surgeon: Payne, Mark

Height(cm): 175.20002

Weight(kg): 137.29966

BMI: 44.7

Sex: M

Age: 49 years

Surgery Date: 10/01/2010

[illegible]



ANESTHESIA

Anesthesia/PACU Record

MRN: 001400764	Height(cm): 175.20002
Name: MIKELL, CHARLES L.	Weight(kg): 137.29966
DOB: 01/25/1961	BMI: 44.7
PatCom: 270428782	Sex: M
Surgeon: Payne, Mark	Age: 49 years

Surgery Date: 10/01/2010

TIME	7:54	7:55	7:56	7:57	7:58	7:59	8:00	8:01	8:02	8:03	8:04	8:05	8:06	8:07	8:08	8:09	8:10	8:11	8:12	8:13	Totals
Medications																					
Amiodarone (mg) (IV)																					3
Atropine (mg) (IV)															0.5	0.5					1
Epinephrine 1:1000 (mg) (IV)						1															1
Midazolam (Versed) (mg) (IV)																					6
Phenylephrine (microgram) (IV)																					720
Rocuronium (mg) (IV)																					50
Drips																					
Phenylephrine (microgram/kg/min)																					77.8
Propofol (microgram/kg/min)	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	352.6
Amiodarone(mg/min) / D5W (mL)																					306.5
Amiodarone(mg/min) / D5W (mL)																					16.67
Fluids IN																					
Normal Saline 0.9% (mL)	[>]	>	>	>	>	>	>	>	>	>	>	>	>	>	>	>	>	>	>	>	500
Normal Saline 0.9% (mL)																					0
Normal Saline 0.9% (mL/h)																					470.3
Fluids OUT (mL)																					
Urine																					370



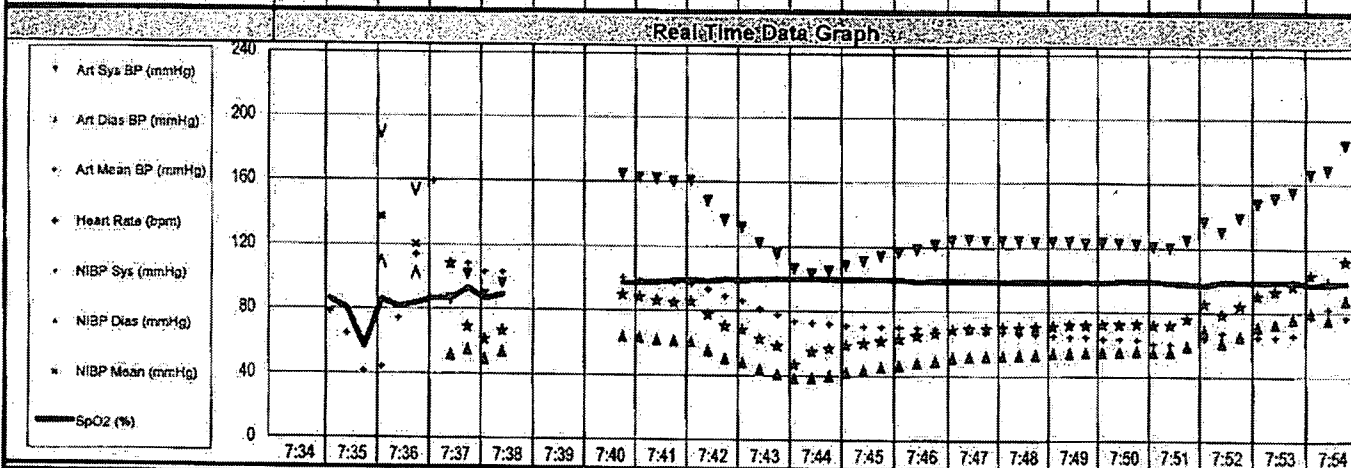
ANESTHESIA
Anesthesia/PACU Record

MRN: 001400764
Name: MIKELL, CHARLES L.
DOB: 01/25/1961
PatCom: 270428782
Surgeon: Payne, Mark

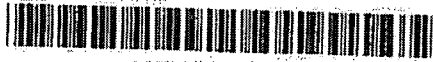
Height(cm): 175.20002
Weight(kg): 137.29966
BMI: 44.7
Sex: M
Age: 49 years

Surgery Date: 10/01/2010

Intraoperative A&B Record														Surgery Date: 10/01/2010									
	Real Time Variables																						
TIME	7:34	7:35	7:36	7:37	7:38	7:39	7:40	7:41	7:42	7:43	7:44	7:45	7:46	7:47	7:48	7:49	7:50	7:51	7:52	7:53	7:54		
SpO2 (%)															96.7	75	69.2	90.1	80.7	88	73.3		
Temperature (°C)																							
EKG Rhythm		SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR		
SpO2 Heart Rate bpm															74	72	101	83	62	75	85		
Spontaneous Resp Rate																			0	1	1		
Resp Rate from pCO2 cart															0	0	0	11	14	17	0		
Vent Resp Rate/min																			1	1	1		
FiO2 (%)															99	35	26	29	24	26	29		
EtCO2 (mmHg)															0	0.754	52.78	45.24	10.56	10.56	0.754		
Des out (%)																							
Exp. Tidal volume (mL)																			41	32			
PIP (cmH2O)															0	0	0	0	0	1	0		
			</																				



	Laboratory Results																					
TIME	7:34	7:35	7:36	7:37	7:38	7:39	7:40	7:41	7:42	7:43	7:44	7:45	7:46	7:47	7:48	7:49	7:50	7:51	7:52	7:53	7:54	
PH ARTERIAL																						
PH ARTERIAL																						
PCO2 ARTERIAL																						
PCO2 ARTERIAL																						
PO2 ARTERIAL																						
PO2 ARTERIAL																						
BICARB ARTERIAL																						
BICARB ARTERIAL																						
TOTAL CO2 ARTERIAL																						
O2 SAT ARTERIAL																						
O2 SAT ARTERIAL																						
HCT WHL BLD ARTERIAL																						
HGB WHL BLD ARTERIAL																						
NA WHL BLD ARTERIAL																						
K WHL BLD ARTERIAL																						
IONIZED CA ARTERIAL																						



ANESTHESIAN

Anesthesia/PACU Record

MRN: 001400764

Name: MIKELL, CHARLES L.

DOB: 01/25/1961

PatCom: 270428782

Surgeon: Payne, Mark

Height(cm): 175.20002

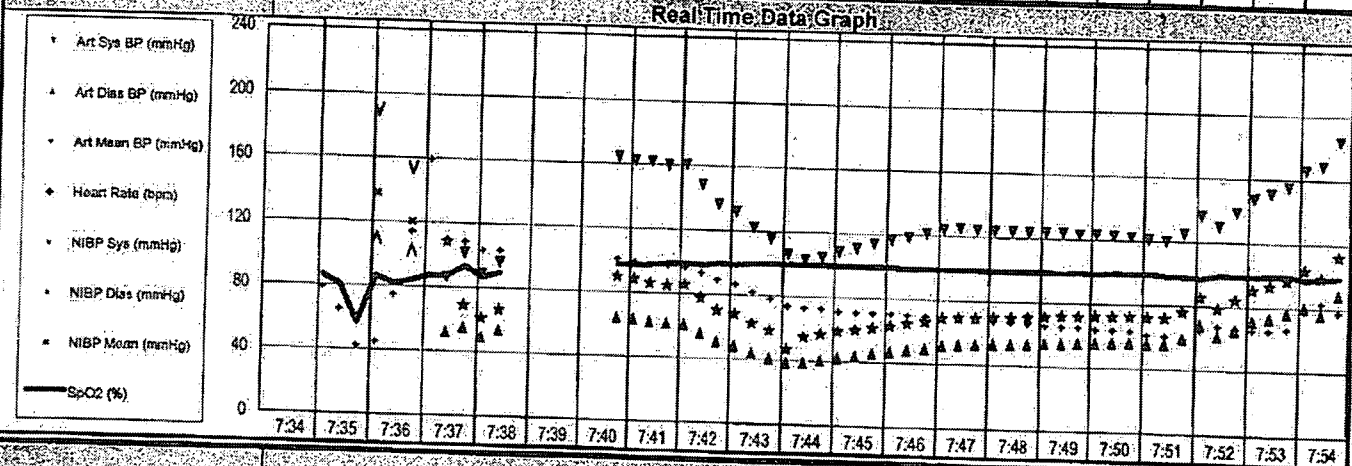
Weight(kg): 137.29966

BMI: 44.7

Sex: M

Age: 49 years

Surgery Date: 10/01/2010

[illegible][illegible]



ANESTHESIA

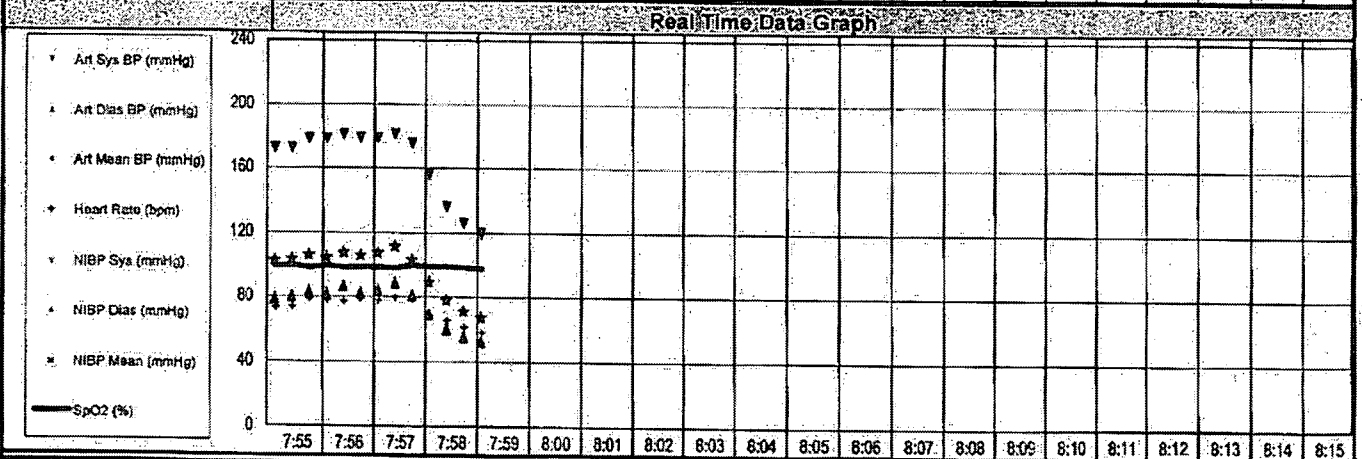
Anesthesia/PACU Record

MRN: 001400764
 Name: MIKELL, CHARLES L.
 DOB: 01/25/1961
 PatCom: 270428782
 Surgeon: Payne, Mark

Height(cm): 175.20002
 Weight(kg): 137.29966
 BMI: 44.7
 Sex: M
 Age: 49 years

Surgery Date: 10/01/2010

	Real Time Variables																				
TIME	7:55	7:56	7:57	7:58	7:59	8:00	8:01	8:02	8:03	8:04	8:05	8:06	8:07	8:08	8:09	8:10	8:11	8:12	8:13	8:14	8:15
SpO2 (%)	62.1	75	41.2	47.5		67.6	88.1	88.4	96.4	88.3	79.9	77.6		86.3		83.5					79.7
Temperature (°C)																					
EKG Rhythm	SR	JUNCT	JUNCT	PEA*	PEA*	PEA*	PEA*	PEA*	PEA*	PEA*	PEA*	PEA*	PEA*	PEA*	PEA*	PEA*	V-FIB*	SR*	SR*	SR*	SR*
SpO2 Heart Rate bpm	90	64	30	29		29	102	95	87	108	94	79		36		39					89
Spontaneous Resp Rate	3	12	14	18	15	15	13	7	2	1	0	0	0	0	1	1	22	9	28	24	15
Resp Rate from pCO2 cart	0	17	0	0	0	0	0	20	9	10	10	10	10	10	0	0	17	15	17	11	15
Vent Resp Rate/min	4	12	14	18	15	15	13	8	17	13	10	10	10	10	11	10	25	15	28	24	15
FiO2 (%)	95	95	99	98	99	100	100	96	79	94	96	97	98	98	98	98	97	99	98	98	98
EtCO2 (mmHg)	1.508	24.88	0	0	0	7.54	0	16.59	9.602	20.36	13.57	10.56	7.54	2.262	4.524	5.278	23.37	16.59	25.64	62.58	52.03
Des out (%)										0	0	0	0	0	0	0	0	0	0	0	0
Exp. Tidal volume (mL)	17	50	121	72	72	314	93	454	107	549	546	557	553	559	726	559	1128	781	10	904	1061
PIP (cmH2O)	3	27	28	28	30	32	31	38	26	29	27	27	27	27	35	27	57	63	10	55	47
							</														



	Laboratory Results																					
TIME	7:55	7:56	7:57	7:58	7:59	8:00	8:01	8:02	8:03	8:04	8:05	8:06	8:07	8:08	8:09	8:10	8:11	8:12	8:13	8:14	8:15	
PH ARTERIAL																						
PH ARTERIAL																						
PCO2 ARTERIAL																						
PCO2 ARTERIAL																						
PO2 ARTERIAL																						
PO2 ARTERIAL																						
BICARB ARTERIAL																						
BICARB ARTERIAL																						
TOTAL CO2 ARTERIAL																						
O2 SAT ARTERIAL																						
O2 SAT ARTERIAL																						
HCT WHL BLD ARTERIAL																						
HGB WHL BLD ARTERIAL																						
NA WHL BLD ARTERIAL																						
K WHL BLD ARTERIAL																						
IONIZED CA ARTERIAL																						



"ANESTHESIA"
Anesthesia/PACU Record

MRN: 001400764
Name: MIKELL, CHARLES L.
DOB: 01/25/1961
PatCom: 270428782
Surgeon: Payne, Mark

Height(cm): 175.20002
Weight(kg): 137.29966
BMI: 44.7
Sex: M
Age: 49 years

Surgery Date: 10/01/2010

Assessments					
10/01/2010 07:35 DBE	Oxygen: FIO2 Liters	<4 Liters	10/01/2010 08:30 DBE	Oxygen: Mode	*Mechanical Ventilation
10/01/2010 07:35 DBE	Pressure Points	*Lateral - Checked	10/01/2010 08:30 DBE	Pressure Points	*Supine - Checked
10/01/2010 07:35 DBE	Oxygen: Mode	*Nasal Canula	10/01/2010 08:30 DBE	Oxygen: FIO2 Liters	
10/01/2010 07:40 DBE	Oxygen: FIO2 Liters	<4 Liters	10/01/2010 08:35 DBE	Oxygen: FIO2 Liters	*10 Liters
10/01/2010 07:40 DBE	Oxygen: Mode	*Nasal Canula	10/01/2010 08:35 DBE	Oxygen: Mode	*Mechanical Ventilation
10/01/2010 07:40 DBE	Pressure Points	*Lateral - Checked	10/01/2010 08:35 DBE	Pressure Points	*Supine - Checked
10/01/2010 07:45 DBE	Oxygen: FIO2 Liters	<4 Liters	10/01/2010 08:40 DBE	Oxygen: FIO2 Liters	*10 Liters
10/01/2010 07:45 DBE	Oxygen: Mode	*Nasal Canula	10/01/2010 08:45 DBE	Oxygen: FIO2 Liters	*10 Liters
10/01/2010 07:45 DBE	Pressure Points	*Lateral - Checked	10/01/2010 08:50 DBE	Oxygen: FIO2 Liters	*10 Liters
10/01/2010 07:50 DBE	Oxygen: FIO2 Liters	*6 Liters	10/01/2010 08:55 DBE	Oxygen: FIO2 Liters	*10 Liters
10/01/2010 07:50 DBE	Oxygen: Mode	*Nasal Canula	10/01/2010 09:00 DBE	Oxygen: FIO2 Liters	*10 Liters
10/01/2010 07:50 DBE	Pressure Points	*Lateral - Checked	10/01/2010 09:05 DBE	Oxygen: FIO2 Liters	*10 Liters
10/01/2010 07:55 DBE	Pressure Points	*Supine - Checked	10/01/2010 09:10 DBE	Oxygen: FIO2 Liters	*10 Liters
10/01/2010 07:55 DBE	Oxygen: Mode	*Manual Bag-Mask	10/01/2010 09:12 JGT	Oxygen: FIO2 %	*60%
10/01/2010 07:55 DBE	Oxygen: FIO2 Liters	*15 Liters	10/01/2010 09:12 JGT	Airway	*ETT Tube
10/01/2010 08:00 DBE	Oxygen: Mode	*Manual Bag-Mask	10/01/2010 09:12 JGT	ETT: Measurement	*Measurement at Lip:
10/01/2010 08:00 DBE	Pressure Points	*Supine - Checked	10/01/2010 09:12 JGT	ETT: Size	*Size 8.0
10/01/2010 08:00 DBE	Oxygen: FIO2 Liters	*15 Liters	10/01/2010 09:12 JGT	Cardiac Rhythm	*Sinus Tachycardia
10/01/2010 08:05 DBE	Oxygen: FIO2 Liters	*10 Liters	10/01/2010 09:12 JGT	Oxygen: Mode	*Mechanical Ventilation
10/01/2010 08:05 DBE	Oxygen: Mode	*Mechanical Ventilation	10/01/2010 09:12 JGT		(PRVC, rate 15, TV 500, peep 5)
10/01/2010 08:05 DBE	Pressure Points	*Supine - Checked	10/01/2010 09:12 JGT	Pulse Strength: Dorsalis Pedis	*Normal +2 Left
10/01/2010 08:10 DBE	Oxygen: Mode	*Mechanical Ventilation	10/01/2010 09:12 JGT	Pulse Strength: Radial	*Normal +2 Left
10/01/2010 08:10 DBE	Pressure Points	*Supine - Checked	10/01/2010 09:12 JGT	Abdominal Assessment: Abdomen	*Soft
10/01/2010 08:10 DBE	Oxygen: FIO2 Liters	*10 Liters	10/01/2010 09:12 JGT		*Distended
10/01/2010 08:15 DBE	Oxygen: Mode	*Mechanical Ventilation	10/01/2010 09:12 JGT	Nausea/Vomiting	*Nausea Absent
10/01/2010 08:15 DBE	Pressure Points	*Supine - Checked	10/01/2010 09:12 JGT	Pain: Scale (Self report)	*Unable to Assess
10/01/2010 08:20 DBE	Oxygen: FIO2 Liters	*10 Liters	10/01/2010 09:12 JGT	Eyes: Opening	*No response 1
10/01/2010 08:20 DBE	Oxygen: Mode	*Mechanical Ventilation	10/01/2010 09:12 JGT	Level of Consciousness	*Nonresponsive
10/01/2010 08:25 DBE	Pressure Points	*Supine - Checked	10/01/2010 09:12 JGT	Motor Strength: Arm	*No Response Left
10/01/2010 08:25 DBE	Oxygen: FIO2 Liters	*10 Liters			*No Response Right
Nursing Care					
10/01/2010 10:08 JGT	Foley Catheter: Placed *** Done				
10/01/2010 10:15 JGT	Suctioned *** Done				
10/01/2010 11:00 JGT	Suctioned *** Done				
10/01/2010 12:00 JGT	Suctioned *** Done				
10/01/2010 12:37 JGT	Suctioned *** Done				
PACU Score and/or FLACC Pain Scale					



ANESTHESIA
Anesthesia/PACU Record

MRN: 001400764
Name: MIKELL, CHARLES L.
DOB: 01/25/1961
PatCom: 270428782
Surgeon: Payne, Mark

Height(cm): 175.20002
Weight(kg): 137.29966
BMI: 44.7
Sex: M
Age: 48 years

Surgery Date: 10/01/2010

Case Times				
Anest Start: 10/01 07:20	Surg Start: 10/01 07:35	Proc Start: 10/01 07:42	PACU Start: 10/01 08:45	Stepdown Start:
Anest End: 10/01 09:12	Surg End: 10/01 08:37	Proc End: 10/01 07:56	PACU End: 10/01 13:40	Stepdown End:
Anest Total: 01:52	Surg Total: 01:02	Proc Total: 00:14	PACU Total: 04:55	Stepdown Total:
Surgical Procedure DIAGNOSTIC COLONOSCOPY			Staff and Electronic Signature Legend (Initials)	
			Role: Scheduled Surgeon - Payne, Mark (MAP)	
			Role: Primary Surgeon - Payne, Mark (MAP)	
			Role: Pre/Postoperative Registered Nurse - Toohy, Jeffrey (JGT)	
			Role: Anesthesia Attending - Nelson, Eric (EWN)	
			Role: CRNA - Embrey, Donna (DBE)	
Pre-op Diagnosis			Anesthesia Attending Documentation Electronically Signed By:	
			10/01 7:48 EWN Anesthesiologist assessed patient, reviewed chart and formulated anesthesia plan	
			10/01 7:48 EWN Anesthesiologist medically directing case and present for all critical portions.	
			10/01 7:48 EWN Anesthesiologist present for induction	
			10/01 7:48 EWN 1 (or another attending anesthesiologist) was immediately available throughout and	
			10/01 8:31 EWN Anesthesiologist present for airway device placement	
Post-op Diagnosis				
Allergies				
No known medication allergies				
Anesthesia Type			ASA	
General Anesthesia				
Anesthesia Events				
10/01 7:25 DBE Airway equipment available and functioning	10/01 7:48 DBE Memo Nelson, MDA in Nasal airway in. O2 sat up to 94%. Pt remains lateral.	10/01 8:16 DBE Left radial artery applied		
10/01 7:25 DBE Surgical consent verified and appropriate	10/01 7:48 EWN Anesthesiologist assessed patient, reviewed chart and formulated anesthesia plan	10/01 8:16 DBE 20 ga arterial catheter over wire.		
10/01 7:25 DBE Pre-op vital signs reviewed	10/01 7:48 EWN Anesthesiologist present for induction	10/01 8:16 DBE Attempts: 1 per Dushenko, CRNA.		
10/01 7:25 DBE Risks, benefits, and complications of anesthetic plan discussed and understood	10/01 7:51 DBE Memo Nelson out.	10/01 8:16 DBE Good arterial waveform		
10/01 7:25 DBE Procedural site marking(s) verified where appropriate	10/01 7:55 DBE Memo Pt turned supine from Lateral to establish better assisted Bag-Mask ventilation. Nasal airway out. Oral airway in.	10/01 8:23 DBE Peripheral IV placed after induction		
10/01 7:25 DBE Anesthesia machine checked, alarms on and functioning	10/01 7:56 DBE Memo Came into room. Pt. hypoxic with junctional rhythm and no palpable pulse. ACLS protocol initiated, Mayday team called.	10/01 8:23 DBE Aseptic technique used		
10/01 7:25 DBE Integrity of Anesthesia circuit confirmed	10/01 7:57 DBE Non-palpable pulse	10/01 8:23 DBE 16 gauge peripheral IV catheter		
10/01 7:25 DBE Standard monitors available, alarms on and functioning	10/01 7:57 DBE Chest compressions initiated and continuous until noted.	10/01 8:23 DBE Left antecubital x1 per Dushenko, CRNA.		
10/01 7:25 DBE Suction available and functioning	10/01 7:57 DBE Patient Oxygenated w/100% O2 per Bag-mask	10/01 8:25 DBE Skin preparation with chlorhexidine		
10/01 7:25 DBE Anesthesia and resuscitation drugs available	10/01 8:01 DBE Atraumatic laryngoscopy DVL x 1 per Embrey, CRNA.	10/01 8:25 DBE Landmarks identified		
10/01 7:25 DBE Patient identified by 2 methods	10/01 8:01 DBE Intubation - Tube size: #8.0 tr ETT @ 23 cm. @ lips.	10/01 8:25 DBE Introducer needle inserted into vessel, free blood flow		
10/01 7:25 DBE Patient chart and preoperative assessment reviewed	10/01 8:01 DBE Cuff inflated with minimum volume to create seal.	10/01 8:25 DBE Triple lumen catheter Rt. femoral vein.		
10/01 7:25 DBE NPO status verified	10/01 8:01 DBE Breath sound equal and bilateral	10/01 8:25 DBE Sterile transparent dressing placed over insertion site		
10/01 7:25 DBE Peripheral IV placed preoperatively	10/01 8:01 DBE ETCO2 confirmed via CO2 Monitor	10/01 8:25 DBE Maximum barrier precautions utilized for strict sterile technique including sterile body drape, hat, mask, and sterile gloves.		
10/01 7:25 DBE Right hand	10/01 8:01 DBE Memo Eyes taped.	10/01 8:25 DBE Hand hygiene prior to donning gloves		
10/01 7:25 DBE 22 gauge peripheral IV catheter in situ in HA.	10/01 8:11 DBE Arrhythmia identified: v fib noted when compressions halted.	10/01 8:25 DBE Blood return through all lumens: Lumens flushed.		
10/01 7:35 DBE Transfer to:	10/01 8:11 DBE Defibrillation - Joules: 200	10/01 8:25 DBE Central line placed by Attending Anesthesiologist		
10/01 7:42 DBE Patient evaluated immediately prior to induction	10/01 8:12 DBE CPR stopped Palpable pulse present.	10/01 8:31 DBE Post resuscitation rhythm: SR.		
10/01 7:42 DBE Standard monitors applied	10/01 8:16 DBE Skin prep with chlorhexidine	10/01 8:31 DBE Patient Oxygenated w/100% O2 and remains on vent.		
10/01 7:42 DBE Respiratory rate monitored	10/01 8:16 DBE Sterile technique	10/01 8:31 DBE ETT in place as per above.		
10/01 7:42 DBE ETCO2 wave form present	10/01 8:16 DBE Arterial line placed by CRNA	10/01 8:31 EWN Anesthesiologist present for airway device placement		
10/01 7:42 DBE Plan spontaneous ventilation throughout case	10/01 8:16 DBE Arterial catheter taped and sterile dressing	10/01 8:31 EWN Patient stabilized		
10/01 7:48 EWN Anesthesiologist medically directing case and present for all critical portions.		10/01 8:37 DBE Patient transported with O2		
10/01 7:48 EWN 1 (or another attending anesthesiologist) was immediately available throughout and present for all key/critical portions of case		10/01 8:37 DBE To recovery area in stable condition		

WLD 10/02/10





ANESTHESIA

Anesthesia/PACU Record

MRN: 001400764
Name: MIKELL, CHARLES L.
DOB: 01/25/1961
PatCom: 270428762
Surgeon: Payne, Mark

Height(cm): 175.20002
Weight(kg): 137.29966
BMI: 44.7
Sex: M
Age: 49 years

Surgery Date: 10/01/2010

Case Times				
Anest Start: 10/01 07:20	Surg Start: 10/01 07:35	Proc Start: 10/01 07:42	PACU Start: 10/01 08:45	Stepdown Start:
Anest End: 10/01 09:12	Surg End: 10/01 08:37	Proc End: 10/01 07:56	PACU End: 10/01 13:40	Stepdown End:
Anest Total: 01:52	Surg Total: 01:02	Proc Total: 00:14	PACU Total: 04:55	Stepdown Total:

Surgical Procedure

Staff and Electronic Signature Legend (Initials)

Pre-op Diagnosis

Anesthesia Attending Documentation Electronically Signed By:

Post-op Diagnosis

Allergies

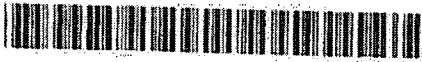
Anesthesia Type

ASA

General Anesthesia

Anesthesia Events

10/01 8:37 DBE Transported via stretcher/bed
10/01 8:45 JGT Phase I PACU admission
10/01 8:45 JGT Report received from: Donna Embry CRNA
10/01 8:45 JGT Side rails up
10/01 8:45 JGT Wheels locked
10/01 8:45 JGT Connected to monitors
10/01 8:45 DBE To PACU in stable condition with
O2/ambu/MDA/RT/monitors for transport.
VSS. Pt to vent in PACU on arrival per RT;
SBAR report to PACU RN.
10/01 9:15 DBE Postoperative Location: PACU
10/01 9:15 DBE Cardiac arrest: during procedure.
10/01 9:15 DBE Requiring vasoactive/inotropic drips
10/01 9:15 DBE Mechanical ventilatory support
10/01 9:15 DBE Pain managed by primary care service
10/01 9:46 JGT Family at Bedside mother
10/01 10:54 JGT Family at Bedside mother
10/01 12:16 JGT Memo Dr: Guldán at bedside, Propofol off at
this time to evaluate patients Neuro status.
10/01 12:17 JGT Family at Bedside pastor
10/01 13:40 JGT Discharge criteria not met
10/01 13:40 JGT Transfer to ICU;
10/01 13:40 JGT Transported via stretcher/bed stretcher
10/01 13:40 JGT With monitors
10/01 13:40 JGT With Oxygen
10/01 13:42 JGT Memo ice packs applied to pulse points. Dr.
Guldán at bedside to evaluate patients neuro
status. No response to verbal or noxious
stimuli. Placed back on sedation for transfer
to MSICU



ANESTHESIA

Anesthesia/PACU Record

MRN: 001400764

Name: MIKELL, CHARLES L.

DOB: 01/25/1961

PatCom: 270428782

Surgeon: Payne, Mark

Height(cm): 175.20002

Weight(kg): 137.29966

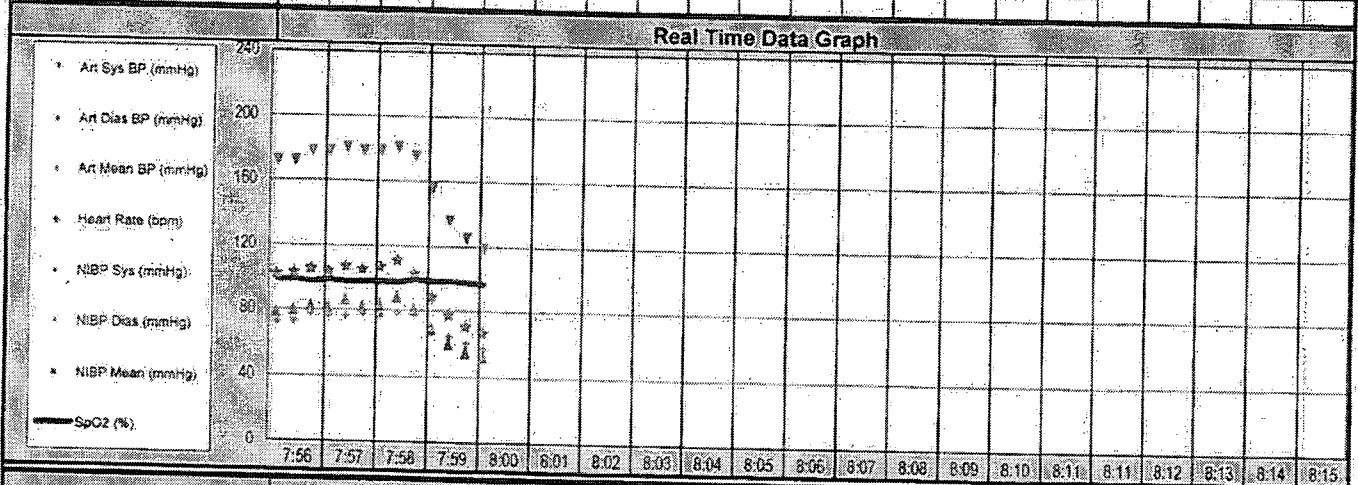
BMI: 44.7

Sex: M.

Age: 49 years

Surgery Date: 10/01/2010

TIME	Real Time Variables																			
	7:56	7:57	7:58	7:59	8:00	8:01	8:02	8:03	8:04	8:05	8:06	8:07	8:08	8:09	8:10	8:11	8:12	8:13	8:14	8:15
SpO2 (%)	75	41.2	47.5		57.6	58.1	58.4	56.4	58.3	79.9	77.6		86.3		83.5					79.7
Temperature (°C)																				
EKG Rhythm	UNCT	UNCT	PEA*	PEA*	PEA*	PEA*	PEA*	PEA*	PEA*	PEA*	PEA*	PEA*	PEA*	PEA*	PEA*	V-Fib*	V-Fib*	SR*	SR*	SR*
SpO2 Heart Rate bpm	64	30	29		29	102	95	87	108	94	79		36		39					89
Spontaneous Resp Rate	12	14	18	15	15	13	7	2	1	0	0	0	0	1	1	6	22	9	28	24
Resp Rate from pCO2 cart	17	0	0	0	0	0	20	9	10	10	10	10	0	0	0	22	17	15	17	15
Vent Resp Rate/min	12	14	18	15	15	13	8	17	13	10	10	10	10	11	10	13	25	15	28	24
FiO2 (%)	95	99	98	99	100	100	96	79	94	96	97	95	98	98	98	98	97	99	98	98
EtCO2 (mmHg)	24.88	0	0	0	7.54	0	16.59	9.802	20.36	13.57	10.56	7.54	2.262	4.524	5.278	6.032	23.37	16.59	25.84	62.58
Des out (%)									0	0	0	0	0	0	0	0	0	0	0	0
Exp. Tidal volume (mL)	50	121	72	72	314	83	454	107	549	546	557	553	559	726	559	1327	1128	781	10	904
PIP (cmH2O)	27	28	28	30	32	31	38	26	29	27	27	27	27	35	27	62	57	63	10	55



TIME	Laboratory Results																			
	7:37	7:37	7:37	7:38	7:38	7:38	7:38	7:38	7:38	7:39	7:39	7:39	7:39	7:39	7:40	7:40	7:40	7:40	7:40	7:40
PH ARTERIAL																				
PH ARTERIAL																				
PCO2 ARTERIAL																				
PCO2 ARTERIAL																				
PO2 ARTERIAL																				
PO2 ARTERIAL																				
BICARB ARTERIAL																				
BICARB ARTERIAL																				
TOTAL CO2 ARTERIAL																				
O2 SAT ARTERIAL																				
O2 SAT ARTERIAL																				
HCT WHL BLD ARTERIAL																				
HGB WHL BLD ARTERIAL																				
NA WHL BLD ARTERIAL																				
K WHL BLD ARTERIAL																				
IONIZED CA ARTERIAL																				



MUSC Medical Center Policy Manual

Section PC-19	No C-14	Title: Emergency Medical Response	
Owner:		Mayday Committee	
Location/File:		I:\Eillis\TData\Word\MUHA Clinical Policies\C -164.Mayday	
Date Originated: 03/93		Reviewed: 10/95, 06/97, 04/98, 06/99, 10/00, 01/03, 03/05, 11/06, 09/07	Revised: 01/04, 09/04, 12/07, 06/09
		Legal Review: 06/09	

Purpose:

The purpose of this policy is to state the mobilization procedure for and delineate the duties of the Mayday Teams at the Medical University of South Carolina Medical Center.

Definitions:

Mayday: A respiratory and or cardiac emergency or any other situation perceived by the care giver to be a life threatening situation including both conscious and unconscious individuals.

Main Hospital (MUH): For purposes of this policy, the Main Hospital is defined as the Clinical Science Building, the Medical University Hospital Building, the North Tower, Storm Eye and Children's Hospital.

Pediatric Patient: A pediatric patient is defined as ≤ 17 years of age or older if on pediatric subspecialty service (Pediatric Cardiology, Pediatric Hematology, etc.)

Adult Patient: An adult patient is defined as greater than 17 years of age. Exceptions may include teenagers who are inpatients on areas traditionally covered by the Adult Mayday Team (e.g. Obstetrics/Gynecology, General Surgery).

Ashley River Tower Mayday Team: The Ashley River Tower (ART) Mayday team will consist of the Coronary Care Unit (CCU) resident or designee, the CCU charge nurse or designee, house staff and representatives of anesthesiology, respiratory therapy, pharmacy, Pastoral Care and the Hospital Service Coordinator, if applicable. The ART Mayday Team responds to Maydays in the Ashley River Tower and clinics.

MUH Adult Mayday Team: The MUH Adult Mayday Team consists of the Medical Intensive Care Unit (MICU) resident or designee, the MICU charge nurse or designee, house staff and representatives of anesthesiology, respiratory therapy, pharmacy, Pastoral Care and the Hospital Service Coordinator, if applicable. The Adult Mayday Team responds to Maydays involving adults in the Main Hospital. For visitors, staff and outpatients, the MICU RN will contact the Emergency Department Charge Nurse. Emergency Department personnel will respond at that time.



MUH Pediatric Mayday Team: The MUH Pediatric Mayday Team consists of the senior pediatric physician (Pediatric Intensivist), the Pediatric Intensive Care Unit Charge RN or designee, the third and second year pediatric residents, and representatives of anesthesiology, respiratory therapy, pharmacy, Pastoral Care and the Hospital Service Coordinator, if applicable. The Pediatric Mayday Team responds to Maydays involving pediatric patients in the Main Hospital.

Emergency Response Team: The Emergency Response Team consists of Emergency Department Personnel. For unconscious patients, the team responds with a stretcher equipped with defibrillator and airway supplies. For conscious patients, the team responds with a wheelchair. The Emergency Response Team responds to all outpatients, visitors and staff in the Main Hospital, Horseshoe and Ambulance Driveway and Education Center/Library.

Rutledge Tower Mayday Teams: The Adult Rutledge Tower Mayday team will consist of a Medicine Attending or Medicine Resident, ACLS RN, respiratory therapist, pharmacist, Rutledge Tower Nursing Clinical Care Coordinator, anesthesiologist, PACU nurse and chaplaincy. Meducare, Security, and Public Safety also respond.

The Pediatric Rutledge Tower Mayday team will consist of members of the CH Pediatric Mayday team, a pediatric nurse(s), Medicine Attending or Medicine Resident, respiratory therapist, pharmacist, anesthesiologist, PACU nurse and chaplaincy. Meducare, Security, and Public Safety also respond.

Basic Science Building Mayday Team: The Basic Science Building Mayday Team consists of oral-maxillofacial surgery attendings and residents and nursing staff. The BSB Mayday Team responds to Maydays/Medical Emergencies within the Basic Science Building.

Pharmacy Response Team: The pharmacy response team may be called to Maydays in the Intensive Care Units and the Emergency Departments only. This team consists of pharmacists, a chaplain and the HSC.

Institute of Psychiatry Team: The Institute of Psychiatry (IOP) Team consists of Meducare, Public Safety/Security, the psychiatric resident on call and the house supervisor. This team responds to Maydays in the IOP.

Neonatal Stabilization Team: The Neonatal Stabilization Team (STAB Team) will be called for Maydays involving neonates in the all nurseries, Labor and Delivery, Post Partum, and the Neonatal Intensive Care Unit. This team consists of neonatal nurse practitioners, neonatal resident and intern, neonatal fellow or attending, respiratory therapy, the HSC and pharmacy.

Campus Response Team: The Campus Response Team will respond to all other areas of campus not listed above (See Appendix A). This team consists of Meducare and Public Safety.

Rapid Response Intubation Team: The Rapid Response Intubation Team will consist of anesthesia and the HSCs. This team will respond to the Intensive Care Units, the Cardiac Catheterization labs and the Emergency Department for airway management in patients with spontaneous respirations. This team does not respond to any other areas unless called for by the Medical Emergency Team.

Policy:

1. The Medical University of South Carolina Medical Center will maintain a skilled professional staff, equipment, and supplies necessary for resuscitation of victims of cardiopulmonary arrest occurring in the Medical Center Hospitals and Clinics.
2. As per the hospital policy and procedure regarding the withdrawal of medical therapy (Resuscitation Policy, C-13 (<https://www.musc.edu/medcenter/policy/Med/C013.pdf>)) any patient with a known written order for Do Not Resuscitate will not undergo resuscitation.
3. Standardized Adult or Adult/Pediatric Mayday equipment is accessible to all patient care areas.
4. Each Mayday is documented on the Cardiopulmonary Resuscitation Event Form (Mayday record). The Mayday record is the legal documentation of the Mayday. It accounts for physician orders and medication administration during the Mayday. It must be signed by the designated participants.
5. A Mayday Team is available for assistance in the event of a life threatening event in all areas of the Main Hospital, Ashley River Tower, Hollings Cancer Center, Rutledge Tower and Basic Science Building. These teams are activated by calling 2-3333. Meducare will respond to all other campus locations. If Meducare is not available, Charleston County EMS will be notified by the Meducare Dispatcher. All campus locations call 2-3333. See Appendix A for details of Team response.
6. Unit personnel from the following areas must give the operator the building name, room number, call back extension, and whether the patient is adult or pediatric:
 - Main Hospital
 - Charleston Memorial Hospital (CMH)
 - McClennan Banks
 - Rutledge Tower
 - Basic Science Building
 - IOP
 - ART
7. All other campus locations (not listed above) must supply the operator with the complete address of the building and whether the patient is adult or pediatric (For example, Employee Health would give their address as 57 Bee Street). If the caller does not know their address, the operator will transfer the call to 911.
8. The page operator will activate the dedicated pager of the appropriate Mayday Team members. The pager alert will state: location; adult or pediatric.
9. For clearly non life-threatening situations (sprained ankle, etc.) Public Safety should be notified. The Public Safety officer may escort the patient to the Emergency Department. The Public Safety officer will call the Emergency Department if medical assistance is needed.
10. For Maydays in the Intensive Care Units, staff will call a Pharmacy Response Team if the patient is intubated. If the patient is not intubated, a full Mayday Team response will be called

for. The Emergency Departments (ED) and the ORs do not have to call a full Mayday. Staff may call for a full Mayday at any time they determine a need for the full team.

11. For Maydays in any area other than the OR, ICUs and the ED, a full Mayday Team will be called for.
12. Unit personnel will be responsible for paging the patient's attending physician at the time of the cardiopulmonary arrest. The nurse manager should also be paged prior to 1600 hours Monday through Friday. The HSC is on the Mayday team(s) and should not require an additional call.
13. Placement of successfully resuscitated inpatients: In coordination with the code team RN, the ATC during normal business hours and the HSCs after normal business hours will determine which ICU the patient will be admitted to after successful resuscitation. The physician in charge of the code may instruct the ATC or the HSC for special arrangements, depending on the etiology of the arrest. If there are no available ICU beds, patients will temporarily be placed in the PACU or the Emergency Department.

<u>Name of Home Unit</u>	<u>Services admitting</u>
MICU	Dermatology, Endocrinology, Family Medicine, General Internal Medicine, Hospitalists, Nephrology, Neurology, OB/GYN, Medical Oncology, Pulmonology, Rheumatology, Urology
STICU	ENT, General and Gastrointestinal Surgery, GYN Surgery, Orthopedics, Surgical Oncology, Plastic Surgery, Transplant Surgery, Trauma Surgery, Vascular Surgery
NSICU	Neurosurgery
CCU	Cardiology
CTICU	Cardiothoracic surgery
DDICU	Gastroenterology, Medicine patients at Ashley River Tower

Procedure:

Mayday Teams: Composition and Roles

A. Adult Team: ICU resident on call - Mayday Team Leader

1. Directs the administration of advanced cardiac life support according to ACLS protocols. If an attending physician present chooses to assume control of the code, he/she must clearly state they are in charge and will then be referred to as team leader.
2. Discusses resuscitation efforts with the attending physician or designee.
3. Orders the discontinuation of resuscitation efforts in the absence of the attending physician.
4. Talks with the family in the absence of the attending physician.
5. Completes and signs Cardiopulmonary Resuscitation Event Form, reviewing for accuracy and completeness. Enters record of event in progress notes.

B. Pediatric Mayday Team Leader

1. Assumes overall responsibility for patient care and disposition until relieved by attending of primary service or PICU attending.
2. Ensures satisfactory ventilation and compressions.

C-14 – Emergency Medical Response

3. Orders administration of drug therapy and procedures to be initiated.
4. Interprets ECG, and directs use of the defibrillator.
5. Dismisses unnecessary personnel.
6. Completes and signs Cardiopulmonary Resuscitation Event Form, reviewing for accuracy and completeness. Enters record of event in progress notes.
7. Designates a physician to notify the primary attending of Mayday.

C. Attending physician

1. Orders the discontinuation of resuscitation efforts.
2. Talks with the family.
3. Communicates with the patient's private/referring physician, as indicated.

D. House Staff

1. Initiates/assists with IV access.
2. Assists with chest compressions/defibrillation.
3. Draws lab work.
4. For pediatric Maydays, senior pediatric resident assumes Team Leader role when Pediatric Attending unavailable.
5. Reviews Cardiopulmonary Resuscitation Event Form for accuracy and completeness.
6. Informs recorder of name and service.

E. Anesthesiologist

1. Intubates and maintains ventilation.
2. Assesses airway, breathing, and circulation.
3. Reviews Cardiopulmonary Resuscitation Event Form for accuracy and completeness.
4. Informs recorder of name and service.

F. Respiratory Therapist

1. Assists with maintaining airway and ventilation
2. Prepares/obtains appropriate ventilation support equipment for the patient.
3. Reviews Cardiopulmonary Resuscitation Event Form for accuracy and completeness.
4. Informs recorder of name and service.

G. Pharmacist

1. Acts as a resource person for drug preparation and administration.
2. Obtains additional medications, as needed.
3. Reviews Cardiopulmonary Resuscitation Event Form for accuracy and completeness.
4. Informs recorder of name and service.

H. Chaplain

1. Interacts with and provides support to the family.

I. Nurse Manager/Hospital Service Coordinator (HSC)

1. Nurse Managers respond to all Maydays on their respective units during the day shift, Monday - Friday. The Hospital Services Coordinators will respond to all Maydays and coordinate for nursing care at all other times.
2. Ensures adequate support staff for the unit, making sure remaining patients are cared for.
3. Removes extraneous people from the resuscitation area, as needed.
4. Notifies Bed Management to secure appropriate bed for the patient post-resuscitation.
5. Communicates with the critical care unit receiving the patient as to the ETA and patient status.

6. Assists with family support.

J. Critical Care/ACLS/PALS Resource Nurse

1. Initiates ACLS/PALS protocol until a physician responds and assists Mayday team with following ACLS/PALS protocols.
2. Assists with the establishment of IV access.
3. Assists with drug preparation and administration, if indicated.
4. Removes extraneous people from the resuscitation area, as needed.
5. Ensures that the Cardiopulmonary Resuscitation Event Form and the Mayday/Resuscitation Review Form are completed and forwarded to the appropriate location.
6. Assists with the transport of the patient to the critical care unit.

K. Patient Care Unit Personnel

1. First Responder
 - a Calls 2-3333 at patient's bedside. Gives room location, adult or pediatric, to operator.
 - b Calls out for help so co-workers can hear and know a Mayday is occurring in their area. Provides patient status/history to Mayday team.
 - c Begins basic life support (BLS).
2. Other Unit Personnel
 - a Brings Mayday cart to the room.
 - b If patient is an adult and AED is available uses defibrillator AED function to determine indication for defibrillation. Uses hands-off pads unless contraindicated. Defibrillates with other types of defibrillators if ACLS certified. If patient is pediatric, hooks patient to monitor.
 - c Places patient on a flat surface.
 - d Hooks ambu bag to oxygen at 10 liters of flow and uses ambu bag to ventilate patient while waiting for the Mayday team. Ensures adequate oxygen and suction sources.
 - e Provides/assists with BLS until Mayday team arrives.
 - f Administers drugs and IV fluids.
 - g Notifies patient's attending physician and the nurse manager (before 1600 on weekdays).
 - h Records Mayday events on the Cardiopulmonary Resuscitation Event Form, places white copy on the patient's medical record, and forwards yellow copy to Risk Management.
 - i Ensures Mayday cart is restocked and locked.

Standard Adult or Adult/Pediatric Mayday Cart

- A. The contents of the standard Adult or Adult/Pediatric cart are to be determined by the Mayday Committee with approval from the Critical Care Committee and the Pharmacy and Therapeutics Committee. These contents will be reviewed periodically and modified as needed. A list of Mayday cart contents will be attached to every Mayday cart, along with current ACLS guidelines (adult carts) or ACLS/PALS guidelines (adult/pediatric carts). The Mayday checklist is standardized University wide. If any clinical area changes location, the Mayday Committee must be notified in writing sixty days in advance.
- B. The Mayday cart drug box is secured to the cart. The drawers of the Mayday cart may be left unlocked.

- C. Mayday carts will be checked by an assigned unit/area staff member twice per 24 hours to determine that the lock on the drug box is intact. Units not open 24 hours/day will check once per 24 hours during hours of operation.
- D. Documentation of cart checks will be maintained on the unit for three years.
- E. The respiratory therapy/intubation equipment will be checked by the Respiratory Therapy Department once a month.
- F. On the first day of the month, depending on hours of operation, expiration dates of the cart contents will be checked.
- G. Mayday carts and equipment are inspected weekly and cleaned as needed.
- H. To Restock Mayday Cart:
 - 1. Call appropriate area for replacement drugs/supplies/oxygen equipment that will be delivered to MUH, CSB, Children's Hospital and Storm Eye Institute. All other areas will arrange to pick up exchange drugs/supplies/oxygen equipment. The charge nurse will be responsible for ensuring the cart is restocked promptly.

Dissemination of Mayday Forms

- A. Following the MAYDAY, the Cardiopulmonary Resuscitation Event Form is faxed to Risk Management and then entered into the patient's medical record.

Defibrillators

- A. Responders with BLS certification may defibrillate with an AED.
- B. Clinicians with current ACLS certification may perform defibrillation or cardioversion.
- C. The procedure for defibrillation should follow the American Heart Association Advanced Cardiac Life Support Guidelines.
- D. The Defibrillator will be discharged by the assigned unit staff member according to the manufacturers' specifications when the patient care unit is open. All equipment checks are documented on the Mayday Cart Checklist Form kept with the Mayday Cart and Defibrillator.
- E. Biomedical Engineering must be notified immediately of any problems with the function of the defibrillator.
- F. Checking Defibrillators:
 - a) Zoll M Series
 - b) Physio Control Lifepak 12
 - c) Physio Control Lifepak 20

Approvals:

As Required	Date
List Hospital Committee(s)	
Ethics Committee	
Medical Staff Executive Committee	6/17/09
Administration/Operations	
Governing Body	

Distribution:

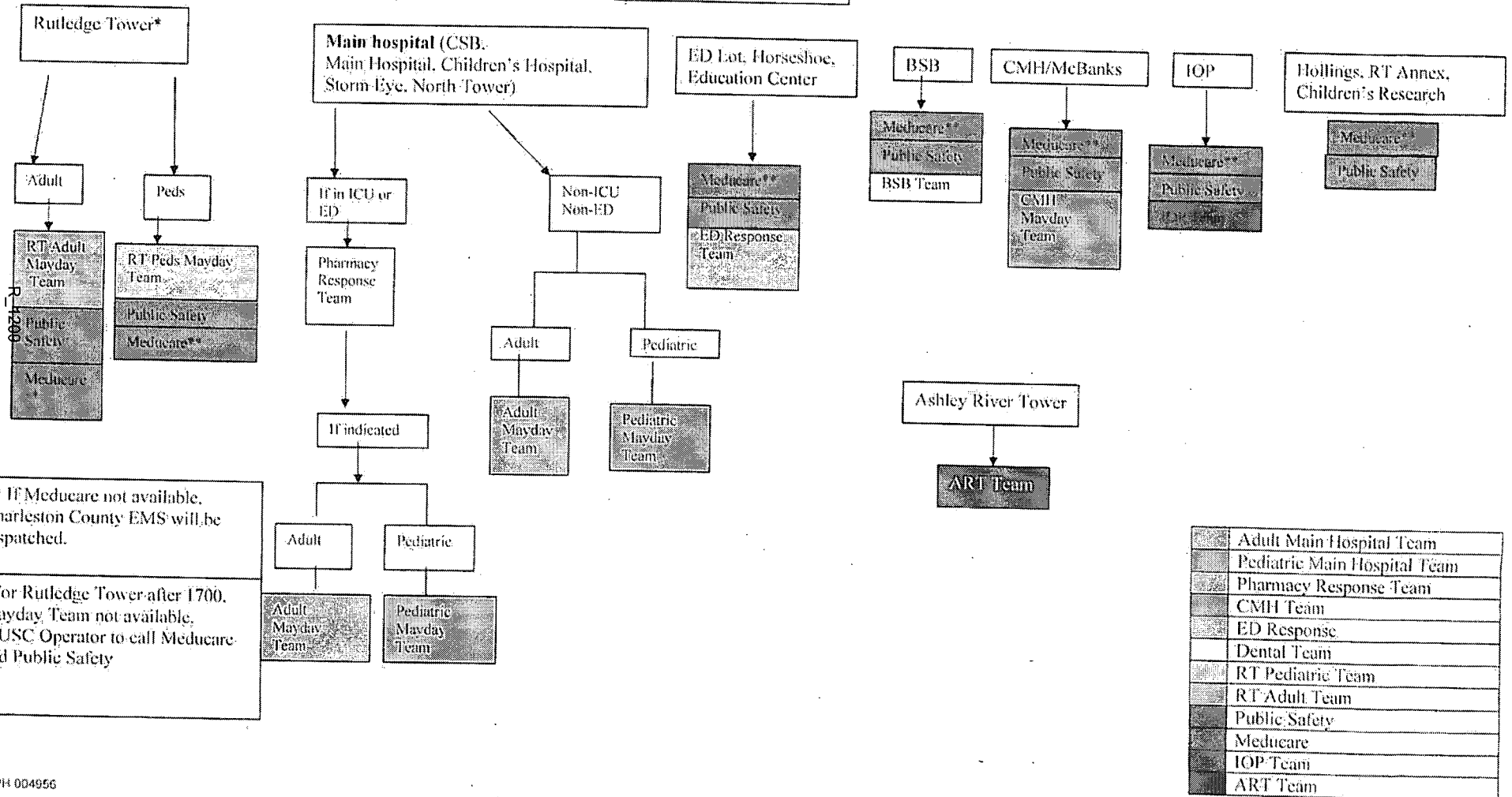
Policy Applies to:	Physicians (Y)	Nursing (Y)
	Other Clinical Staff (Specify): All	Other Staff (Specify):
Educational Plan	Present in EROC	
Required Competencies		
Expected Implementation Date	June 30, 2009	

MUSC Medical Center On-Campus Mayday Response Plan

Call received to 2-3333

- Give Operator:
1. Location
2. Adult or pediatric

Updated
01-08



te	Type	Event	Comment	Action	Date/Time	User
10/10/01 07:35:00	Transfer to Macro	Transfer to:		Created	2010/10/01 07:35:09	Embrey,Donn
10/10/01 07:35:00	OR TIMES	Patient in Room (PIR)		Created	2010/10/01 07:35:10	Embrey,Donn
10/10/01 07:46:00	Automatic System Transfer		# (EVTROUT-)	Created	2010/10/01 07:46:59	Thompson,An
10/10/01 07:47:00	Automatic System Transfer		to SCsNO	Created	2010/10/01 07:47:23	Embrey,Donn
10/10/01 07:48:00	ATTENDING...	Anesthesiologist assessed patient...		Created	2010/10/01 07:49:04	Nelson,Eric
10/10/01 07:48:00	ATTENDING...	Anesthesiologist medically...		Created	2010/10/01 07:49:05	Nelson,Eric
10/10/01 07:48:00	ATTENDING...	Anesthesiologist present for...		Created	2010/10/01 07:49:05	Nelson,Eric
10/10/01 07:48:00	ATTENDING...	Anesthesiologist present for...		Deleted	2010/10/01 08:33:07	Nelson,Eric
10/10/01 07:48:00	ATTENDING...	Anesthesiologist present for...		Created	2010/10/01 07:49:05	Nelson,Eric
10/10/01 07:48:00	ATTENDING...	I (or another attending...		Created	2010/10/01 07:49:05	Nelson,Eric
10/10/01 08:27:00	CENTRAL LINE...	Central line placed by Attending...		Created	2010/10/01 08:31:10	Embrey,Donn
10/10/01 08:25:00	CENTRAL LINE...	Central line placed by Attending...		Modified	2010/10/01 18:03:58	Embrey,Donn
10/10/01 08:27:00	CENTRAL LINE...	Hand hygiene prior to donning...		Created	2010/10/01 08:31:10	Embrey,Donn
10/10/01 08:25:00	CENTRAL LINE...	Hand hygiene prior to donning...		Modified	2010/10/01 18:03:59	Embrey,Donn
10/10/01 08:27:00	CENTRAL LINE...	Maximum barrier precautions...		Created	2010/10/01 08:31:10	Embrey,Donn
10/10/01 08:25:00	CENTRAL LINE...	Maximum barrier precautions...		Modified	2010/10/01 18:03:59	Embrey,Donn
10/10/01 08:27:00	CENTRAL LINE...	Skin preparation with chlorhexidine		Created	2010/10/01 08:31:10	Embrey,Donn
10/10/01 08:25:00	CENTRAL LINE...	Skin preparation with chlorhexidine		Modified	2010/10/01 18:03:59	Embrey,Donn
10/10/01 08:27:00	CENTRAL LINE...	Blood return through all lumens...		Created	2010/10/01 08:31:11	Embrey,Donn
10/10/01 08:25:00	CENTRAL LINE...	Blood return through all lumens...		Modified	2010/10/01 18:03:59	Embrey,Donn
10/10/01 08:27:00	CENTRAL LINE...	Introducer needle inserted into...		Created	2010/10/01 08:31:11	Embrey,Donn
10/10/01 08:25:00	CENTRAL LINE...	Introducer needle inserted into...		Modified	2010/10/01 18:03:59	Embrey,Donn
10/10/01 08:27:00	CENTRAL LINE...	Landmarks identified		Created	2010/10/01 08:31:11	Embrey,Donn
10/10/01 08:25:00	CENTRAL LINE...	Landmarks identified		Modified	2010/10/01 18:03:59	Embrey,Donn
10/10/01 08:27:00	CENTRAL LINE...	Sterile transparent dressing placed...		Created	2010/10/01 08:31:11	Embrey,Donn
10/10/01 08:25:00	CENTRAL LINE...	Sterile transparent dressing placed...		Modified	2010/10/01 18:03:59	Embrey,Donn
10/10/01 08:27:00	CENTRAL LINE...	Triple lumen catheter	Rt. femoral vein.	Created	2010/10/01 08:31:11	Embrey,Donn
10/10/01 08:25:00	CENTRAL LINE...	Triple lumen catheter	Rt. femoral vein.	Modified	2010/10/01 18:03:59	Embrey,Donn
10/10/01 08:31:00	ATTENDING...	Anesthesiologist present for airway...		Created	2010/10/01 08:32:05	Nelson,Eric
10/10/01 08:31:00	CARDIAC...	Arrhythmia identified:		Created	2010/10/01 08:32:06	Nelson,Eric
10/10/01 08:31:00	CARDIAC...	Arrhythmia identified:	v fib	Modified	2010/10/01 08:32:19	Nelson,Eric
10/10/01 08:11:00	CARDIAC...	Arrhythmia identified:	v fib	Modified	2010/10/01 17:52:03	Embrey,Donn
10/10/01 08:11:00	CARDIAC...	Arrhythmia identified:	v fib noted when compressions	Modified	2010/10/01 17:53:06	Embrey,Donn
10/10/01 08:31:00	CARDIAC...	Chest compressions initiated		Created	2010/10/01 08:32:06	Nelson,Eric
10/10/01 08:31:00	CARDIAC...	Chest compressions initiated		Deleted	2010/10/01 17:54:57	Embrey,Donn
10/10/01 08:31:00	CARDIAC...	CPR stopped		Created	2010/10/01 08:32:06	Nelson,Eric
10/10/01 08:12:00	CARDIAC...	CPR stopped		Modified	2010/10/01 17:53:53	Embrey,Donn
10/10/01 08:12:00	CARDIAC...	CPR stopped	Palpable pulse present.	Modified	2010/10/01 17:56:15	Embrey,Donn
10/10/01 08:31:00	CARDIAC...	Defibrillation - Joules:		Created	2010/10/01 08:32:06	Nelson,Eric
10/10/01 08:31:00	CARDIAC...	Defibrillation - Joules:	200	Modified	2010/10/01 08:32:12	Nelson,Eric
10/10/01 08:11:00	CARDIAC...	Defibrillation - Joules:	200	Modified	2010/10/01 17:53:21	Embrey,Donn
10/10/01 08:31:00	CARDIAC...	ETT in place		Created	2010/10/01 08:32:06	Nelson,Eric
10/10/01 08:31:00	CARDIAC...	ETT in place	as per above.	Modified	2010/10/01 18:14:05	Embrey,Donn
10/10/01 08:31:00	CARDIAC...	Non-palpable pulse		Created	2010/10/01 08:32:06	Nelson,Eric
10/10/01 07:58:00	CARDIAC...	Non-palpable pulse		Modified	2010/10/01 17:55:23	Embrey,Donn
10/10/01 07:57:00	CARDIAC...	Non-palpable pulse		Modified	2010/10/01 18:23:28	Embrey,Donn
10/10/01 08:31:00	CARDIAC...	Patient Oxygenated w/100% O2		Created	2010/10/01 08:32:06	Nelson,Eric
10/10/01 08:31:00	CARDIAC...	Patient Oxygenated w/100% O2	and remains on vent.	Modified	2010/10/01 18:13:52	Embrey,Donn
10/10/01 08:31:00	CARDIAC...	Patient stabilized		Created	2010/10/01 08:32:06	Nelson,Eric
10/10/01 08:31:00	CARDIAC...	Post resuscitation rhythm:		Created	2010/10/01 08:32:06	Nelson,Eric
10/10/01 08:31:00	CARDIAC...	Post resuscitation rhythm:	SR.	Modified	2010/10/01 18:08:57	Embrey,Donn
10/10/01 08:00:00	Memo	Memo	Came into room. Pt. hypoxic...	Created	2010/10/01 08:33:02	Nelson,Eric
10/10/01 07:56:00	Memo	Memo	Came into room. Pt. hypoxic...	Modified	2010/10/01 17:34:27	Embrey,Donn
10/10/01 08:37:00	OR TIMES	Patient Out of Room (POR)		Created	2010/10/01 08:37:15	Embrey,Donn
10/10/01 08:37:00	To Recovery Area	Patient transported with O2		Created	2010/10/01 08:37:15	Embrey,Donn
10/10/01 08:37:00	To Recovery Area	To recovery area in stable...		Created	2010/10/01 08:37:15	Embrey,Donn
10/10/01 08:37:00	To Recovery Area	Transported via stretcher/bed		Created	2010/10/01 08:37:15	Embrey,Donn
10/10/01 08:37:00	Automatic System Transfer		from SCsNO	Created	2010/10/01 08:37:30	Embrey,Donn
10/10/01 08:54:00	Automatic System Transfer		to LCsAn	Created	2010/10/01 08:54:56	Embrey,Donn
10/10/01 08:58:00	PRE-INDUCTION	Anesthesia machine checked...		Created	2010/10/01 08:58:27	Embrey,Donn
10/10/01 07:25:00	PRE-INDUCTION	Anesthesia machine checked...		Modified	2010/10/01 17:27:44	Embrey,Donn
10/10/01 08:58:00	PATIENT...	Airway equipment available and...		Created	2010/10/01 08:58:28	Embrey,Donn
10/10/01 07:25:00	PATIENT...	Airway equipment available and...		Modified	2010/10/01 17:27:45	Embrey,Donn
10/10/01 08:58:00	PRE-INDUCTION	Anesthesia and resuscitation drugs...		Created	2010/10/01 08:58:28	Embrey,Donn
10/10/01 07:25:00	PRE-INDUCTION	Anesthesia and resuscitation drugs...		Modified	2010/10/01 17:27:45	Embrey,Donn
10/10/01 08:58:00	OR TIMES	Anesthesia Start (AS)		Created	2010/10/01 08:58:28	Embrey,Donn
10/10/01 07:20:00	OR TIMES	Anesthesia Start (AS)		Modified	2010/10/01 09:01:41	Embrey,Donn
10/10/01 08:58:00	PRE-INDUCTION	Integrity of Anesthesia circuit...		Created	2010/10/01 08:58:28	Embrey,Donn
10/10/01 07:25:00	PRE-INDUCTION	Integrity of Anesthesia circuit...		Modified	2010/10/01 17:27:45	Embrey,Donn
10/10/01 08:58:00	PATIENT...	NPO status verified		Created	2010/10/01 08:58:28	Embrey,Donn
10/10/01 07:25:00	PATIENT...	NPO status verified		Modified	2010/10/01 17:27:45	Embrey,Donn
10/10/01 08:58:00	PATIENT...	Patient chart and preoperative...		Created	2010/10/01 08:58:28	Embrey,Donn
10/10/01 07:25:00	PATIENT...	Patient chart and preoperative...		Modified	2010/10/01 17:27:45	Embrey,Donn
10/10/01 08:58:00	PATIENT...	Patient identified by 2 methods		Created	2010/10/01 08:58:28	Embrey,Donn
10/10/01 07:25:00	PATIENT...	Patient identified by 2 methods		Modified	2010/10/01 17:27:45	Embrey,Donn



le	Type	Event	Comment	Action	Date/Time	User
10/10/01 08:58:00	PATIENT...	Pre-op vital signs reviewed		Created	2010/10/01 08:58:28	Embrey,Donn
10/10/01 07:25:00	PATIENT...	Pre-op vital signs reviewed		Modified	2010/10/01 17:27:45	Embrey,Donn
10/10/01 08:58:00	PATIENT...	Procedural site marking(s) verified...		Created	2010/10/01 08:58:28	Embrey,Donn
10/10/01 07:25:00	PATIENT...	Procedural site marking(s) verified...		Modified	2010/10/01 17:27:45	Embrey,Donn
10/10/01 08:58:00	PATIENT...	Risks, benefits, and complications...		Created	2010/10/01 08:58:28	Embrey,Donn
10/10/01 07:25:00	PATIENT...	Risks, benefits, and complications...		Modified	2010/10/01 17:27:45	Embrey,Donn
10/10/01 08:58:00	PRE-INDUCTION.	Standard monitors available,...		Created	2010/10/01 08:58:28	Embrey,Donn
10/10/01 07:25:00	PRE-INDUCTION.	Standard monitors available,...		Modified	2010/10/01 17:27:45	Embrey,Donn
10/10/01 08:58:00	PRE-INDUCTION.	Suction available and functioning		Created	2010/10/01 08:58:28	Embrey,Donn
10/10/01 07:25:00	PRE-INDUCTION.	Suction available and functioning		Modified	2010/10/01 17:27:45	Embrey,Donn
10/10/01 08:58:00	PATIENT...	Surgical consent verified and...		Created	2010/10/01 08:58:28	Embrey,Donn
10/10/01 07:25:00	PATIENT...	Surgical consent verified and...		Modified	2010/10/01 17:27:45	Embrey,Donn
10/10/01 09:04:00	Automatic System Transfer		from LCsAn	Created	2010/10/01 09:04:59	Embrey,Donn
10/10/01 09:12:00	Automatic System Transfer		to PACU	Created	2010/10/01 09:12:19	Toohy,Jeffre
10/10/01 09:13:00	OR TIMES	Arrival in PACU/ICU (APACU)		Created	2010/10/01 09:13:25	Toohy,Jeffre
10/10/01 09:13:00	OR TIMES	Arrival in PACU/ICU (APACU)		Deleted	2010/10/01 09:13:49	Toohy,Jeffre
10/10/01 09:13:00	PACU Phase I...	Connected to monitors		Created	2010/10/01 09:13:25	Toohy,Jeffre
10/10/01 09:13:00	PACU Phase I...	Connected to monitors		Deleted	2010/10/01 09:13:49	Toohy,Jeffre
10/10/01 09:13:00	PACU Phase I...	Phase I PACU admission		Created	2010/10/01 09:13:25	Toohy,Jeffre
10/10/01 09:13:00	PACU Phase I...	Phase I PACU admission		Deleted	2010/10/01 09:13:49	Toohy,Jeffre
10/10/01 09:13:00	PACU Phase I...	Report received from:		Created	2010/10/01 09:13:25	Toohy,Jeffre
10/10/01 09:13:00	PACU Phase I...	Report received from:		Deleted	2010/10/01 09:13:49	Toohy,Jeffre
10/10/01 09:13:00	PACU Phase I...	Side rails up		Created	2010/10/01 09:13:25	Toohy,Jeffre
10/10/01 09:13:00	PACU Phase I...	Side rails up		Deleted	2010/10/01 09:13:49	Toohy,Jeffre
10/10/01 09:13:00	PACU Phase I...	Wheels locked		Created	2010/10/01 09:13:25	Toohy,Jeffre
10/10/01 09:13:00	PACU Phase I...	Wheels locked		Deleted	2010/10/01 09:13:49	Toohy,Jeffre
10/10/01 09:13:00	PACU Phase I...	Phase I PACU admission		Created	2010/10/01 09:13:57	Toohy,Jeffre
10/10/01 09:13:00	PACU Phase I...	Phase I PACU admission		Deleted	2010/10/01 09:14:26	Toohy,Jeffre
10/10/01 09:13:00	PACU Phase I...	Report received from:		Created	2010/10/01 09:13:57	Toohy,Jeffre
10/10/01 09:13:00	PACU Phase I...	Report received from:		Deleted	2010/10/01 09:14:26	Toohy,Jeffre
10/10/01 09:13:00	PACU Phase I...	Side rails up		Created	2010/10/01 09:13:57	Toohy,Jeffre
10/10/01 09:13:00	PACU Phase I...	Side rails up		Deleted	2010/10/01 09:14:27	Toohy,Jeffre
10/10/01 09:13:00	OR TIMES	Arrival in PACU/ICU (APACU)		Created	2010/10/01 09:13:58	Toohy,Jeffre
10/10/01 09:13:00	OR TIMES	Arrival in PACU/ICU (APACU)		Deleted	2010/10/01 09:14:27	Toohy,Jeffre
10/10/01 09:13:00	PACU Phase I...	Connected to monitors		Created	2010/10/01 09:13:58	Toohy,Jeffre
10/10/01 09:13:00	PACU Phase I...	Connected to monitors		Deleted	2010/10/01 09:14:27	Toohy,Jeffre
10/10/01 09:13:00	PACU Phase I...	Wheels locked		Created	2010/10/01 09:13:58	Toohy,Jeffre
10/10/01 09:13:00	PACU Phase I...	Wheels locked		Deleted	2010/10/01 09:14:27	Toohy,Jeffre
10/10/01 09:15:00	OR TIMES	Arrival in PACU/ICU (APACU)		Created	2010/10/01 09:15:23	Toohy,Jeffre
10/10/01 08:45:00	OR TIMES	Arrival in PACU/ICU (APACU)		Modified	2010/10/01 09:17:38	Toohy,Jeffre
10/10/01 09:15:00	PACU Phase I...	Connected to monitors.		Created	2010/10/01 09:15:23	Toohy,Jeffre
10/10/01 08:45:00	PACU Phase I...	Connected to monitors.		Modified	2010/10/01 09:17:54	Toohy,Jeffre
10/10/01 09:15:00	PACU Phase I...	Phase I PACU admission		Created	2010/10/01 09:15:23	Toohy,Jeffre
10/10/01 08:45:00	PACU Phase I...	Phase I PACU admission		Modified	2010/10/01 09:15:37	Toohy,Jeffre
10/10/01 09:15:00	PACU Phase I...	Report received from:		Created	2010/10/01 09:15:23	Toohy,Jeffre
10/10/01 08:45:00	PACU Phase I...	Report received from:		Modified	2010/10/01 09:16:37	Toohy,Jeffre
10/10/01 08:45:00	PACU Phase I...	Report received from:	Donna Embry CRNA	Modified	2010/10/01 09:17:15	Toohy,Jeffre
10/10/01 09:15:00	PACU Phase I...	Side rails up		Created	2010/10/01 09:15:23	Toohy,Jeffre
10/10/01 08:45:00	PACU Phase I...	Side rails up		Modified	2010/10/01 09:18:08	Toohy,Jeffre
10/10/01 09:15:00	PACU Phase I...	Wheels locked		Created	2010/10/01 09:15:23	Toohy,Jeffre
10/10/01 08:45:00	PACU Phase I...	Wheels locked		Modified	2010/10/01 09:18:19	Toohy,Jeffre
10/10/01 09:46:00	PACU FAMILY	Family at Bedside	mother	Created	2010/10/01 09:46:37	Toohy,Jeffre
10/10/01 10:54:00	PACU FAMILY	Family at Bedside		Created	2010/10/01 10:54:12	Toohy,Jeffre
10/10/01 10:54:00	PACU FAMILY	Family at Bedside	mother	Modified	2010/10/01 11:10:29	Toohy,Jeffre
10/10/01 12:16:00	Memo	Memo	Dr. Guldán at bedside,...	Created	2010/10/01 12:17:43	Toohy,Jeffre
10/10/01 12:17:00	PACU FAMILY	Family at Bedside	pastor	Created	2010/10/01 12:18:20	Toohy,Jeffre
10/10/01 13:40:00	Transfer to ICU...	Discharge criteria not met		Created	2010/10/01 13:40:52	Toohy,Jeffre
10/10/01 13:40:00	OR TIMES	Ready for Discharge from PACU...		Created	2010/10/01 13:40:52	Toohy,Jeffre
10/10/01 13:40:00	Transfer to ICU...	Transfer to ICU:		Created	2010/10/01 13:40:52	Toohy,Jeffre
10/10/01 13:40:00	Transfer to ICU...	Transported via stretcher/bed		Created	2010/10/01 13:40:52	Toohy,Jeffre
10/10/01 13:40:00	Transfer to ICU...	Transported via stretcher/bed	stretcher	Modified	2010/10/01 13:43:40	Toohy,Jeffre
10/10/01 13:40:00	Transfer to ICU...	With monitors		Created	2010/10/01 13:40:52	Toohy,Jeffre
10/10/01 13:40:00	Transfer to ICU...	With Oxygen		Created	2010/10/01 13:40:52	Toohy,Jeffre
10/10/01 13:42:00	Memo	Memo	ice packs applied to pulse...	Created	2010/10/01 13:43:26	Toohy,Jeffre
10/10/01 13:40:00	OR TIMES	Discharge from PACU (DPACU)		Created	2010/10/01 15:07:52	PCM,PCM
10/10/01 17:13:00	Automatic System Standby On.			Created	2010/10/01 17:13:18	Toohy,Jeffre
10/10/01 17:13:00	Automatic System Transfer		# (EVTROUT-)	Created	2010/10/01 17:13:22	Thompson,An
10/10/01 17:17:00	Automatic System Transfer		to SCsNO	Created	2010/10/01 17:17:09	Embrey,Donn
10/10/01 17:26:00	OR TIMES	Surgery Start time (PST)		Created	2010/10/01 17:26:28	Embrey,Donn
10/10/01 07:42:00	OR TIMES	Surgery Start time (PST)		Modified	2010/10/01 17:26:39	Embrey,Donn
10/10/01 17:26:00	OR TIMES	Surgery Finish (PF)		Created	2010/10/01 17:26:42	Embrey,Donn
10/10/01 07:56:00	OR TIMES	Surgery Finish (PF)		Modified	2010/10/01 17:26:52	Embrey,Donn
10/10/01 17:29:00	Tube Inhalation...	Atraumatic direct laryngoscopy		Created	2010/10/01 17:29:43	Embrey,Donn
10/10/01 17:29:00	Tube Inhalation...	Atraumatic direct laryngoscopy		Deleted	2010/10/01 17:30:08	Embrey,Donn
10/10/01 17:29:00	Tube Inhalation...	Bilateral breath sounds		Created	2010/10/01 17:29:43	Embrey,Donn

te	Type	Event	Comment	Action	Date/Time	User
10/10/01 17:29:00	Tube Inhalation...	Bilateral breath sounds		Deleted	2010/10/01 17:30:08	Embrey,Donn
10/10/01 17:29:00	Tube Inhalation...	Bilateral chest rise		Created	2010/10/01 17:29:43	Embrey,Donn
10/10/01 17:29:00	Tube Inhalation...	Bilateral chest rise		Deleted	2010/10/01 17:30:08	Embrey,Donn
10/10/01 17:29:00	Tube Inhalation...	Blade:		Created	2010/10/01 17:29:43	Embrey,Donn
10/10/01 17:29:00	Tube Inhalation...	Blade:		Deleted	2010/10/01 17:30:08	Embrey,Donn
10/10/01 17:29:00	Tube Inhalation...	ETT secured at:		Created	2010/10/01 17:29:43	Embrey,Donn
10/10/01 17:29:00	Tube Inhalation...	ETT secured at:		Deleted	2010/10/01 17:30:08	Embrey,Donn
10/10/01 17:29:00	Tube Inhalation...	Eye(s) taped shut		Created	2010/10/01 17:29:43	Embrey,Donn
10/10/01 17:29:00	Tube Inhalation...	Eye(s) taped shut		Deleted	2010/10/01 17:30:08	Embrey,Donn
10/10/01 17:29:00	Tube Inhalation...	Grade View:		Created	2010/10/01 17:29:43	Embrey,Donn
10/10/01 17:29:00	Tube Inhalation...	Grade View:		Deleted	2010/10/01 17:30:08	Embrey,Donn
10/10/01 17:29:00	Tube Inhalation...	Leaks at cm H2O pressure:		Created	2010/10/01 17:29:43	Embrey,Donn
10/10/01 17:29:00	Tube Inhalation...	Leaks at cm H2O pressure:		Deleted	2010/10/01 17:30:08	Embrey,Donn
10/10/01 17:29:00	Tube Inhalation...	Patient evaluated immediately prior...		Created	2010/10/01 17:29:43	Embrey,Donn
10/10/01 17:29:00	Tube Inhalation...	Patient evaluated immediately prior...		Deleted	2010/10/01 17:30:07	Embrey,Donn
10/10/01 17:29:00	Tube Inhalation...	Peripheral IV placed		Created	2010/10/01 17:29:43	Embrey,Donn
10/10/01 17:29:00	Tube Inhalation...	Peripheral IV placed		Deleted	2010/10/01 17:30:08	Embrey,Donn
10/10/01 17:29:00	Tube Inhalation...	Position supine		Created	2010/10/01 17:29:43	Embrey,Donn
10/10/01 17:29:00	Tube Inhalation...	Position supine		Deleted	2010/10/01 17:30:07	Embrey,Donn
10/10/01 17:29:00	Tube Inhalation...	Positive ETCO2		Created	2010/10/01 17:29:43	Embrey,Donn
10/10/01 17:29:00	Tube Inhalation...	Positive ETCO2		Deleted	2010/10/01 17:30:08	Embrey,Donn
10/10/01 17:29:00	Tube Inhalation...	Site and Gauge:		Created	2010/10/01 17:29:43	Embrey,Donn
10/10/01 17:29:00	Tube Inhalation...	Site and Gauge:		Deleted	2010/10/01 17:30:08	Embrey,Donn
10/10/01 17:29:00	Tube Inhalation...	Smooth inhalation induction		Created	2010/10/01 17:29:43	Embrey,Donn
10/10/01 17:29:00	Tube Inhalation...	Smooth inhalation induction		Deleted	2010/10/01 17:30:08	Embrey,Donn
10/10/01 17:29:00	Tube Inhalation...	Standard monitors applied		Created	2010/10/01 17:29:43	Embrey,Donn
10/10/01 17:29:00	Tube Inhalation...	Standard monitors applied		Deleted	2010/10/01 17:30:08	Embrey,Donn
10/10/01 17:29:00	Tube Inhalation...	Tube:		Created	2010/10/01 17:29:44	Embrey,Donn
10/10/01 17:29:00	Tube Inhalation...	Tube:		Deleted	2010/10/01 17:30:08	Embrey,Donn
10/10/01 17:29:00	ANESTHESIA...	General Anesthesia		Created	2010/10/01 17:29:44	Embrey,Donn
10/10/01 17:29:00	ANESTHESIA...	General Anesthesia		Deleted	2010/10/01 17:30:08	Embrey,Donn
10/10/01 17:29:00	Tube Inhalation...	Teeth preanesthetic condition		Created	2010/10/01 17:30:08	Embrey,Donn
10/10/01 17:29:00	Tube Inhalation...	Teeth preanesthetic condition		Deleted	2010/10/01 17:32:11	Embrey,Donn
10/10/01 08:01:00	CARDIAC...	Atraumatic laryngoscopy	DVL x 1 per Embrey,CRNA.	Created	2010/10/01 17:32:11	Embrey,Donn
10/10/01 08:01:00	CARDIAC...	Breath sound equal and bilateral		Created	2010/10/01 17:32:11	Embrey,Donn
10/10/01 08:01:00	CARDIAC...	Cuff inflated with minimum volume...		Created	2010/10/01 17:32:11	Embrey,Donn
10/10/01 08:01:00	CARDIAC...	ETCO2 confirmed via CO2 Monitor		Created	2010/10/01 17:32:11	Embrey,Donn
10/10/01 08:01:00	CARDIAC...	Intubation - Tube size:	#8.0 fr ETT @ 23 cm @ lips.	Created	2010/10/01 17:33:39	Embrey,Donn
10/10/01 07:55:00	Memo	Memo	Pt turned supine from Lateral...	Created	2010/10/01 17:34:03	Embrey,Donn
10/10/01 07:55:00	Memo	Memo	Pt turned supine from Lateral...	Modified	2010/10/01 17:50:40	Embrey,Donn
10/10/01 07:55:00	Memo	Memo	Pt turned supine from Lateral...	Modified	2010/10/02 16:17:56	Embrey,Donn
10/10/01 07:55:00	Memo	Memo	Nelson,MDA in Nasal airway...	Created	2010/10/01 17:35:10	Embrey,Donn
10/10/01 17:34:00	Memo	Memo	Nelson,MDA in Nasal airway...	Created	2010/10/01 17:35:45	Embrey,Donn
10/10/01 07:50:00	Memo	Memo	Nelson,MDA in Nasal airway...	Modified	2010/10/01 17:36:04	Embrey,Donn
10/10/01 07:50:00	Memo	Memo	Nelson,MDA in Nasal airway...	Modified	2010/10/01 18:22:08	Embrey,Donn
10/10/01 07:48:00	Memo	Memo	Nelson,MDA in Nasal airway...	Modified	2010/10/02 16:18:24	Embrey,Donn
10/10/01 07:48:00	Memo	Memo	Nelson,MDA in Nasal airway...	Modified	2010/10/01 17:38:58	Embrey,Donn
10/10/01 07:58:00	CARDIAC...	Chest compressions initiated		Created	2010/10/01 17:52:44	Embrey,Donn
10/10/01 07:58:00	CARDIAC...	Chest compressions initiated	and continuous until noted.	Modified	2010/10/01 18:23:03	Embrey,Donn
10/10/01 07:57:00	CARDIAC...	Chest compressions initiated	and continuous until noted.	Modified	2010/10/01 17:38:58	Embrey,Donn
10/10/01 07:58:00	CARDIAC...	Non-palpable pulse		Created	2010/10/01 18:22:44	Embrey,Donn
10/10/01 07:58:00	CARDIAC...	Non-palpable pulse		Deleted	2010/10/01 17:48:50	Embrey,Donn
10/10/01 07:58:00	CARDIAC...	Patient Oxygenated w/100% O2	per Bag-mask	Created	2010/10/01 18:23:44	Embrey,Donn
10/10/01 07:58:00	CARDIAC...	Patient Oxygenated w/100% O2	per Bag-mask	Modified	2010/10/01 17:51:28	Embrey,Donn
10/10/01 07:57:00	CARDIAC...	Patient Oxygenated w/100% O2	Eyes taped.	Created	2010/10/01 17:57:10	Embrey,Donn
10/10/01 08:01:00	Memo	Memo		Created	2010/10/01 17:58:43	Embrey,Donn
10/10/01 08:16:00	ARTERIAL LINE...	Arterial line placed by CRNA		Modified	2010/10/01 17:57:10	Embrey,Donn
10/10/01 08:16:00	ARTERIAL LINE...	Arterial line placed by CRNA		Created	2010/10/01 17:58:44	Embrey,Donn
10/10/01 20:16:00	ARTERIAL LINE...	Left radial artery		Modified	2010/10/01 17:57:11	Embrey,Donn
10/10/01 08:16:00	ARTERIAL LINE...	Left radial artery		Created	2010/10/01 17:58:44	Embrey,Donn
10/10/01 08:16:00	ARTERIAL LINE...	20 ga arterial catheter over wire		Modified	2010/10/01 17:57:11	Embrey,Donn
10/10/01 08:16:00	ARTERIAL LINE...	20 ga arterial catheter over wire		Created	2010/10/01 17:58:44	Embrey,Donn
10/10/01 08:16:00	ARTERIAL LINE...	Arterial catheter taped and sterile...		Modified	2010/10/01 17:57:11	Embrey,Donn
10/10/01 20:16:00	ARTERIAL LINE...	Arterial catheter taped and sterile...		Created	2010/10/01 17:58:44	Embrey,Donn
10/10/01 08:16:00	ARTERIAL LINE...	Attempts:	1 per Dushanko,CRNA.	Modified	2010/10/01 17:57:11	Embrey,Donn
10/10/01 08:16:00	ARTERIAL LINE...	Attempts:	1 per Dushanko,CRNA.	Created	2010/10/01 17:57:11	Embrey,Donn
10/10/01 08:16:00	ARTERIAL LINE...	Good arterial waveform		Modified	2010/10/01 17:58:44	Embrey,Donn
10/10/01 20:16:00	ARTERIAL LINE...	Good arterial waveform		Created	2010/10/01 17:57:11	Embrey,Donn
10/10/01 08:16:00	ARTERIAL LINE...	Skin prep with chlorhexadine		Modified	2010/10/01 17:58:44	Embrey,Donn
10/10/01 20:16:00	ARTERIAL LINE...	Skin prep with chlorhexadine		Created	2010/10/01 17:57:11	Embrey,Donn
10/10/01 08:16:00	ARTERIAL LINE...	Sterile technique		Modified	2010/10/01 17:58:44	Embrey,Donn
10/10/01 20:16:00	ARTERIAL LINE...	Sterile technique		Created	2010/10/01 18:03:31	Embrey,Donn
10/10/01 08:23:00	PERIPHERAL...	16 gauge peripheral IV catheter		Created	2010/10/01 18:03:31	Embrey,Donn
10/10/01 08:23:00	PERIPHERAL...	Aseptic technique used	x1 per Dushanko,CRNA.	Created	2010/10/01 18:03:31	Embrey,Donn
10/10/01 08:23:00	PERIPHERAL...	Left antecubital		Created	2010/10/01 18:03:31	Embrey,Donn
10/10/01 08:23:00	PERIPHERAL...	Peripheral IV placed after induction		Created		

ate.	Type	Event	Comment	Action	Date/Time	User
010/10/01 18:04:00	PERIPHERAL...	22 gauge peripheral IV catheter	in situ in HA.	Created	2010/10/01 18:04:27	Embrey,Donn
010/10/01 07:25:00	PERIPHERAL...	22 gauge peripheral IV catheter	in situ in HA.	Modified	2010/10/01 18:18:02	Embrey,Donn
010/10/01 18:04:00	PERIPHERAL...	Peripheral IV placed preoperatively		Created	2010/10/01 18:04:27	Embrey,Donn
010/10/01 07:25:00	PERIPHERAL...	Peripheral IV placed preoperatively		Modified	2010/10/01 18:18:02	Embrey,Donn
010/10/01 18:04:00	PERIPHERAL...	Right hand		Created	2010/10/01 18:04:27	Embrey,Donn
010/10/01 07:25:00	PERIPHERAL...	Right hand		Modified	2010/10/01 18:18:02	Embrey,Donn
010/10/01 18:04:00	IV General...	ETCO2 wave form present		Created	2010/10/01 18:04:34	Embrey,Donn
010/10/01 07:42:00	IV General...	ETCO2 wave form present		Modified	2010/10/01 18:04:48	Embrey,Donn
010/10/01 18:04:00	ANESTHESIA...	General Anesthesia		Created	2010/10/01 18:04:34	Embrey,Donn
010/10/01 07:42:00	ANESTHESIA...	General Anesthesia		Modified	2010/10/01 18:04:48	Embrey,Donn
010/10/01 18:04:00	IV General...	Patient evaluated immediately prior...		Created	2010/10/01 18:04:34	Embrey,Donn
010/10/01 07:42:00	IV General...	Patient evaluated immediately prior...		Modified	2010/10/01 18:04:47	Embrey,Donn
010/10/01 18:04:00	IV General...	Plan spontaneous ventilation...		Created	2010/10/01 18:04:34	Embrey,Donn
010/10/01 07:42:00	IV General...	Plan spontaneous ventilation...		Modified	2010/10/01 18:04:48	Embrey,Donn
010/10/01 18:04:00	IV General...	Respiratory rate monitored		Created	2010/10/01 18:04:34	Embrey,Donn
010/10/01 07:42:00	IV General...	Respiratory rate monitored		Modified	2010/10/01 18:04:48	Embrey,Donn
010/10/01 18:04:00	IV General...	Standard monitors applied		Created	2010/10/01 18:04:34	Embrey,Donn
010/10/01 07:42:00	IV General...	Standard monitors applied		Modified	2010/10/01 18:04:48	Embrey,Donn
010/10/01 08:45:00	DISPOSITION OF	To PACU in stable condition		Created	2010/10/01 18:08:22	Embrey,Donn
010/10/01 08:45:00	DISPOSITION OF	To PACU in stable condition	with...	Modified	2010/10/01 18:15:02	Embrey,Donn
010/10/01 08:45:00	DISPOSITION OF	To PACU in stable condition	with...	Modified	2010/10/01 18:15:36	Embrey,Donn
010/10/01 09:00:00	POST...	Cardiac arrest:	during procedure.	Created	2010/10/01 18:19:10	Embrey,Donn
010/10/01 09:15:00	POST...	Cardiac arrest:	during procedure.	Modified	2010/11/06 14:45:44	Embrey,Donn
010/10/01 09:00:00	POST...	Mechanical ventilatory support		Created	2010/10/01 18:19:10	Embrey,Donn
010/10/01 09:15:00	POST...	Mechanical ventilatory support		Modified	2010/11/06 14:45:44	Embrey,Donn
010/10/01 09:00:00	POST...	Pain managed by primary care...		Created	2010/10/01 18:19:10	Embrey,Donn
010/10/01 09:15:00	POST...	Pain managed by primary care...		Modified	2010/11/06 14:45:44	Embrey,Donn
010/10/01 09:00:00	POST...	Postoperative Location:PACU		Created	2010/10/01 18:19:10	Embrey,Donn
010/10/01 09:15:00	POST...	Postoperative Location:PACU		Modified	2010/11/06 14:45:44	Embrey,Donn
010/10/01 09:00:00	POST...	Requiring vasoactive/inotropic...		Created	2010/10/01 18:19:10	Embrey,Donn
010/10/01 09:15:00	POST...	Requiring vasoactive/inotropic...		Modified	2010/11/06 14:45:44	Embrey,Donn
010/10/01 07:50:00	Memo	Memo	Nelson out.	Created	2010/10/02 16:19:41	Embrey,Donn
010/10/01 07:51:00	Memo	Memo	Nelson out.	Modified	2010/10/02 16:30:57	Embrey,Donn
010/10/01 09:12:00	OR TIMES	Anesthesia Finish (AF)		Created	2010/10/04 11:54:46	PCM,PCM
010/11/06 14:44:00	OR TIMES	Anesthesia Finish (AF)		Created	2010/11/06 14:44:27	Embrey,Donn
010/10/01 08:59:00	OR TIMES	Anesthesia Finish (AF)		Modified	2010/11/06 14:44:59	Embrey,Donn
010/10/01 08:59:00	OR TIMES	Anesthesia Finish (AF)		Deleted	2010/11/06 14:45:24	Embrey,Donn
010/11/06 14:44:00	Anes Stop/Record	SBAR report given		Created	2010/11/06 14:44:27	Embrey,Donn
010/11/06 14:44:00	Anes Stop/Record	SBAR report given		Deleted	2010/11/06 14:44:36	Embrey,Donn

Audit Trail by Patient From 10/1/2010 00:01:00 to 10/2/2010 23:59:00

Patient Name: MIKELL, CHARLES L

MRN: 001400764

Account Number: 270428782

Audit User	Audit Datetime	Application	Routine	Action	Facility
COOPERA	10/1/2010 14:44:40	Anesthesia Manager	Patient Record Accessed		PFACILITY
COOPERA	10/1/2010 14:44:48	Remote Access	Patient Record Accessed		PFACILITY
embrey	10/1/2010 07:34:06	OR Manager	Case Record	EDIT HDR	COURT
embrey	10/1/2010 07:34:25	OR Manager	Case Record	EDIT HDR	COURT
EMBREY	10/1/2010 07:34:57	Anesthesia Manager	Patient Record Accessed		PFACILITY
EMBREY	10/1/2010 07:47:14	Anesthesia Manager	Patient Record Accessed		PFACILITY
EMBREY	10/1/2010 07:47:18	Anesthesia Manager	Patient Record Accessed		PFACILITY
EMBREY	10/1/2010 08:54:53	Anesthesia Manager	Patient Record Accessed		PFACILITY
EMBREY	10/1/2010 08:54:56	Anesthesia Manager	Patient Record Accessed		PFACILITY
EMBREY	10/1/2010 09:28:36	Anesthesia Manager	Patient Record Accessed		PFACILITY
EMBREY	10/1/2010 09:28:50	Remote Access	Patient Record Accessed		PFACILITY
EMBREY	10/1/2010 09:28:16	Remote Access	Patient Record Accessed		PFACILITY
EMBREY	10/1/2010 09:49:07	Anesthesia Manager	Patient Record Accessed		PFACILITY
EMBREY	10/1/2010 09:49:10	Remote Access	Patient Record Accessed		PFACILITY
EMBREY	10/1/2010 16:34:02	Anesthesia Manager	Patient Record Accessed		PFACILITY
EMBREY	10/1/2010 17:03:51	Anesthesia Manager	Patient Record Accessed		PFACILITY
EMBREY	10/1/2010 17:04:09	Remote Access	Patient Record Accessed		PFACILITY
EMBREY	10/1/2010 17:14:01	Remote Access	Patient Record Accessed		PFACILITY
EMBREY	10/1/2010 17:17:01	Anesthesia Manager	Patient Record Accessed		PFACILITY
EMBREY	10/1/2010 17:17:04	Anesthesia Manager	Patient Record Accessed		PFACILITY
EMBREY	10/1/2010 18:25:31	Printout Loader	Print Command Ordered		PFACILITY
EMBREY	10/2/2010 16:16:26	Anesthesia Manager	Patient Record Accessed		PFACILITY



Audit Trail by Patient From 10/1/2010 00:01:00 to 10/2/2010 23:59:00

Patient Name: MIKELL, CHARLES L

MRN: 001400764

Account Number: 270428782

Audit User	Audit Datetime	Application	Routine	Action	Facility
EMBREY	10/2/2010 18:16:41	Remote Access	Patient Record Accessed		PFACILITY
EMBREY	10/2/2010 17:51:03	Anesthesia Manager	Patient Record Accessed		PFACILITY
EMBREY	10/2/2010 17:51:17	Remote Access	Patient Record Accessed		PFACILITY
EMBREY	10/2/2010 18:11:58	Anesthesia Manager	Patient Record Accessed		PFACILITY
EMBREY	10/2/2010 18:12:12	Remote Access	Patient Record Accessed		PFACILITY
EMBREY	10/2/2010 18:14:02	Printout Loader	Print Command Ordered		PFACILITY
EMBREY	10/2/2010 18:14:38	Anesthesia Manager	Patient Record Accessed		PFACILITY
EMBREY	10/2/2010 18:14:50	Remote Access	Patient Record Accessed		PFACILITY
EMBREY	10/2/2010 18:15:02	Printout Loader	Print Command Ordered		PFACILITY
jonestl	10/1/2010 15:08:32	OR Manager	Case Record	VIEW SECT	COURT
jonestl	10/1/2010 15:08:34	OR Manager	Case Record	EDIT SECT	COURT
jonestl	10/1/2010 15:08:37	OR Manager	Case Record	CLOSE SECT	COURT
PETKO	10/1/2010 16:10:44	Preop Manager	Patient Record Accessed		PFACILITY
PETKO	10/1/2010 16:15:06	Preop Manager	Print Command Ordered		PFACILITY
THOMPSON	10/1/2010 09:53:33	Remote Access	Patient Record Accessed		PFACILITY
THOMPSON	10/1/2010 09:53:33	Preop Manager	Patient Record Accessed		PFACILITY
THOMPSON	10/1/2010 09:55:16	Preop Manager	Patient Record Accessed		PFACILITY
TOOHEYJ	10/1/2010 09:12:10	PACU Manager	Patient Record Accessed		PFACILITY
TOOHEYJ	10/1/2010 09:12:13	PACU Manager	Patient Record Accessed		PFACILITY
TOOHEYJ	10/1/2010 11:55:40	Preop Manager	Patient Record Accessed		PFACILITY
TOOHEYJ	10/1/2010 13:44:21	Printout Loader	Print Command Ordered		PFACILITY
TOOHEYJ	10/1/2010 13:44:27	Printout Loader	Print Command Ordered		PFACILITY

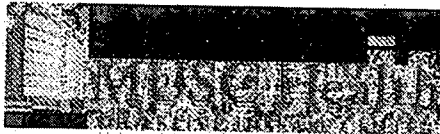
Audit Trail by Patient From 10/1/2010 00:01:00 to 10/2/2010 23:59:00

Patient Name: MIKELL, CHARLES L

MRN: 001400764

Account Number: 270428782

Audit User	Audit Datetime	Application	Routine	Action	Facility
BACKGROUND	10/1/2010 00:02:21	SmarTrack		Activated Booking	COURT
BACKGROUND	10/1/2010 07:34:14	SmarTrack		Updating Booking/CR Data	COURT
BACKGROUND	10/1/2010 07:34:30	SmarTrack		Updating Booking/CR Data	COURT
CR_FIELD	10/1/2010 07:35:21	SmarTrack		Executing Macro: IN_ROOM	COURT
CR_FIELD	10/1/2010 08:37:32	SmarTrack		Executing Macro: OUT_OF_OR	COURT
CR_FIELD	10/1/2010 09:13:40	SmarTrack		Executing Macro: PACU_TM	COURT
CR_FIELD	10/1/2010 13:41:07	SmarTrack		Executing Macro: OUT_AREA	COURT
CR_FIELD	10/1/2010 15:07:58	SmarTrack		Executing Macro: WTG_BED	COURT
CR_FIELD	10/1/2010 17:26:44	SmarTrack		Executing Macro: PROC_PROG	COURT
CR_FIELD	10/1/2010 17:28:54	SmarTrack		Executing Macro: INC_STOP	COURT



The Medical University of South Carolina
25 Courtenay Drive
Charleston, SC 29425
Ph 843-792-6999 Fax 843-876-44705

Colonoscopy Report 10/01/2010

Patient Name: CHARLES MIKELL

MRN: 001400764

DOB: 01/25/1961

Patcom: 270428782

Referring: NONE PER PATIENT

Attended by: KENNETH M PAYNE M.D.

Assisted by:

INDICATIONS: Constipation (564.00). Screening.

CONSENT: The benefits, risks, limitations and alternatives to the procedure were discussed and informed consent was obtained from the patient.

PREPARATION/SAFETY: Pulse, pulse oximetry and blood pressure were monitored throughout the procedure.

MEDICATIONS: MAC anesthesia see anesthesia notes.

PROCEDURE: The endoscope was passed through the anus under direct visualization and advanced to the cecum. The scope was withdrawn and the mucosa was carefully examined. The quality of the preparation was good.

FINDINGS: The colon appeared to be normal. However, about the time the endoscope reached the cecum the patient began getting hypoxic. This did not respond to routing measures and the patient then became bradycardic with a junctional rhythm. The scope was immediately withdrawn without viewing so the Anesthesia attending could resuscitate the patient. Please see Code documentation.

INTRAPROCEDURAL EVENTS: Hypoxia, bradycardia, cardiac arrest

SUMMARY:

- Normal colon.

RECOMMENDATIONS: Admission to ICU.

I was present with the patient during the entire viewing portion of the endoscopy, including insertion and removal of the scope.

KENNETH PAYNE, M.D. Report electronically signed by Dr. KENNETH PAYNE, M.D. on 10/01/2010 at 03:03 PM



22748193



Return Fax:

843-792-7292 OR
843-792-8258

AUTHRELS
AUTHORIZATION TO DISCLOSE PROTECTED HEALTH INFORMATION

Page 1 of 1

This form must be completed in its entirety in order to be considered valid.

Patient Name: Charles L. Mickell Date of Birth: 1-25-1961Medical Record Number: _____ Last 4 digits Social Security Number: 5199
☒ I authorize MUSC Medical Center to disclose / release information to: (Pick-up Record)
☐ I authorize MUSC Medical Center to obtain information from: _____
Name of Individual / Organization: Shon T. TurnerStreet Address: 1325 5th Avenue City: Charleston State: SC Zip Code: 29407Phone Number: 301-919-4434 Fax Number: _____ E-mail Address: gadsden7@phoo.com

The purpose of the disclosure is: ☐ Continued care ☒ Legal ☐ Insurance ☐ Disability ☐ Patient Request
☒ Other Children's Medical History Date(s) of service: 10/1/09 - 1/2/11

☒ An "abstract" of the medical record is provided as the first level of release of information (comprehensive overview of entire record). This includes: history and physical, consults, lab and radiology reports, discharge summary, operative / procedure reports, Emergency Department reports, Occupational Therapy / Physical Therapy reports.

In addition to the "abstract" information, the following information may be requested:

☒ Films / Images	☐ Immunization records	☐ Medication list	☒ Physician progress / visit notes
☒ Physician orders	☒ Nurses notes	☒ Entire record	☐ Other: _____

I understand this information may include reference to psychiatric / psychological care, sexual assault, drug abuse, results of tests for a / infectious diseases including HIV / AIDS and / or alcohol abuse.

I authorize the exchange of this information via (check all preferred methods): ☐ mail ☐ fax ☐ e-mail ☐ other _____

I understand that I have a right to cancel / revoke this authorization at any time. I understand that if I cancel / revoke this authorization I must do so in writing and present my written cancellation / revocation to the Health Information Services Department (Medical Records). I understand that the cancellation / revocation will not apply to information that has already been released in response to this authorization, as stated in the Notice of Privacy Practice. Unless otherwise canceled / revoked, this authorization will expire / end one year from this date or _____

I understand that fees for copies of medical records and postage fees may be charged.

I understand that authorizing the disclosure of protected health information is voluntary. I can refuse to sign this authorization. I do not need to sign this form to receive treatment. I understand I may review and / or copy the information to be disclosed, as provided in 45 CFR §164.524. I understand that any disclosure of information carries with it the possibility of unauthorized disclosure by the person / organization receiving the information. I understand I will be given a copy of this authorization.

A copy of my identification will be made and attached to this authorization.

Signature of Patient or Legal Guardian / Representative

Date

Louann G. Arthur
Ex-Wife (Children's Mother)

Printed Name of Patient or Legal Guardian / Representative

Relationship to Patient, if signed by Legal Guardian / Representative

L. A. Turner
 Witness Signature

Description of patient representative's authority: Deceased
 (The reason the patient is not signing)

To contact Health Information Services (Medical Records) in writing, the address is: 169 Ashley Avenue / MSC 349 / Attention: Release of Information / Charleston, South Carolina 29425-3490; the phone number is (843) 792-3881.

Original to medical record
 all_all_consent_authorelease

Copy to patient

OTE 700078 Rev. 5/10



TOTAL P.003

INVOICE**TURNER, SHON T**

1325 5TH AVE

CHARLESTON, SC 29407

Invoice #: 18964104**Inv. Date:** 3/22/2012**Due Date:** 4/1/2012**Terms:** Net 10**Patient:** MIKELL, CHARLES L**Account #:** 2592472**Claim/File #:** 0000**Shipping Address:** 1325 5TH AVE

CHARLESTON, SC 29407

Facility: MEDICAL UNIVERSITY OF SOUTH CAROLINA

Description	Quantity	Unit Price	Extension
* Note: Hard Copy Page Count: 229	229	\$0.00	\$0.00
Copy Charge \$0.65 Pgs 1-30	30	\$0.65	\$19.50
Copy Charge \$0.50 Pgs 31+	199	\$0.50	\$99.50

Product Total:	\$ 119.00	
Postage:	\$ 0.00	
State Tax:		6.00%
City/local Tax:		2.50%
Sales Tax:	\$ 10.12	(8.50%)
Grand Total:	\$ 129.12	
Credits/Payments:	\$ 129.12	
Amount Due:	\$ 0.00	

Please Note: This information has been disclosed to you from records that may be protected by state and federal confidentiality rules (42 CFR, part 2). The federal rules prohibit you from making any further disclosure of protected information unless further disclosure is expressly permitted by written consent of the person to whom it pertains, or is otherwise permitted by 42 CFR, part 2.

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Invoice No: 18964104
Requester: TURNER, SHON T
Account #: 2592472
Patient Name: MIKELL, CHARLES L
Amount Due: 0.00

Amount Paid \$

Check No

To make an online payment, please go to payportal.iodincorporated.com

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PO Box 19072, Green Bay WI, 54307-9072
Phone: 866-420-7455 ext 512 * Fax: 920-406-6537

Page 2 of 2

1 STATE OF SOUTH CAROLINA COURT OF COMMON PLEAS
2 COUNTY OF CHARLESTON
3 SHON TURNER, as Personal
4 Representative of the ESTATE
OF CHARLES MIKELL, deceased,
5 Plaintiff,
6 vs. CASE NO. 2012-CP-10-7275
7 MEDICAL UNIVERSITY OF
8 SOUTH CAROLINA,
9 Defendant.

10 DEPOSITION OF: DONNA BENTON EMBREY, CRNA
11 DATE: February 22, 2016
12 TIME: 11:10 AM
13 LOCATION: Barnwell, Whaley, Patterson &
14 Helms
288 Meeting Street, Suite 200
15 Charleston, SC
16 TAKEN BY: Counsel for the Plaintiff
17 REPORTED BY: MARIE H. BRUEGGER, Registered
Professional Reporter, CRR

18
19
20
21 A. WILLIAM ROBERTS, JR., & ASSOCIATES
22 Fast, Accurate & Friendly
23 Charleston, SC Hilton Head, SC Myrtle Beach, SC
(843) 722-8414 (843) 785-3263 (843) 839-3376
24 Columbia, SC Greenville, SC Charlotte, NC
25 (803) 731-5224 (864) 234-7030 (704) 573-3919



A. WILLIAM ROBERTS, JR., & ASSOCIATES (800) 743-DEPO
scheduledepo.com

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CHARLES MIKELL, deceased:

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- and -

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(843) 577-7700
afleming@barnwell-whaley.com

(INDEX AT REAR OF TRANSCRIPT)

1 Q. Is that the same as the mayday card?

2 A. Let's see. I would assume, yeah.

3 MS. FLEMING: I think that's what you
4 call it, the card. Just -- I don't care what we
5 call it, but just make sure you guys are on the
6 same page.

7 And I just want to know can we just
8 take a quick break to run upstairs for a second?

9 MR. RANSOM: Yes, we can take a break.

10 (A recess transpired.)

11 BY MR. RANSOM:

12 Q. Ms. Embrey, we had a brief discussion
13 off the record about terminology, and I just
14 wanted to make sure that you and I are clear that
15 as we continue forward, the code documentation, I
16 may refer to it as the mayday card, C-A-R-D.

17 A. Yes, sir.

18 Q. So you had the mayday card with you
19 there in the room at the terminal, correct?

20 A. Yes. It was in the -- it was in the
21 chart in the MSICU that evening, right, Friday
22 evening.

23 Q. So when you were finished with this
24 process of completing the electronic record --

25 A. Yes.

1 Q. -- what did you do with the mayday
2 card?

3 A. Put it back in the -- I never
4 actually -- you know, the chart is one of these,
5 the chart, you know, and it's like --

6 Q. A binder?

7 A. Yes, an oblong binder, where you flip
8 it open, and it's this way, right. And to the
9 best of my recollection, I don't think I ever
10 actually took it out. I just turned to that page,
11 you know, and looking at time stamps of
12 defibrillation, CPR started, blah, blah, blah.

13 Q. Well, so, for example, if you'll look
14 at Exhibit 3, above the top, it's got those black
15 dots?

16 A. Yes.

17 Q. And that indicates where a page would
18 be affixed in this binder that you're referring to
19 in the chart? That's an example of what it does?

20 A. Now, say that again, now.

21 Q. This is how things are affixed in the
22 paper chart?

23 A. Oh, yes, yes, the holes, yes, exactly,
24 exactly, yes, yes, uh-huh.

25 Q. So the last time that you saw the code

1 documentation or mayday card, it was tacked down
2 in the binder, and it was in your possession?

3 A. That is the last time that I saw it,
4 yes, was in the chart in MSICU.

5 Q. So what did you do with that binder
6 when you were finished with it?

7 A. I don't recall if I walked it back to
8 Mr. Mikell's -- the little mini station in between
9 two big ICU rooms. Like, in other words, there's
10 a computer, there's a drawer here for him, drawer
11 here for him, and if -- a lot of times, a chart
12 will get put back in there.

13 I do not recall if I walked it back or
14 not, because I'd already gone to see him, chatted
15 with I believe the nurse that was taking care of
16 him that evening. I don't recall who it was.
17 Just kind of did a look-see, a general check on
18 what was going on with him, was he still under
19 hypothermic protocol, was there -- you know, how
20 stable was he. I was just kind of looking to see
21 how he was doing.

22 Q. And I'm just trying to verify that --
23 so it sounds like there were two sources of
24 information that you had available to you when you
25 completed the record, the first was certain data

1 that was in the electronic medical record, and the
2 second was the mayday card?

3 A. Correct, yes, yes. Those were the two
4 things I was looking at to make sure that the
5 narrative times were synced and were correct.

6 Q. And at that point in time, did it come
7 to your attention that the data from these missing
8 boxes had not been retroactively caught and
9 captured into the chart?

10 A. Not that I recall, not that I recall.
11 Again, I was -- my focus was from the time that
12 Mr. Mikell became unstable on, I wanted to make
13 sure that, you know, CPR, defibrillation, A line,
14 central line, transfer to PAC, all those time
15 stamps were correct. I'll be honest with you, I
16 was not focusing on prior to Mr. Mikell's
17 instability. I wasn't focusing on that.

18 Q. Well, but you didn't even notice that
19 those boxes were empty?

20 A. I do not recall noticing that those
21 boxes were empty at the time.

22 Q. Did you notice at that time whether
23 there were any discrepancies in the real time
24 graph?

25 A. The real time data graph?

1 Q. Yes.

2 A. No, no.

3 Q. Was it -- I think the word that you
4 had used -- compressed?

5 A. That did not come to my attention at
6 that time.

7 Q. So you said that there were a lot of
8 people in the room. How many?

9 A. Yes, when Mr. Mikell became unstable
10 and we were doing CPR and putting A line in and
11 central. A little bit later, after Eric and I
12 intubated, yes, we had a lot of anesthesia help.

13 Q. So between the time that Mr. Mikell
14 was rolled out of the procedure room until the
15 time that you were up there on the ICU floor at
16 the terminal, had you spent any time talking with
17 any of those other people about what had happened
18 in order to be able to accurately record it?

19 A. Not that I recall, not that I recall.
20 I don't recall any -- no. I remember Eric I
21 think -- Eric I think told me sometime later in
22 the day, because we -- he and I, I believe we were
23 doing procedures most of that day together. I do
24 not recall what time he departed as my attending,
25 if at all. But he was the one that told me that

1 GJ had started hypothermic on Mr. Mikell in PACU,
2 and they were continuing it in MSICU and, you
3 know, keeping him, you know, very quiet, sedated,
4 and all of that stuff.

5 Q. Did you have any other conversation
6 about what had happened with Mr. Mikell with
7 Dr. Nelson?

8 A. Not that I recall, other than what was
9 being done for him like later in the day. I do
10 not recall.

11 Q. Were you relying upon Dr. Nelson in
12 any way in order to be able to accurately recreate
13 the timeline of events?

14 A. No. I knew that -- you know, I knew
15 that, obviously, he had, you know, been charting
16 as things were going on as he could, you know,
17 during the -- during the procedure.

18 Q. And you didn't have some separate
19 sheet of paper or document or record where you had
20 been noting times and events that isn't part of
21 the records that we have available to us today?

22 A. No, I did not, I did not, did not.

23 Q. How many different times did you go
24 back and make, you know, additions, deletions,
25 modifications to the anesthesia record?

1 A. Now, when I went back later that
2 evening in the MSICU, that one obviously sticks
3 out, because I was, for the most part, just making
4 sure that everything that was done for him was
5 appropriately noted in narrative, and the time
6 stamp on it was correct and lined up with the
7 mayday card or code sheet that I was looking at.

8 So I was, for the most part, making
9 sure that times were correct and that narrative
10 was -- that narrative was added, if it wasn't. Do
11 you know what I'm saying? Like, you know,
12 attempts, how many times people attempted things,
13 who was there helping, blah, blah, blah.

14 I do not -- like I adjusted times and
15 made the narrative reflect what we were doing at
16 that time. I do not recall -- do not recall like
17 deleting anything from the narrative. Do you
18 follow? I mostly just made sure that times were
19 correct and that narrative was correct.

20 Q. Well, but my question had been how
21 many different times did you go and sit down at a
22 terminal to engage in this process?

23 A. Okay. So initially, when I took him
24 up to the recovery room, I did some charting then,
25 but I don't think I really undertook anything in a

1 major way when we first got him up to recovery.
2 You know, you kind of do a -- like a hand-off, you
3 know, report given, this, that, and the other,
4 kind of a hand-off report. I don't recall making
5 a lot of modifications. I believe the bulk of
6 my -- what I went in and corrected as far as time
7 stamps to make sure that narrative was appropriate
8 was in the MSICU that evening between 5:00 and
9 6:00.

10 I wanted -- my goal, Rob, was to get
11 it done that day before I left the hospital. I
12 wanted it to be accurate and, you know, I just
13 wanted the -- at least the flow of what we did for
14 him to be accurate.

15 Q. When you said that when he went into
16 the recovery room, you sat down and did some
17 charting --

18 A. I did.

19 Q. -- where is the terminal located that
20 you did that?

21 A. Okay. So Mr. Mikell was in the bay,
22 and Jeff took report from me. If I recall
23 correctly, Jeff Toohey took report from me, and I
24 believe I found -- I was at another terminal, not
25 the one right next to Mr. Mikell, because he had

1 Q. Well, when you say a lot of pages, I
2 mean, you've got to help me out here. What are we
3 talking about?

4 A. Yeah.

5 Q. Ten pages? 50 pages? A thousand
6 pages?

7 A. 50, 50-plus, 50-plus, maybe up into --
8 yeah, 50 to 100, just for an average, you know,
9 right, case with data.

10 Q. And you put that in the chart?

11 A. To the best of my recollection, yes,
12 on Friday, on Friday.

13 Q. And this was after you had spent some
14 period of time trying to make sure that it was
15 accurate?

16 A. Yes, yes.

17 Q. Now, are you aware that nobody can
18 find the mayday card?

19 A. Alissa had made me aware of that, yes,
20 at some point.

21 Q. Do you have any explanation for that?

22 A. I don't, I don't, no, but it's what I
23 looked at to sync up the -- when we started
24 compressions and when we defibrillated, those were
25 the two things that I was mainly looking at,

1 because their mayday cart that they bring with
2 them has a defibrillator on it, so that if nothing
3 else, if nothing else, they will record what time
4 and the joules of when the patient was
5 defibrillated, so that's what I looked at.

6 Q. Is that at all unusual that it can't
7 be found?

8 MS. FLEMING: Objection to the form.

9 THE WITNESS: I can't speak to that.
10 I can't speak to that.

11 BY MR. RANSOM:

12 Q. Well, have you ever been made aware of
13 any other patient where a part of the patient's
14 chart, presumably an important part of the
15 patient's chart that records things that happen,
16 shows up missing when you were the last one to
17 have seen it?

18 A. Not specifically when I was the last
19 one, no, that does not ring a bell.

20 Q. And this process that you're
21 describing of going back and sitting down and
22 spending time trying to make sure that the chart
23 is all accurate and complete, how many other times
24 have you gone through this process, besides
25 Mr. Mikell?

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James J. Leventis
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January 4, 2016

Robert B. Ransom
bertcone@aol.com

Hon. J.C. Nicholson
100 Broad Street, Suite 106
Charleston, SC 29401

Via E-Mail: jnicholsonlc@sccourts.org

Re: Shon Turner v. MUSC
2012-CP-10-7275

Dear Judge Nicholson:

I write to provide the Plaintiff's abbreviated response to the December 30, 2015 letter from Mr. Cooke's office.

I think it is important for the Court to understand that there have been a series of shifting explanations and excuses from MUSC on the Mayday card issue, which I would summarize as follows:

Explanation 1: the anesthesia record is the only written or electronic record of Mr. Mikell's cardiac arrest.

Following this false explanation, witnesses testified about a Mayday card and the "code documentation" referred to in Dr. Payne's procedure note.

Explanation 2: there never was a Mayday card for Mr. Mikell because the anesthesia record just is the code documentation for his cardiac arrest.

Following this second false explanation, Plaintiff's counsel obtained the code documentation policy and deposed Dr. Guldán.

Explanation 3: there never was a Mayday card because the code documentation policy does *not* apply to Mr. Mikell's cardiac arrest.

This third false explanation resulted in a motion to compel, which MUSC fought in an effort to preserve its false narrative. Sheila Scarbrough and the unreadable NRCPR database printout were not produced until six months after the Plaintiff obtained a court order.

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Explanation 4: the code documentation policy *does* apply to Mr. Mikell's cardiac arrest but the Mayday card faxed to Risk Management was destroyed.

After the first hearing on the Plaintiff's Motion for Discovery Sanctions (which asks for an adverse inference jury instruction), MUSC generated its next excuse:

Explanation 5: the Mayday card has not really been lost or destroyed because (once the Court finally ordered it to do so) MUSC "retrieved the data," which it had "extracted from the card" and produced it to the Plaintiff in readable format.

Finally, after the Court indicated its inclination to impose sanctions, MUSC put forth its latest position:

Explanation 6: MUSC's "usual practice" is to shred the copy of the Mayday card faxed to Risk Management (although this is not what the code documentation policy says), but "nobody at MUSC deliberately destroyed the Mayday card."

As though the Mayday card accidentally fell into a shredder. Of course, MUSC has never yet located the "white" and "yellow" duplicate originals of the Mayday card described by its code documentation policy. Apparently, those two records tragically fell victim to separate acts of unknown, non-deliberate loss or destruction. Imagine the odds of what MUSC is claiming — all of its redundant written and electronic record keeping systems failing at the same time, so that there is no accurate record of a peer reviewed event.

To bring this discussion full circle, MUSC would have us believe that through its own "diligence" and "persistent detective work," equivalent data from the lost Mayday cards (which at first did not even exist) has now been rescued from oblivion, coincidentally just in time (but not a moment too soon) to stave off the imposition of discovery sanctions.

It is fair to ask when MUSC was going to make any of its recent disclosures — the Mayday card, the NRCPR database, the backup anesthesia data, the second audit trail, the software "glitch," the electronic communications — if counsel and the Court had not forced its hand. When would the fruit of this "diligent" and "persistent" "detective work" have been shared with the Plaintiff, if no motion for sanctions had ever been filed?

Notably, Mr. Mikell's cardiac arrest was the subject of a special peer review investigation in mid-October 2010. How could that special investigation not have included the discovery that something was amiss with such basic information as the Mayday card (e.g., no copy of it is in the patient's chart, as required)?

The code documentation policy requires that the Mayday card be faxed to the Risk Management office. Yet until late July 2015, MUSC never thought to ask Ms. Scarbrough or anyone else in its Risk Management office if they had it? Did this most basic investigative step somehow continue to elude MUSC even after it produced the code documentation policy in October 2014? And for ten months thereafter, even when the Plaintiff filed a motion to compel and obtained a court order in March 2015?

The trouble with the latest permutation of MUSC's position — "diligent" and "persistent" "detective work" — is that it requires us to assume all of the very talented and highly educated people on the defense side of this case were simply feckless (albeit excusably so) in their relentless search for information responsive to the Plaintiff's discovery requests.

Are we really expected to believe that Dr. Guldán — a respected faculty member at a prestigious university — didn't know what he was talking about when he testified the code documentation policy does not apply to Mr. Mikell's cardiac arrest? That the people who designated him to speak for MUSC in the first place were caught off guard by his ignorance of the very policy they chose him to explain?

If Dr. Guldán was not sufficiently familiar with the code documentation policy to testify accurately about it, then why was he designated as the one to explain it? Did MUSC not ask him to read the policy before he was sworn under oath? Did his misunderstanding remain undetected even when he read and signed his deposition transcript?

Keep in mind, Dr. Guldán's testimony would be MUSC's final word on the Mayday card had Plaintiff's counsel not rejected MUSC's false narrative and filed a motion to compel. Because MUSC never voluntarily lifted a finger to correct the false record created by the testimony of its own hand-picked witness. Instead, it fought the motion to compel, claiming the Plaintiff simply didn't like the truthful answers Dr. Guldán had provided.

Of course, this Mayday card business must be viewed in the context of all the other issues involving the audit trails (one of which was not produced until late September 2015); the backup anesthesia data (which evidently did not cost \$2.8 million to retrieve); and the last minute disclosure of an anesthesia software system "glitch" (which neither Donna Embry nor MUSC's defense expert mentioned in their depositions) reflected in electronic communications MUSC did not produce until the eve of the December 11, 2015 sanctions hearing.

So much of what we know now came only in response to contested motions, disputed hearings, quibbled orders, and the threat of discovery sanctions. None of MUSC's recent revelations have been spontaneous or voluntary. None came in time to question the appropriate witnesses. None were made prior to mediation.

January 4, 2016
Page Four

Yet MUSC would have us believe it was "diligently" and "persistently" pursuing this information all along, without any prodding from the Court.

One reasonable inference is that MUSC did not want the Plaintiff to know about a software "glitch" during Mr. Mikell's colonoscopy; nor that important information about his cardiac arrest has been altered, lost, or destroyed. Rather than disclose these weaknesses in its defense, MUSC deployed a "go fish" strategy: (1) do not mention anything about it; (2) object and obfuscate if asked; (3) make the Plaintiff file motions, await hearings, and negotiate the language of orders; (4) then delay compliance while hoping counsel either gives up, becomes distracted, forgets, or settles the case; and finally (5) spin the bad facts if their disclosure becomes unavoidable, because the number one rule is to never admit anything harmful to defense of the case.

MUSC is not the victim here. Its discovery strategy — culled from a well-worn defense playbook — is neither excused by feigned confusion over the complexity of its own records, systems, and policies; nor explained by a clever plaintiff's lawyer trying to take advantage of MUSC in order to gloss over the gaps in his own case.

One final observation. Under the best evidence rule (SCRE 1002), the contents of the Mayday card are proved by putting the Mayday card itself into evidence. MUSC has tried to substitute both the anesthesia chart and the NRCPR database printout for the Mayday card so it can claim "no harm, no foul" from its concealment of the loss/destruction of this important record. "It's all the same information." I call this MUSC's theory of "substitutional evidence." Following MUSC's logic, a party need not submit written documents into evidence; it can simply offer the oral testimony of a witness who took notes from the document before it was lost or destroyed. This is exactly what Rule 1002 is intended to prevent.

Lastly, you had asked me to prepare an Affidavit outlining the time and effort I have spent in battling these discovery issues. That Affidavit is attached. I will have the original filed with the Clerk of Court shortly.

Thank you for your attention to this matter. Please call me if you have any questions or comments.

Very truly yours,



Robert B. Ransom

Attachment

c: M. Dawes Cooke, Jr.
Alissa Fleming
Alex Apostolou

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

IN THE COURT OF COMMON PLEAS
CIVIL ACTION NO.:2012-CP-10-7275

SHON TURNER, as Personal)
Representative of the)
ESTATE OF CHARLES MIKELL,)
deceased,)

Plaintiff,)

vs.)

MEDICAL UNIVERSITY OF)
SOUTH CAROLINA,)

Defendant.)

AFFIDAVIT OF ROBERT B. RANSOM

PERSONALLY APPEARED BEFORE ME the undersigned who, being duly sworn, deposes
and states as follows:

1. I am over the age of eight (18) years, am legally competent to make this affidavit, and have personal knowledge of the matters set forth herein.
2. I am lead counsel for the Plaintiff in the above-captioned action.
3. I was admitted to the South Carolina Bar in November 1988 and have been a member in good standing, engaged in the private practice of law, for over 27 years. Among other positions, I have served on the South Carolina Bar's Ethics Advisory Committee; been a member of the South Carolina Trial Lawyers Association (Legislative Steering and Amicus Curae Committees); a member of the South Carolina Association for Justice; a member of the American Trial Lawyers Association (President's Club); a member of the American Association for Justice; a member of the Southern Trial Lawyers Association; a member of

the South Eastern Admiralty Law Institute (Charleston Harbor Master); a member of the National Trial Lawyers; a member of the American Judicature Society; and served as a Special Judge for the City of Goose Creek, South Carolina.

4. Over the last ten years, my practice has focused primarily on representing patients injured by medical malpractice. I have been recognized in that area of practice as a South Carolina Super Lawyer each year since 2009. I have also been recognized by the American Trial Lawyers Association as a Top 100 Trial Lawyer each year since 2009.
5. My current billing rate for hourly work is \$450.00 per hour.
6. The time entries set forth below document the effort undertaken by me to address and respond to the various discovery issues which are the subject of the Plaintiff's Motion for Discovery Sanctions, filed in the within-captioned action.

FURTHER AFFIANT SAYETH NAUGHT.

BY:

Robert B. Ransom
Robert B. Ransom

SWORN TO BEFORE ME this

4 day of January, 2014
Kristen Arza

Notary Public for the State of South Carolina

My commission expires:

JULY 13, 2025

TIME RECORD FOR Estate of Charles Mikell

<u>Date:</u>	<u>Time:</u>	<u>Description:</u>
09/04/14	3.7	letter to Alissa Fleming about Mayday card and anesthesia chart discrepancies
09/18/14	0.2	letter to Alissa Fleming asking to depose witnesses who can answer the issues identified in the letter dated Sep 4, 2014
09/24/14	1.2	prepare Second Request for Admission
09/24/14	0.6	letter to Dawes Cooke concerning code documentation / Mayday card and testimony of Dr. Payne
10/07/14	0.7	meet with Alissa Fleming and Lisa Kindy to discuss the issues outlined in the letter dated Sep 4, 2014
10/15/14	0.2	letter to Alissa Fleming about producing Dr. Guldán to testify about code documentation policies
10/30/14	0.8	review MUSC's Response to Second Request for Admission, including Emergency Medical Response Policy (Mayday Policy)
10/31/14	0.4	letter to Alissa Fleming regarding Mayday Policy and Mayday card
11/03/14	0.7	prepare for deposition of Dr. Guldán - 30(b)(6) designee
11/04/14	4.8	travel to Charleston and appear at the deposition of George Guldán, MD
11/15/14	0.2	letter from Alissa Fleming about Emergency medical response Policy and deposition of Dr. Guldán
11/19/14	0.3	letter to Alissa Fleming about discrepancy between "code policy" and "Mayday policy" and remaining issues about the anesthesia record
12/05/14	1.3	search MUSC public web page and retrieve information and materials relating to Enterprise Data Warehouse
12/05/14	0.6	letter to Alissa Fleming about EndoWorks records, Mayday policy, and Enterprise Data Warehouse
12/10/14	0.3	emails with Adam Bridge at Optum to see if he can provide technical assistance with recovering any backup anesthesia data
01/06/15	0.2	email from Eileen Sullivan at Optum concerning inquiry about PICIS data at MUSC
01/06/15	0.4	letter to Alissa Fleming regarding anesthesia records and how the anaesthesia system displays, captures, records, stores, and prints information
01/07/15	0.4	telephone call with Eileen Sullivan at Optum to discuss what would be necessary to search MUSC server for backup anesthesia data
01/07/15	0.3	letter to Eileen Sullivan at Optum providing portions of the MUSC anesthesia record for her review
01/07/15	0.2	letter to Alissa Fleming asking for product identification information on PICIS system (requested by Eileen Sullivan)
01/14/15	0.4	telephone conference with Eric Bolden, Jeff Whitney and Eileen Sullivan at Optum to discuss how backup anesthesia data might be extracted from MUSC's data warehouse server

01/23/15	0.2	review letter from Alissa Fleming concerning issues with the anesthesia data and the PICIS software system
01/27/15	1.3	prepare Motion to Compel regarding Guldán testimony
01/29/15	1.1	prepare Third Request for Admissions
01/29/15	0.2	letter to Alissa Fleming about anesthesia record issues and Third Request for Admission
01/30/15	0.2	letter to Alissa Fleming with filed Motion to Compel
02/15/15	0.2	letter from Alissa Fleming concerning OR code documentation policy
03/02/15	0.6	review Response to Third Request for Admissions
03/03/15	5.4	travel to Charleston for hearing on motion to compel regarding Dr. Guldán testimony
03/04/14	0.8	prepare proposed order for Judge Stilwell and forward to court via email
03/04/15	0.2	review email from Alissa Fleming noting her objections to the proposed order for Judge Stilwell
03/04/15	0.2	review and respond to emails from Judge Stilwell's law clerk and Alissa Fleming concerning proposed order
03/05/15	0.2	letter to Alissa Fleming again asking for product identification information on PICIS system
03/07/15	4.2	review Audit Trail for anesthesia record and reconstruct modifications, alterations and deletions
03/23/15	0.2	review letter from Alissa Fleming concerning PICIS software version being used at the time in question
03/26/15	0.2	exchange email with Charlie Batch at Online Security concerning consulting on backup anesthesia data issue
05/13/15	0.3	telephone conversation with Charlie Batch at Online Security to discuss retaining his firm to consult on backup anesthesia data problem
05/14/15	0.4	review retainer agreement from Online Security and arrange for payment
06/02/15	0.2	email from Charlie Balot with executed retainer agreement for Online Security consultation
07/09/15	0.2	letter to Alissa Fleming asking to schedule depositions of 30(b)(6) designee and Pat Aysse, among others
07/28/15	0.3	review letter from Alissa Fleming about different information to be supplied by Sheila Scarborough
06/09/15	0.2	email from Charlie Balot at Online Security seeking to schedule teleconference
07/03/15	0.2	review discovery response identifying Pat Aysse as witness about PICIS system
07/28/15	0.2	letter from Alissa Fleming advising Sheila Scarbrough has information about the Mayday card which is "different than previously provided"
08/17/15	4.5	travel to Charleston and appear at reconvening of Dr. Nelson's deposition to inquire about audit trail and changes to his entries in the anesthesia record
08/20/15	0.2	email from Kevin Borkowski with NRCPR document for Sheila Scarbrough's deposition

08/20/15	0.2	review NRCPR document (incomprehensible format)
08/21/15	0.2	telephone call to Alissa Fleming about the formatting of the NRCPR document
08/24/15	7.0	travel to Charleston and appear at the depositions of Sheila Scarborough and Patricia Aysse
08/25/15	2.0	prepare motion for discovery sanctions
08/25/15	0.3	letter to Alissa Fleming about Aysse/Scarborough testimony concerning Mayday card and backup anesthesia data
08/26/15	5.0	review discovery materials and correspondence to support motion for discovery sanctions
08/27/15	2.0	travel to Charleston for mediation
08/27/15	1.5	meet with client and Mr. Apostolou to discuss mediation prospects and strategy
08/28/15	4.8	attend failed mediation and travel to Columbia
08/31/15	4.3	conduct legal research and revise motion for discovery sanctions
09/01/15	0.4	telephone conversation with Charlie Batch and Richard Gralnik at Online Security to discuss assistance with electronic discovery issues
09/02/15	0.7	discuss motion for discovery sanctions with Alex Apostolou
09/04/15	3.2	finalize motion for discovery sanctions
09/04/15	0.2	letter to Clerk of Court with Motion for Discovery Sanctions
09/04/14	0.2	letter to Alissa Fleming concerning Motion for Discovery Sanctions
09/14/15	0.2	email from Charlie Balot seeking to set up telephone conference with Online Security
09/15/15	0.2	review letter from Alissa Fleming describing effort needed to recover backup anesthesia data
09/15/15	2.0	research on rules concerning electronic discovery
09/15/15	0.2	review discovery response identifying Annette Thompson, Desiree Tillman and Lucinda Banks as witnesses on the PICIS system
09/21/15	0.7	review MUSC's Amended Responses to Second and Third Requests for Admission
09/22/15	5.2	travel to Charleston and appear at deposition of Dr. Reeves to inquire about empty boxes in anesthesia record
09/29/15	3.0	draft supplemental memorandum on motion for discovery sanctions
09/30/15	2.6	draft supplemental memorandum on motion for discovery sanctions
10/02/15	6.5	draft supplemental memorandum on motion for discovery sanctions
10/08/15	9.0	draft supplemental memorandum on motion for discovery sanctions
10/11/15	2.3	revise supplemental memorandum on motion for discovery sanctions and begin to organize exhibits
10/12/15	5.8	finalize supplemental memorandum on motion for discovery sanctions along with exhibits and prepare for filing
10/13/15	0.2	email from Charlie Balot seeking to set up telephone conference with Online Security
10/14/15	0.6	telephone call with Charlie Batch of Online Security concerning backup

		anesthesia data
10/14/15	2.3	travel to Charleston to file supplemental memorandum on motion for discovery sanctions
10/14/15	0.2	review email communications between Richard Gralnik at Online Security and Tom at Optum concerning creation of a working PICIS environment at MUSC
10/15/15	0.2	review email from Bobby Mazzarino at Optum to Richard Gralnik at Online Security concerning fees for extracting backup anesthesia data from MUSC data warehouse
10/15/15	0.2	discuss motion for discovery sanctions with Alex Apostolou
10/16/15	2.3	review MUSC memorandum in opposition to motion for discovery sanctions
10/20/15	0.4	review draft affidavit from Richard Gralnik at Online Security
10/20/15	0.2	review email communications between Bobby Mazzarino and Richard Gralnik concerning technical requirements for database restoration
10/21/15	5.0	travel to Charleston and appear at hearing on motion for sanctions and motion for partial summary judgment
12/11/15	5.5	travel to Charleston and appear at hearing on motion for sanctions
12/20/15	0.4	review letter from Alissa Fleming to Judge Nicholson concerning Mayday card and sanctions
12/31/15	1.5	draft letter to Judge Nicholson responding to Alissa Fleming's letter
01/04/16	1.3	finalize letter to Judge Nicholson along with attorneys fee affidavit

TOTAL TIME: 129.8 hours

Alissa Fleming

From: Nicholson, J. C. Law Clerk (Brooklyn A. Burroughs) <JNicholsonLC@sccourts.org>
Sent: Tuesday, January 26, 2016 12:36 PM
To: BertCone@aol.com; Nicholson, J. C.
Cc: alex@apostoloulaw.net; M. Dawes Cooke; Alissa Fleming
Subject: 2012-CP-10-7275 Questions

2012-CP-10-7275
Motion for Discovery Sanctions

All,

Judge Nicholson would like answers to the questions below. Please respond to all questions via affidavit.

Questions for Plaintiff:

1. Specifically, how critical is the information you have struggled to receive, but eventually received, to your causes of action?
2. Specifically, how critical is the missing information, either unpreserved or destroyed, to your causes of action?
3. In what format(s) was the information last produced to you prior to the Dec. 11th hearing?
4. Explain how the discovery process has or has not been proportionate to the issues at hand.
5. Aside from your request for attorney's fees, which Judge Nicholson finds reasonable thus far, why do you believe the severe sanctions you requested are proportionate to the defendant's actions or the harm, if any, caused in the discovery process?
6. If your claims focus on the breach of the standard of care *before* the arrest, how is your case harmed by the discovery delays and missing information after that time?
7. In order to prove or rule out the argument that MUSC deleted data, research would be needed. Is it important enough to your case that you would be willing to split the cost for such research?

Questions for Defendant:

1. The timeline you provided on Dec. 30th ends in August. Will you please complete the timeline through the date of the Dec. 11th hearing?
2. Please explain what facilitated the information being produced subsequently to Judge Nicholson's list of questions and suggestions. Please explain how it was produced shortly before the hearing on Dec. 11th in contrast to the high estimated cost and time you said it would take.
3. In reference to the 26 page illegible document originally produced-- In what format was the document displayed from the computer at MUSC? Was it Microsoft Excel or some type of PICIS chart? If you copy and paste a large group of cells from such a chart into a word processor such as Microsoft Word keeping the text only, is that not what the document you produced resembles? Specifically, the court would like to know if it was originally formatted in a chart, converted to an illegible format, and then converted back to a chart shortly before the hearing.
4. In your answer to number 1 of Judge Nicholson's initial set of questions, you say you produced the information by "cutting and pasting the data into another format and converting it to PDF." What was the original format? Ms. Fleming mentioned it was an Excel document at the hearing. If that is the case, why wasn't it legible to begin with?

5. If mass amounts of information got copied and pasted cell by cell, how can you be sure there are no alterations, mistakes, or missing information, either intentionally or as a result of human error?
6. Who did the conversion to a legible format? In detail, how was it done?
7. According to the timeline you submitted, you were aware the information from the Mayday card was sent to the American Heart Association's database by July of 2015. Why didn't you provide the information from their records sooner?
8. Why are some of the times out of order on the audit trail and anesthesia records?
9. Please provide the court with electronic versions, including all metadata, of the original illegible document and the later legible document in their original formats rather than PDF, which eliminates tracked changes.
10. Can the Court have the login information to the PICIS database for in camera review?

Let me know if you have any questions or if I can be of assistance. Have a great week!

Kind regards,

Brook

Brooklyn A. Burroughs

Law Clerk to The Honorable J.C. Nicholson, Jr.

Circuit Court Judge

100 Broad Street

Charleston, South Carolina 29401

Tel: (843) 958-5047

jnicholsonlc@sccourts.org

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February 24, 2016

Hon. J.C. Nicholson, Jr.  
100 Broad Street, Suite 106  
Charleston, SC 29401

Re: Shon Turner v. MUSC  
2012-CP-10-7275

Dear Judge Nicholson:

In the above-referenced matter, please find an unfiled copy of the Declaration of Robert B. Ransom, which answers the questions posed in Ms. Burrough's January 26, 2016 email. Also enclosed is a copy of the Plaintiff's Motion to Seal relating to what I believe is protectable attorney work-product contained in the Declaration.

I have provided a copy of the Motion to Seal and a redacted copy of the Declaration to opposing counsel. I have not provided the unredacted Declaration to opposing counsel. The original unredacted Declaration has been filed by the Clerk's office in a sealed envelope marked, "Confidential Information to Be Submitted to Court in Connection with Plaintiff's Motion to Seal."

Besides the Declaration, there is another matter which needs to be brought to your attention as you consider the Plaintiff's Motion for Sanctions.

When I originally took Donna Embry's deposition on August 24, 2014, defense counsel objected to certain questions and instructed Nurse Embry not to answer. On December 15, 2014, Judge Dennis issued an Order overruling some of those objections and allowing me to re-depose Nurse Embry.

Subsequent to that Order, MUSC produced the two audit trails, one of which showed that Nurse Embry changed some of Dr. Nelson's entries in the narrative portion of the anesthesia record. MUSC also disclosed the "glitch" and produced the email communications relating to it, all as discussed in detail in my Declaration.

I re-deposed Nurse Embry on February 22, 2016. She testified that late in the afternoon following Mr. Mikell's colonoscopy, she went to check on him in the Intensive Care Unit. Mr. Mikell's hard copy medical chart was in a binder next to his bedside. Nurse Embry said she wanted to finish the narrative entries in the electronic anesthesia record so she took Mr. Mikell's medical chart and went to a computer work station where she could access the electronic record.

Nurse Embry testified that the code documentation sheet, or Mayday card, was in the binder and she used the information it contained to "complete" the "correct" timing and sequence of events, which had been misstated in the narrative portion of the electronic anesthesia record during the procedure. Nurse Embry said that after doing this, she printed the anesthesia record, reviewed it to make sure all of her modifications had been recorded in the electronic record, and then put the printed record into a shredder bin. Nurse Embry then returned the hard copy medical chart -- including the Mayday card -- to Mr. Mikell's bedside. The last time Nurse Embry saw the hard copy medical chart, the Mayday card was affixed to the binder with a multi-hole fastener.

Of course, the Mayday card has never been produced and no explanation has ever been given for why it is missing from the binder containing Mr. Mikell's hard copy medical chart.

I find Nurse Embry's testimony remarkable because you will recall that for quite a while MUSC's position was that there was never any Mayday card because the anesthesia record just is the code documentation for Mr. Mikell's cardiac arrest. That is the lie which Dr. Guldan swore to under oath when he testified as MUSC's Rule 30(b)(6) designee on November 4, 2014.

Of further note in this regard is the testimony Nurse Embry gave about the Mayday card at her first deposition on August 26, 2014. I attach two pages from the transcript of that testimony in which she swears under oath, "I'm not sure" and "I don't recall" when directly asked whether there was a Mayday card for Mr. Mikell's case. Nurse Embry apparently forgot using the Mayday card to alter the electronic anesthesia record. She also apparently forgot the "glitch," the email communications, and her alterations when asked to explain the missing data and other discrepancies in the anesthesia record.

I think it is outrageous that Nurse Embry failed to correct her false testimony about the Mayday card when she exercised her right to read and sign the transcript of her August 26, 2014 deposition. I think it is also outrageous that her false testimony was never addressed by defense counsel even after my September 24, 2014 letter to Mr. Cook directly asking him about the Mayday card.

Moreover, Dr. Guldan was subsequently produced as a Rule 30(b)(6) designee to testify that there was no Mayday card for Mr. Mikell's procedure. Two pages of his testimony are also attached. Dr. Guldan also read and signed his deposition, which neither he nor defense counsel ever lifted a finger to correct until Ms. Fleming's July 23, 2015 letter obliquely referring to "information . . . different from the information previously presented and that might lead one to infer that there was a code sheet at one time."

When I asked Nurse Embry at her second deposition why she did not tell me at her first deposition about using the Mayday card to alter the anesthesia record, she said she had not wanted to "volunteer" any information. As though providing truthful answers to direct questions about the Mayday card was considered some sort of inappropriate "volunteering."

At her second deposition, I also asked Nurse Embry about the data missing from the spreadsheet portion of the anesthesia record. She testified that the anesthesia software "glitch" was a well-known problem with the PICIS anesthesia software; that she had personally experienced this "glitch" on as many as ten (10) other occasions; that MUSC had held meetings and provided training sessions about what to do when the "glitch" occurred; and that a procedure had been devised to call a technician for help using a pager system.

Most importantly, Nurse Embry testified that in past instances where the "glitch" had occurred, MUSC's information technology people had been able to "recover" vital signs data saved in the system memory and use it to "repopulate" the chart so that no information was missing or lost. Nurse Embry further testified that a part of the anesthesia equipment she referred to as the "Phillips monitor" captured and stored the patient's vital signs data (missing in this case) until someone deleted it, so that the anesthesia record could be "repopulated" whenever a "glitch" occurred.

I find this testimony extremely troubling because of the position MUSC has taken throughout this case about the nonexistence of backup anesthesia data. Certainly, the anesthesia record produced by MUSC in this case has never been repopulated with stored vital signs data. What remains unknown is who deleted that stored data, when and why.

Additionally, after Dr. Reeves first disclosed the "glitch" at his September 22, 2015 deposition, I served the Plaintiff's Second Discovery Request No. 8 (attached) specifically asking, "How many other times has this problem [the "glitch"] resulted in anesthesia data not being recorded in a patient's anesthesia record?"

MUSC's answer – signed by Ms. Fleming pursuant to Rule 11 – is this: "MUSC . . . is unable to provide a response to this question." Unable to provide a response.

Apparently, Nurse Embry was never asked for her response to this question, because her sworn testimony was that the problem occurred "all the time" and happened to her at least ten (10) times.

Please also note that while Nurse Embry described the "glitch" as a well-known problem that happened all the time and received a great deal of attention from MUSC's technical people, in her answer to Request No. 8, Ms. Fleming describes the "glitch" as follows:

MUSC further objects to Interrogatory No. 8 to the extent that it implies that there was a problem with the electronic medical record, software or hard drive because there was not. The function encountered by Donna Embry, CRNA with regard to being unable to open the patient record in PICIS was a built in safety function . . . .

February 24, 2016

Page Four

To suggest that what Nurse Embry described was not a "problem" but rather the proper operation of "a built in safety function" is disingenuous to the point of double-speak. Are we to understand that MUSC specifically designed its anesthesia software to malfunction, so that patient data had to be repopulated into charts by technicians working from memory storage? Yet this nonsense is representative of the way Ms. Fleming has answered discovery throughout this case. The true nature and scale of this "glitch" was completely obfuscated by Ms. Fleming's blatantly misleading discovery response, which she signed subject to Rule 11.

In summary, Nurse Embry's second deposition shed significant additional light on the false testimony and duplicitous discovery responses which MUSC has persistently advanced without correction throughout this case in an effort to corrupt the pretrial process and perpetrate a fraud upon the court.

When was Plaintiff going to be informed that: (1) Nurse Embry had used the now-missing Mayday card to "correct" the electronic anesthesia narrative; (2) this software "glitch" was happening all the time; but (3) MUSC had a process in place to recover missing data and repopulate the patient record?

If Plaintiff had not obtained a court order and reconvened Nurse Embry's deposition on February 22, 2016, none of this information was ever going to be disclosed because apparently MUSC's legal strategy is to not "volunteer" information.

This outrageous misconduct is especially egregious when the Mayday card appears to be the only accurate, contemporaneous record of what happened to Mr. Mikell, without which even Nurse Embry was unable to reconstruct what happened on the very day of the event itself. Is it any wonder MUSC has no explanation for where the Mayday card is and has repeatedly lied about its existence?

I am happy to provide the court with the transcript of Nurse Embry's February 22, 2016 deposition testimony just as soon as it is available from the court reporter. I ask that you please take this and the Declaration into consideration in deciding the Plaintiff's Motion for Sanctions.

Thank you for your attention to this matter. Please call me if you have any questions or comments.

Very truly yours,



Robert B. Ransom

Enclosures

c: Alissa Fleming, Esq.  
Alex Apostolou, Esq.

1 Q. Am I reading that correctly?

2 A. Yes, sir.

3 Q. This Mayday card that you were  
4 describing, does it have a similar logo on it?

5 A. I would imagine so.

6 Q. Does it say "Mayday card" on there  
7 where this one says "MUSC Preoperative Checklist?"

8 A. I'm not sure. I'm not sure.

9 Q. ~~Was there a Mayday card kept in~~

10 ~~Mr. Mikell's case?~~

11 ~~Again, I'm not sure. You would have to ask~~

12 ~~the RNs present.~~

13 Again, I concern myself with anesthesia  
14 and my own documentation. I cannot speak for them.

15 Q. The Mayday was called, wasn't it?

16 A. I believe it was.

17 Q. That's what is actually documented in  
18 Tab 1; right? If you look at Page 494, the entry  
19 for 7:56 a.m. with your initials D.B.E., it says:  
20 Mayday team called.

21 A. Yes, sir. I see it.

22 Q. So you were the one who called the  
23 Mayday?

24 A. No, I was not.

25 Q. Let's go back then. Well, ~~who called~~

1 mind.

2 Q. Let's step back for a second and I want  
3 to talk with you about the type of charting that is  
4 supposed to take place when a Mayday is called.

5 Is there a code sheet that's supposed  
6 to be filled out?

7 A. There is a code sheet that is usually  
8 filled out by the nurses.

9 Q. And that's in handwriting, correct?

10 A. Yes. Yes.

11 Q. Was a code sheet filled out for  
12 Mr. Mikell's case?

13 A. I don't recall.

14 Q. Should it have been filled out?

15 A. It definitely should have, yes, sir.

16 Q. Kept in his chart?

17 A. Yes, sir.

18 Q. Part of his record?

19 A. To the best of my knowledge, yes, sir.

20 Q. What does it look like? Can you  
21 describe it?

22 A. The last one I saw had lines going  
23 across and it had columns for personnel, what they  
24 did, what meds were given. Like you could kind of  
25 write minute to minute. Things like atropine, one

1 A. Yes. So we have the same equipment,  
2 the same medications, same staffing as an OR suite.

3 Q. So, again, back to page 3, paragraph 4,  
4 it doesn't say that a Mayday record is not needed  
5 for things to take place in a DDC, does it?

6 A. It does not say a Mayday record -- it  
7 says a Mayday record is legal documentation of the  
8 Mayday.

9 Q. Right.

10 A. The word play in this case is Mayday,  
11 as is a Mayday does not occur in the OR.

12 Q. Even though they called one?

13 A. Correct. [REDACTED]

14 [REDACTED]

15 Q. All right. So paragraph 4 calls for a  
16 Cardiopulmonary Resuscitation Event Form. Am I  
17 reading that correctly?

18 A. Correct.

19 Q. [REDACTED]

20 [REDACTED]

21 [REDACTED] as, again, the code was  
22 documented fully, including all medications and the  
23 timing of medications and staff procedures and  
24 resuscitation events were documented in the OR  
25 medical record.

1 A. Certainly.

2 Q. Again, focusing our attention on page 3  
3 of Exhibit 1, paragraph 4, it discusses and  
4 describes the Mayday record. Is it your testimony  
5 here today under oath that that paragraph does not  
6 apply to Mr. Mikell's code?

7 A. Because he was in an OR setting, yes,  
8 sir, that is my testimony today.

9 Q. And, again, I'm not trying to beat a  
10 dead horse --

11 A. No, I understand.

12 Q. -- but [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 Q. And this is where you're losing me,  
20 because there was a Mayday. Right? I mean,  
21 several witnesses have testified that they called a  
22 Mayday. So what was it? If they weren't actually  
23 calling a Mayday, why do they think they actually  
24 did?

25 A. It's just -- it's terminology. The



care providers could document in the record. This is indicated in the PICIS audit trail which was identified as BWPH 4948-4951.

- c. Donna Embrey, CRNA learned that she could not open Mr. Mikell in the PICIS system after he was transferred in to the procedure room and when she tried to document in the electronic medical record system once Mr. Mikell was in the procedure room. This was sometime between 7:35 a.m. and 7:39 a.m. on 10/1/10.

8. In his September 22, 2015 deposition, Dr. Reeves described a computer linkage problem which prevented the anesthesia system from recording data during Mr. Mikell's colonoscopy.

- a. How was that computer problem identified during Mr. Mikell's colonoscopy?
- b. At what time during the colonoscopy was the problem discovered?
- c. Who discovered the problem?
- d. How did that person(s) discover the problem?
- e. What was done in response to discovery of the problem? Who was the problem reported to? By whom was it reported? When was it reported?
- f. Was discovery of the problem documented anywhere? If so, produce any and all such documentation.
- g. How many other times has this problem resulted in anesthesia data not being recorded in a patient's anesthesia record?

**RESPONSE:** Objection. MUSC objects to Interrogatory No. 8 on the grounds that the total number of interrogatories permitted by Rule 33, SCRCP. MUSC further objects to Interrogatory No. 8 to the extent that it implies that there was a problem with the electronic medical record, software, or hard drive because there was not. The function encountered by Donna Embrey, CRNA with regard to being unable to open the patient record in PICIS was a built in safety function that prohibited two users from documenting in the electronic medical record at the same time. Without waiving and subject to the foregoing objections:

- a. See Answer to Interrogatory No. 7.
- b. Between 7:35 a.m. and 7:39 a.m.

- c. Donna Embrey, CRNA
- d. Ms. Embrey tried to open Mr. Mikell's record in PICIS and was unable to do so.
- e. See Answer to Interrogatory No. 7. The PICIS Support Team. Donna Embrey, CRNA contacted the PICIS Support Team for assistance on the morning of 10/1/10 between 7:35 a.m. and 7:39 a.m.
- f. See the PICIS audit trail which was identified as BWPH 4948-4951. See also documents identified as BWPH File No. 1.554 (Mikell v. MUSC) 005012-005024.
- g. MUSC did not maintain this information in the ordinary course of business and therefore, is unable to provide a response to this question.

9. The following requests apply to the anesthesia record bates labeled MUSC PAGE 494 OF 2115 through MUSC PAGE 501 OF 2115:

- a. Who printed this document on October 2, 2010 at 18:15?
- b. Why was this document printed?
- c. Was any information or data added, deleted or changed in any way? If so, please describe the additions, deletions or changes.

**RESPONSE:** Objection. MUSC objects to Interrogatory No. 9 on the grounds that the total number of interrogatories permitted by Rule 33, SCRPC. Without waiving and subject to the foregoing objection:

- a. MUSC does not have direct knowledge of who printed the document referenced in Interrogatory No. 9 at this time. The records do not provide sufficient information to allow MUSC to provide a response to this subpart.
- b. See answer to subpart (a).
- c. Any additions, deletions, or modifications to the PICIS Anesthesia Record are identified in the PICIS audit trail which was identified as BWPH 4948-4951.

10. The following requests apply to the anesthesia record bates labeled MUSC PAGE 502 of 2115 through 505 of 2115:

**RESPONSE:** Objection. MUSC objects to Interrogatory No. 18 on the grounds that the total number of interrogatories permitted by Rule 33, SCRPC. Without waiving and subject to the foregoing objection, MUSC is unable to identify sufficient documentation or records that definitively provide the answer to Interrogatory No. 18. Upon information and belief, the DDC nurse assigned to Mr. Mikell's case on 10/1/10 most likely would have documented in the Cardiopulmonary Resuscitation Event Form.

BARNWELL WHALEY PATTERSON  
& HELMS, LLC

By:   
M. DAWES COOKE, JR.  
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[afleming@barnwell-whaley.com](mailto:afleming@barnwell-whaley.com)

ATTORNEYS FOR DEFENDANT THE  
MEDICAL UNIVERSITY OF SOUTH CAROLINA

December 2, 2015  
Charleston, South Carolina

Begin forwarded message:

**From:** "[BertCone@aol.com](mailto:BertCone@aol.com)" <[BertCone@aol.com](mailto:BertCone@aol.com)>  
**To:** "[JNicholsonLC@sccourts.org](mailto:JNicholsonLC@sccourts.org)" <[JNicholsonLC@sccourts.org](mailto:JNicholsonLC@sccourts.org)>, "[JNicholsonJ@sccourts.org](mailto:JNicholsonJ@sccourts.org)" <[JNicholsonJ@sccourts.org](mailto:JNicholsonJ@sccourts.org)>  
**Cc:** "[alex@apostoloulaw.net](mailto:alex@apostoloulaw.net)" <[alex@apostoloulaw.net](mailto:alex@apostoloulaw.net)>, "Alissa Fleming" <[afleming@barnwell-whaley.com](mailto:afleming@barnwell-whaley.com)>, "[bertcone@aol.com](mailto:bertcone@aol.com)" <[bertcone@aol.com](mailto:bertcone@aol.com)>  
**Subject:** Re: Mikell v MUSC; C/A No.: 2012-CP-10-7275

Dear Brook,

I apologize for having to make one last submission on the Plaintiff's Motion for Sanctions, but in order to complete the record, I need to provide the attached transcript of the deposition I obtained from Donna Embry, CRNA on February 22, 2016.

Among other things, Nurse Embry testified:

1. that the empty boxes in the anesthesia record were caused by a problem with the monitors and the anesthesia machine not communicating with the PICIS software. See, pages 26 - 31.

2. this was a well-know problem with the PICIS software which had happened to Nurse Embry as many as ten (10) other times and which had been discussed by MUSC at various department meetings. See, pages 28, 38 - 39, 48, 166 - 167 and 208.

3. it was Nurse Embry's understanding, based on prior instances when the problem occurred, that a technician would fix the problem, recapture missing data from a storage memory, and use that data to repopulate the patient's chart so that no data would be missing. See, pages 34 - 37 and 95 - 108.

4. in the late afternoon following Mr. Mikell's procedure, Nurse Embry used the Mayday card or code sheet, which she found in his hard copy hospital chart, to complete the electronic anesthesia record. See, pages 98 - 111.

5. Nurse Embry explained why she had not mentioned the software problem or her use of the Mayday card at her first deposition at pages 214 - 218.

If any of this information had been supplied at or near the time of Nurse Embry's first deposition (Aug 26, 2014), my client and I would have had almost 19 months to develop these issues with any number of other witnesses prior to trial. Instead, this information was not revealed until February 22, 2016, less than two months prior to the April 18, 2016 date certain trial date and long after important witnesses were already deposed.

Again, thank you for the court's patient consideration of this information.

Best regards,

Rob Ransom

803-765-2383

[bertcone@aol.com](mailto:bertcone@aol.com) <<mailto:bertcone@aol.com>>

In a message dated 3/2/2016 10:31:41 A.M. Eastern Standard Time,  
[JNicholsonLC@sccourts.org](mailto:JNicholsonLC@sccourts.org) writes:

That will not be a problem since Judge Nicholson is not hearing motions during that time anyway. If he decides he does want to have a hearing I will let you all know and I'll make sure it does not interfere with your trip.

Sincerely,  
Brook

Brooklyn A. Burroughs  
Law Clerk to The Honorable J.C. Nicholson, Jr.  
Circuit Court Judge  
100 Broad Street  
Charleston, South Carolina 29401  
Tel: (843) 958-5047  
[jnicholsonlc@sccourts.org](mailto:jnicholsonlc@sccourts.org)

From: [BertCone@aol.com](mailto:BertCone@aol.com) [<mailto:BertCone@aol.com>]

Sent: Wednesday, March 02, 2016 8:31 AM

To: Nicholson, J. C. Law Clerk (Brooklyn A. Burroughs); Nicholson, J. C.

Cc: [alex@apostoloulaw.net](mailto:alex@apostoloulaw.net); [afleming@barnwell-whaley.com](mailto:afleming@barnwell-whaley.com); [bertcone@aol.com](mailto:bertcone@aol.com)  
Subject: Re: Mikell v MUSC; C/A No.: 2012-CP-10-7275

Dear Brook,

If Judge Nicholson wishes to conduct another hearing, I respectfully request protection from March 14 - 24, 2016 in order to go on a long planned trip to South Asia.

Please let me know if this presents a problem.

Best regards,

Rob Ransom  
Leventis & Ransom  
Columbia, SC  
803-765-2383  
[bertcone@aol.com](mailto:bertcone@aol.com)<<mailto:bertcone@aol.com>>

In a message dated 3/1/2016 6:10:38 P.M. Eastern Standard Time,  
[JNicholsonLC@sccourts.org](mailto:JNicholsonLC@sccourts.org)<<mailto:JNicholsonLC@sccourts.org>> writes:  
Received. Thank you. I will update you all when Judge Nicholson has a chance to review everything.

Sincerely,  
Brook

Brooklyn A. Burroughs  
Law Clerk to The Honorable J.C. Nicholson, Jr.  
Circuit Court Judge  
100 Broad Street  
Charleston, South Carolina 29401  
Tel: (843) 958-5047  
[jnicholsonlc@sccourts.org](mailto:jnicholsonlc@sccourts.org)<<mailto:jnicholsonlc@sccourts.org>>

From: Julia Childers [<mailto:jchilders@barnwell-whaley.com>]  
Sent: Tuesday, March 01, 2016 5:12 PM  
To: Nicholson, J. C. Law Clerk (Brooklyn A. Burroughs); Nicholson, J. C.  
Cc: [bertcone@aol.com](mailto:bertcone@aol.com)<<mailto:bertcone@aol.com>>;  
[alex@apostoloulaw.net](mailto:alex@apostoloulaw.net)<<mailto:alex@apostoloulaw.net>>; Alissa Fleming; Deborah Tolle  
Subject: Mikell v MUSC; C/A No.: 2012-CP-10-7275

Dear Judge Nicholson,

Attached please find a letter from Dawes Cooke and Alissa Fleming regarding the above-referenced matter. By copy of this letter to them, we are notifying counsel for the Plaintiff of our communication with the Court and providing a copy of the attachment to them.

Sincerely,  
Julia Childers, Legal Assistant to  
Alissa D. Fleming, Esquire

JULIA CHILDERS

BARNWELL WHALEY PATTERSON & HELMS, LLC

288 Meeting Street | Charleston SC 29401 | 843.577.7700 | 843.329.5328 (D)

[jchilders@barnwell-whaley.com](mailto:jchilders@barnwell-whaley.com) <mip://0aa73ca0/jchilders@barnwell-whaley.com%20> | Firm

Website <[https://urldefense.proofpoint.com/v2/url?u=http-3A\\_\\_www.barnwell-](https://urldefense.proofpoint.com/v2/url?u=http-3A__www.barnwell-2Dwhaley.com_&d=CwMF-)

[2Dwhaley.com\\_&d=CwMF-](https://urldefense.proofpoint.com/v2/url?u=http-3A__www.barnwell-2Dwhaley.com_&d=CwMF-)

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Twitter <[https://urldefense.proofpoint.com/v2/url?u=https-3A\\_\\_twitter.com\\_search-3Fq-](https://urldefense.proofpoint.com/v2/url?u=https-3A__twitter.com_search-3Fq-3Dbarnwellwhaley-26src-3Dtypd&d=CwMF-)

[3Dbarnwellwhaley-26src-3Dtypd&d=CwMF-](https://urldefense.proofpoint.com/v2/url?u=https-3A__twitter.com_search-3Fq-3Dbarnwellwhaley-26src-3Dtypd&d=CwMF-)

[g&c=YGvVmrQQ6VQOFx3Z93C9uQ&r=KIz8pAlnSjXN\\_AHhY41Eqnwl0v0ou6kKcD6h3nqkmio&m=zPTHEx8IAp97IwsVp7JO8wjjqfwPX\\_y9x5stO7NTI8w&s=29hOXoHIIeU\\_1CI11e\\_OI\\_xg9taWMCJxkL86HjrGl6a0&e=>](https://urldefense.proofpoint.com/v2/url?u=https-3A__twitter.com_search-3Fq-3Dbarnwellwhaley-26src-3Dtypd&d=CwMF-g&c=YGvVmrQQ6VQOFx3Z93C9uQ&r=KIz8pAlnSjXN_AHhY41Eqnwl0v0ou6kKcD6h3nqkmio&m=zPTHEx8IAp97IwsVp7JO8wjjqfwPX_y9x5stO7NTI8w&s=29hOXoHIIeU_1CI11e_OI_xg9taWMCJxkL86HjrGl6a0&e=>)

[Publication1]

#### CONFIDENTIAL

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Alissa Fleming

From: BertCone@aol.com
Sent: Tuesday, March 8, 2016 12:23 PM
To: JNicholsonLC@sccourts.org; JNicholsonJ@sccourts.org
Cc: alex@apostoloulaw.net; Alissa Fleming; bertcone@aol.com
Subject: Re: Mikell v MUSC; C/A No.: 2012-CP-10-7275

Dear Brook,

The short answer is, Yes.

In order to effectively represent my client's interests, there are several witnesses I would very much like to re-depose, including Dr. Guldán, Sheila Scarborough, Pat Aysse, Nurse Zwerner, Dr. Payne, Dr. Nelson and the defense expert, Dr. Berry (in Nashville).

I have not deposed Annette Thompson, but she apparently has detailed knowledge about what it took to fix the software "glitch" during Mr. Mikell's colonoscopy.

I would also like another 30(b)(6) deposition from MUSC to learn more about the scope of this software "glitch" and what the administration was doing to address it.

Best regards,

Rob Ransom
803-765-2383
bertcone@aol.com

In a message dated 3/8/2016 12:09:56 P.M. Eastern Standard Time, JNicholsonLC@sccourts.org writes:

Mr. Ransom,

Do you need to depose anyone else specifically on the issues brought to light by the February 22 deposition? Aside from the Motion for Sanctions, is there anything keeping you from being prepared for trial by the date certain? Judge Nicholson is currently reviewing everything both parties submitted and he has not yet decided if another hearing is necessary on the Motion for Sanctions. I will update you all as soon as any decisions are made.

Sincerely,

Brook

Brooklyn A. Burroughs

Law Clerk to The Honorable J.C. Nicholson, Jr.

Circuit Court Judge

100 Broad Street

Charleston, South Carolina 29401

Tel: (843) 958-5047

jnicholsonlc@sccourts.org

From: BertCone@aol.com [mailto:BertCone@aol.com]

Sent: Thursday, March 03, 2016 10:49 AM

To: Nicholson, J. C. Law Clerk (Brooklyn A. Burroughs); Nicholson, J. C.

Cc: alex@apostoloulaw.net; afleming@barnwell-whaley.com; bertcone@aol.com

Subject: Re: Mikell v MUSC; C/A No.: 2012-CP-10-7275

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Again, thank you for the court's patient consideration of this information.

Best regards,

Rob Ransom

803-765-2383

bertcone@aol.com

In a message dated 3/2/2016 10:31:41 A.M. Eastern Standard Time, JNicholsonLC@sccourts.org writes:

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Brook

Brooklyn A. Burroughs

Law Clerk to The Honorable J.C. Nicholson, Jr.

Circuit Court Judge

100 Broad Street

Charleston, South Carolina 29401

Tel: (843) 958-5047

jnicholsonlc@sccourts.org

From: BertCone@aol.com [<mailto:BertCone@aol.com>]
Sent: Wednesday, March 02, 2016 8:31 AM
To: Nicholson, J. C. Law Clerk (Brooklyn A. Burroughs); Nicholson, J. C.
Cc: alex@apostoloulaw.net; afleming@barnwell-whaley.com; bertcone@aol.com
Subject: Re: Mikeil v MUSC; C/A No.: 2012-CP-10-7275

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Best regards,

Rob Ransom

Leventis & Ransom

Columbia, SC

803-765-2383

bertcone@aol.com

In a message dated 3/1/2016 6:10:38 P.M. Eastern Standard Time, JNicholsonLC@sccourts.org writes:

Received. Thank you. I will update you all when Judge Nicholson has a chance to review everything.

Sincerely,

Brook

Brooklyn A. Burroughs

Law Clerk to The Honorable J.C. Nicholson, Jr.

Circuit Court Judge

100 Broad Street

Charleston, South Carolina 29401

Tel: (843) 958-5047

jnicholsonlc@sccourts.org

From: Julia Childers [<mailto:jchilders@barnwell-whaley.com>]

Sent: Tuesday, March 01, 2016 5:12 PM

To: Nicholson, J. C. Law Clerk (Brooklyn A. Burroughs); Nicholson, J. C.

Cc: bertcone@aol.com; alex@apostoloulaw.net; Alissa Fleming; Deborah Tolle

Subject: Mikell v MUSC; C/A No.: 2012-CP-10-7275

Dear Judge Nicholson,

Attached please find a letter from Dawes Cooke and Alissa Fleming regarding the above-referenced matter. By copy of this letter to them,

we are notifying counsel for the Plaintiff of our communication with the Court and providing a copy of the attachment to them.

Sincerely,

Julia Childers, Legal Assistant to

Alissa D. Fleming, Esquire

JULIA CHILDERS

BARNWELL WHALEY PATTERSON & HELMS, LLC

288 Meeting Street | Charleston SC 29401 | 843.577.7700 | 843.329.5328 (D)

jchilders@barnwell-whaley.com | [Firm Website](#) | [Twitter](#)



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## **Alissa Fleming**

---

**From:** Nicholson, J. C. Law Clerk (Brooklyn A. Burroughs) <JNicholsonLC@sccourts.org>  
**Sent:** Tuesday, March 8, 2016 12:10 PM  
**To:** BertCone@aol.com; Nicholson, J. C.  
**Cc:** alex@apostoloulaw.net; Alissa Fleming  
**Subject:** RE: Mikell v MUSC; C/A No.: 2012-CP-10-7275

Mr. Ransom,

Do you need to depose anyone else specifically on the issues brought to light by the February 22 deposition? Aside from the Motion for Sanctions, is there anything keeping you from being prepared for trial by the date certain? Judge Nicholson is currently reviewing everything both parties submitted and he has not yet decided if another hearing is necessary on the Motion for Sanctions. I will update you all as soon as any decisions are made.

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Circuit Court Judge  
100 Broad Street  
Charleston, South Carolina 29401  
Tel: (843) 958-5047  
jnicholsonlc@sccourts.org

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**From:** BertCone@aol.com [mailto:BertCone@aol.com]  
**Sent:** Thursday, March 03, 2016 10:49 AM  
**To:** Nicholson, J. C. Law Clerk (Brooklyn A. Burroughs); Nicholson, J. C.  
**Cc:** alex@apostoloulaw.net; afleming@barnwell-whaley.com; bertcone@aol.com  
**Subject:** Re: Mikell v MUSC; C/A No.: 2012-CP-10-7275

Dear Brook,

I apologize for having to make one last submission on the Plaintiff's Motion for Sanctions, but in order to complete the record, I need to provide the attached transcript of the deposition I obtained from Donna Embry, CRNA on February 22, 2016.

Among other things, Nurse Embry testified:

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Again, thank you for the court's patient consideration of this information.

Best regards,

Rob Ransom  
803-765-2383  
[bertcone@aol.com](mailto:bertcone@aol.com)

In a message dated 3/2/2016 10:31:41 A.M. Eastern Standard Time, [JNicholsonLC@sccourts.org](mailto:JNicholsonLC@sccourts.org) writes:

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**Sent:** Wednesday, March 02, 2016 8:31 AM

**To:** Nicholson, J. C. Law Clerk (Brooklyn A. Burroughs); Nicholson, J. C.

**Cc:** [alex@apostoloulaw.net](mailto:alex@apostoloulaw.net); [afleming@barnwell-whaley.com](mailto:afleming@barnwell-whaley.com); [bertcone@aol.com](mailto:bertcone@aol.com)

**Subject:** Re: Mikell v MUSC; C/A No.: 2012-CP-10-7275

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Leventis & Ransom

Columbia, SC

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[jnicholsonlc@sccourts.org](mailto:jnicholsonlc@sccourts.org)

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**To:** Nicholson, J. C. Law Clerk (Brooklyn A. Burroughs); Nicholson, J. C.  
**Cc:** [bertcone@aol.com](mailto:bertcone@aol.com); [alex@apostoloulaw.net](mailto:alex@apostoloulaw.net); Alissa Fleming; Deborah Tolle  
**Subject:** Mikell v MUSC; C/A No.: 2012-CP-10-7275

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Alissa D. Fleming, Esquire

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Alissa Fleming

From: Rob Ransom <bertcone@aol.com>
Sent: Thursday, March 17, 2016 9:41 PM
To: Nicholson, J. C. Law Clerk (Brooklyn A. Burroughs)
Cc: Nicholson, J. C.; alex@apostoloulaw.net; Alissa Fleming; Rob Ransom
Subject: Re: Mikell v MUSC; C/A No.: 2012-CP-10-7275

Brook,

Regrettably, I'm in Jamshedpur, India until March 25, so I cannot attend to this until my return.

I apologize for the inconvenience and appreciate the court's consideration at this time.

Rob Ransom
Leventis & Ransom
803-765-2383
Bertcone@aol.com

On Mar 18, 2016, at 1:18 AM, Nicholson, J. C. Law Clerk (Brooklyn A. Burroughs)
<JNicholsonLC@sccourts.org> wrote:

Mr. Ransom,

If you can send the proposed order by noon tomorrow, that would be ideal as I know you all have trial scheduled a month from now. If you can't have it ready by then, we will prepare and file the order by tomorrow.

Brook

Brooklyn A. Burroughs
Law Clerk to The Honorable J.C. Nicholson, Jr.
Circuit Court Judge
100 Broad Street
Charleston, South Carolina 29401
Tel: (843) 958-5047
jnicholsonlc@sccourts.org

From: Nicholson, J. C. Law Clerk (Brooklyn A. Burroughs)
Sent: Thursday, March 17, 2016 3:37 PM
To: 'BertCone@aol.com'; Nicholson, J. C.
Cc: alex@apostoloulaw.net; afleming@barnwell-whaley.com
Subject: RE: Mikell v MUSC; C/A No.: 2012-CP-10-7275

All,

Here is the latest update on this matter:

1. Judge Nicholson has decided the redacted information Mr. Ransom sent for in camera review is privileged and it will remain sealed.

2. Because there have been multiple hearings already, Judge Nicholson does not wish to have another hearing on the motion for sanctions at this time.
3. The motion for sanctions is partially granted. Mr. Ransom, you have requested to depose 8 people in light of the newly discovered information. You may pick 4 of those people to be deposed at the expense of MUSC. Judge Nicholson will order the payment of attorney's fees thus far for the relative motions to compel and motion for sanctions. MUSC is subject to additional sanctions if Judge Nicholson sees fit once the depositions have taken place.

Mr. Ransom, please submit a proposed order including the above terms. You will need to modify/supplement your affidavit for attorney's fees once this issue is fully resolved.

If anyone has questions, I am available to help. Have a Happy St. Patrick's Day.

Kind regards,

Brook

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Circuit Court Judge
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Charleston, South Carolina 29401
Tel: (843) 958-5047
jnicholsonlc@sccourts.org

From: BertCone@aol.com [mailto:BertCone@aol.com]
Sent: Tuesday, March 08, 2016 12:23 PM
To: Nicholson, J. C. Law Clerk (Brooklyn A. Burroughs); Nicholson, J. C.
Cc: alex@apostoloulaw.net; afleming@barnwell-whaley.com; bertcone@aol.com
Subject: Re: Mikell v MUSC; C/A No.: 2012-CP-10-7275

Dear Brook,

The short answer is, Yes.

In order to effectively represent my client's interests, there are several witnesses I would very much like to re-depose, including Dr. Guldán, Sheila Scarborough, Pat Aysse, Nurse Zwermer, Dr. Payne, Dr. Nelson and the defense expert, Dr. Berry (in Nashville).

I have not deposed Annette Thompson, but she apparently has detailed knowledge about what it took to fix the software "glitch" during Mr. Mikell's colonoscopy.

I would also like another 30(b)(6) deposition from MUSC to learn more about the scope of this software "glitch" and what the administration was doing to address it.

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803-765-2383
bertcone@aol.com

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<image001.jpg>

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## Alissa Fleming

---

**From:** M. Dawes Cooke  
**Sent:** Thursday, March 17, 2016 7:00 PM  
**To:** JNicholsonLC@sccourts.org  
**Cc:** alex@apostoloulaw.net; Deborah Tolle; Alissa Fleming; BertCone@aol.com  
**Subject:** Re: Mikell v MUSC; C/A No.: 2012-CP-10-7275  
**Attachments:** image001.jpg

Brook, Alissa forwarded this to me. Mr. Ransom submitted a Declaration on February 22 and a letter on February 24. These were ostensibly in response to Judge Nicholson's questions of January 26, but they made some very disturbing claims that MUSC, Ms. Fleming, and I have deliberately obstructed discovery and falsified discovery responses. We requested a hearing and an opportunity to respond to these claims. We have worked very hard to prepare a detailed and accurate written response. We would have submitted it by now, but I have been immersed in preparing for a trial that is set to begin on Monday. We still very urgently request an opportunity to respond to these horrific allegations, because they are simply not true.

We appreciate the need for this case to move forward to trial. I would respectfully ask that Judge Nicholson consider allowing us to proceed with the depositions of the four people that Mr. Ransom selects and allow Mr. Ransom to submit his fee petition, but to hold in abeyance the imposition of sanctions until you have our response. We requested a hearing due to the gravity of Mr. Ransom's accusations, but if Judge Nicholson will not hear us we would ask that he at least receive our written response.

I regret that you and Judge Nicholson have had to spend the time on this that you have on this matter. It is unlike anything I can recall having experienced in almost thirty-five years of practice.

**M. DAWES COOKE, JR.**  
**BARNWELL WHALEY PATTERSON & HELMS, LLC**  
288 Meeting Street | Charleston SC 29401 | 843.577.7700  
[mdc@barnwell-whaley.com](mailto:mdc@barnwell-whaley.com) | [Firm Website](#) | [Bio](#) | [vCard](#)



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Circuit Court Judge

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Brook

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Law Clerk to The Honorable J.C. Nicholson, Jr.

Circuit Court Judge

100 Broad Street

Charleston, South Carolina 29401

Tel: (843) 958-5047

[jnicholsonlc@sccourts.org](mailto:jnicholsonlc@sccourts.org)

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**From:** BertCone@aol.com [mailto:BertCone@aol.com]

**Sent:** Wednesday, March 02, 2016 8:31 AM

**To:** Nicholson, J. C. Law Clerk (Brooklyn A. Burroughs); Nicholson, J. C.

**Cc:** alex@apostoloulaw.net; afleming@barnwell-whaley.com; bertcone@aol.com

**Subject:** Re: Mikell v MUSC; C/A No.: 2012-CP-10-7275

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Leventis & Ransom

Columbia, SC



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**From:** Julia Childers [<mailto:jchilders@barnwell-whaley.com>]

**Sent:** Tuesday, March 01, 2016 5:12 PM

**To:** Nicholson, J. C. Law Clerk (Brooklyn A. Burroughs); Nicholson, J. C.

**Cc:** [bertcone@aol.com](mailto:bertcone@aol.com); [alex@apostoloulaw.net](mailto:alex@apostoloulaw.net); Alissa Fleming; Deborah Tolle

**Subject:** Mikell v MUSC; C/A No.: 2012-CP-10-7275

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Julia Childers, Legal Assistant to

Alissa D. Fleming, Esquire

**JULIA CHILDERS**

**BARNWELL WHALEY PATTERSON & HELMS, LLC**

288 Meeting Street | Charleston SC 29401 | 843.577.7700 | 843.329.5328 (D)

[jchilders@barnwell-whaley.com](mailto:jchilders@barnwell-whaley.com) | [Firm Website](#) | [Twitter](#)



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Alissa Fleming

From: Alissa Fleming
Sent: Thursday, March 17, 2016 3:55 PM
To: Nicholson, J. C. Law Clerk (Brooklyn A. Burroughs); BertCone@aol.com; Nicholson, J. C.
Cc: alex@apostoloulaw.net; M. Dawes Cooke; Deborah Tolle
Subject: RE: Mikell v MUSC; C/A No.: 2012-CP-10-7275

Brook:

We respectfully requested a supplemental submission for Judge Nicholson's consideration prior to his ruling. Dawes and I are working to finalize and submit it today. We received your email regarding Judge Nicholson's ruling before having the opportunity to respond. We would like the opportunity to submit it for Judge Nicholson's consideration.

Thank you again,
Alissa

From: Nicholson, J. C. Law Clerk (Brooklyn A. Burroughs) [mailto:JNicholsonLC@sccourts.org]
Sent: Thursday, March 17, 2016 3:49 PM
To: BertCone@aol.com; Nicholson, J. C.
Cc: alex@apostoloulaw.net; Alissa Fleming
Subject: RE: Mikell v MUSC; C/A No.: 2012-CP-10-7275

Mr. Ransom,

If you can send the proposed order by noon tomorrow, that would be ideal as I know you all have trial scheduled a month from now. If you can't have it ready by then, we will prepare and file the order by tomorrow.

Brook

Brooklyn A. Burroughs
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Circuit Court Judge
100 Broad Street
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jnicholsonlc@sccourts.org

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Mr. Ransom, please submit a proposed order including the above terms. You will need to modify/ supplement your affidavit for attorney's fees once this issue is fully resolved.

If anyone has questions, I am available to help. Have a Happy St. Patrick's Day.

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Sent: Thursday, March 03, 2016 10:49 AM

To: Nicholson, J. C. Law Clerk (Brooklyn A. Burroughs); Nicholson, J. C.

Cc: alex@apostoloulaw.net; afleming@barnwell-whaley.com; bertcone@aol.com

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Dear Brook,

I apologize for having to make one last submission on the Plaintiff's Motion for Sanctions, but in order to complete the record, I need to provide the attached transcript of the deposition I obtained from Donna Embry, CRNA on February 22, 2016.

Among other things, Nurse Embry testified:

1. that the empty boxes in the anesthesia record were caused by a problem with the monitors and the anesthesia machine not communicating with the PICIS software. See, pages 26 - 31.
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5. Nurse Embry explained why she had not mentioned the software problem or her use of the Mayday card at her first deposition at pages 214 - 218.

If any of this information had been supplied at or near the time of Nurse Embry's first deposition (Aug 26, 2014), my client and I would have had almost 19 months to develop these issues with any number of other witnesses prior to trial. Instead, this information was not revealed until February 22, 2016, less than two months prior to the April 18, 2016 date certain trial date and long after important witnesses were already deposed.

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## Alissa Fleming

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To: Nicholson, J. C. Law Clerk (Brooklyn A. Burroughs); Nicholson, J. C.
Cc: alex@apostoloulaw.net; afleming@barnwell-whaley.com; bertcone@aol.com
Subject: Re: Mikell v MUSC; C/A No.: 2012-CP-10-7275

Dear Brook,

I apologize for having to make one last submission on the Plaintiff's Motion for Sanctions, but in order to complete the record, I need to provide the attached transcript of the deposition I obtained from Donna Embry, CRNA on February 22, 2016.

Among other things, Nurse Embry testified:

1. that the empty boxes in the anesthesia record were caused by a problem with the monitors and the anesthesia machine not communicating with the PICIS software. See, pages 26 - 31.
2. this was a well-know problem with the PICIS software which had happened to Nurse Embry as many as ten (10) other times and which had been discussed by MUSC at various department meetings. See, pages 28, 38 - 39, 48, 166 - 167 and 208.
3. it was Nurse Embry's understanding, based on prior instances when the problem occurred, that a technician would fix the problem, recapture missing data from a storage memory, and use that data to repopulate the patient's chart so that no data would be missing. See, pages 34 - 37 and 95 - 108.
4. in the late afternoon following Mr. Mikell's procedure, Nurse Embry used the Mayday card or code sheet, which she found in his hard copy hospital chart, to complete the electronic anesthesia record. See, pages 98 - 111.
5. Nurse Embry explained why she had not mentioned the software problem or her use of the Mayday card at her first deposition at pages 214 - 218.

If any of this information had been supplied at or near the time of Nurse Embry's first deposition (Aug 26, 2014), my client and I would have had almost 19 months to develop these issues with any number of other witnesses prior to trial. Instead, this information was not revealed until February 22, 2016, less than two months prior to the April 18, 2016 date certain trial date and long after important witnesses were already deposed.

Again, thank you for the court's patient consideration of this information.

Best regards,

Rob Ransom

803-765-2383

bertcone@aol.com

In a message dated 3/2/2016 10:31:41 A.M. Eastern Standard Time, JNicholsonLC@sccourts.org writes:

That will not be a problem since Judge Nicholson is not hearing motions during that time anyway. If he decides he does want to have a hearing I will let you all know and I'll make sure it does not interfere with your trip.

Sincerely,

Brook

Brooklyn A. Burroughs

Law Clerk to The Honorable J.C. Nicholson, Jr.

Circuit Court Judge

100 Broad Street

Charleston, South Carolina 29401

Tel: (843) 958-5047

jnicholsonlc@sccourts.org

From: BertCone@aol.com [<mailto:BertCone@aol.com>]

Sent: Wednesday, March 02, 2016 8:31 AM

To: Nicholson, J. C. Law Clerk (Brooklyn A. Burroughs); Nicholson, J. C.

Cc: alex@apostoloulaw.net; afleming@barnwell-whaley.com; bertcone@aol.com

Subject: Re: Mikell v MUSC; C/A No.: 2012-CP-10-7275

Dear Brook,

If Judge Nicholson wishes to conduct another hearing, I respectfully request protection from March 14 - 24, 2016 in order to go on a long planned trip to South Asia.

Please let me know if this presents a problem.

Best regards,

Rob Ransom

Leventis & Ransom

Columbia, SC

803-765-2383

bertcone@aol.com

In a message dated 3/1/2016 6:10:38 P.M. Eastern Standard Time, JNicholsonLC@sccourts.org writes:

Received. Thank you. I will update you all when Judge Nicholson has a chance to review everything.

Sincerely,

Brook

Brooklyn A. Burroughs

Law Clerk to The Honorable J.C. Nicholson, Jr.

Circuit Court Judge

100 Broad Street

Charleston, South Carolina 29401

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jnicholsonlc@sccourts.org

From: Julia Childers [<mailto:jchilders@barnwell-whaley.com>]

Sent: Tuesday, March 01, 2016 5:12 PM

To: Nicholson, J. C. Law Clerk (Brooklyn A. Burroughs); Nicholson, J. C.

Cc: bertcone@aol.com; alex@apostoloulaw.net; Alissa Fleming; Deborah Tolle

Subject: Mikell v MUSC; C/A No.: 2012-CP-10-7275

Dear Judge Nicholson,

Attached please find a letter from Dawes Cooke and Alissa Fleming regarding the above-referenced matter. By copy of this letter to them,

we are notifying counsel for the Plaintiff of our communication with the Court and providing a copy of the attachment to them.

Sincerely,

Julia Childers, Legal Assistant to

Alissa D. Fleming, Esquire

JULIA CHILDERS

BARNWELL WHALEY PATTERSON & HELMS, LLC

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M. Dawes Cooke, Jr., Esquire  
Alissa D. Fleming, Esquire

March 18, 2016

**VIA EMAIL ONLY**

The Honorable J.C. Nicholson, Jr.  
Circuit Court Judge  
100 Broad Street  
Charleston, South Carolina 29401  
[jnicholsonlc@sccourts.org](mailto:jnicholsonlc@sccourts.org)  
[jnicholsonj@sccourts.org](mailto:jnicholsonj@sccourts.org)

RE: Shon Turner, as Personal Representative of the Estate of Charles Mikell, deceased,  
vs. Medical University of South Carolina  
C/A No.: 2012-CP-10-7275  
BWPH File No.: 1.554

Dear Judge Nicholson:

Please allow this letter to provide you with a supplemental response to Mr. Ransom's correspondence dated February 22, 2016 and February 24, 2016. We are deeply troubled by the serious allegations that he makes against both our client and us with regard to falsification of information. We feel that this response is necessary to correct important factual inaccuracies in the information conveyed by Mr. Ransom and to help provide further clarification regarding the issues before Your Honor in the Motions for Sanctions. These allegations are serious enough that we very respectfully request a hearing before Your Honor takes any action on them.

Mr. Ransom's statements and our responses follow:

1. Your Honor's first question to Mr. Ransom was: "Specifically, how critical is the information you have struggled to receive, but eventually received, to your causes of action?" Mr. Ransom stated: "The occurrence of a software 'glitch' during Mr. Mikell's colonoscopy was not disclosed to Plaintiff until the September 22, 2015 deposition of Dr. Reeves."

M. Dawes Cooke, Jr.  
B.C. Killough\*  
Randell C. Stoney, Jr.  
Phillip S. Ferderigos  
K. Michael Barfield  
David S. Cox

William C. Helms, III\*  
\* Registered patent attorney  
\* Retired

Ernest B. Lipscomb, III\*  
J. Gail Rahn  
John A. Jones  
Alissa D. Fleming  
Barbara J. Wagner, Ph.D.

John W. Fletcher  
Jeremy E. Bowers  
D. Summers Clarke, II  
Jeffrey M. Bogdan  
Bradley B. Banias  
Guy M. Dabbs, IV

This response is misleading because it implies that MUSC failed to timely respond to a discovery request concerning a "software glitch", which is not true. The fact that Mr. Mikell had to be transferred in the PICIS system by a PICIS IT support person or Clinical Analyst named Annette Thompson, RN is indicated on the PICIS audit log that MUSC produced on February 27, 2015. Mr. Ransom never asked any witness, including Ms. Embrey, about the blank boxes in the "Real Time Variables" section of the Anesthesia Record, until questioning MUSC's expert in June of 2015.

As explained previously, Ms. Thompson responded to a service request made by Donna Embrey, CRNA, on the morning of October 1, 2010. In response to the service request, Ms. Thompson accessed the PICIS electronic medical record system at approximately 7:46 a.m. and used the admission, discharge, transfer ("ADT") function to transfer Mr. Mikell in the electronic record. This allowed Nurse Embrey to open the PICIS Anesthesia/PACU Record for Charles Mikell on the computer workstation located in the procedure room and continue the session in the electronic medical record system. The ADT function was a built-in safety function that prohibited two users from documenting in the PICIS electronic medical record at the same time. Thus, for a provider to document in PICIS using the computer workstation located in the procedure room, the patient had to be closed out of the PICIS system after leaving one location or computer workstation so that the record could be unlocked at another computer workstation. Mr. Mikell had not been closed out of the PICIS system prior to being transported from the pre-procedure holding area to the procedure room. This is shown, in part, by the notation at 7:35 a.m. by Nurse Embrey in the Anesthesia/PACU Record and on the "first audit trail" stating "Transfer to:." Some clinical data was not recorded in the Real Time Variables or Real Time Data Graph sections of the Anesthesia/PACU Record for the times of 7:35 a.m. through 7:47 a.m. because Mr. Mikell's record was not open in the PICIS system during that time.

In addition, Mr. Ransom requested designees pursuant to Rule 30(b)(6) On January 22, 2015, MUSC named five witnesses to testify to Mr. Ransom's inquiries, about the anesthesia machine and PICIS. Excerpts from MUSC's January 22, 2015 letter are below. The specific inquiries from the Plaintiff are in quotations.

- "a witness who can testify about how the anesthesia machine works and how its data is displayed, captured, recorded, stored, and printed out."

In response, MUSC identified Pat Aysse, Desiree Tillman, and Lucinda Banks to testify regarding how the information on the anesthesia machine is displayed, captured, recorded, stored and printed. Any of these witnesses could have explained exactly what Annette Thompson, RN, described in her affidavit dated December 7, 2015. Mr. Ransom chose not to depose these witnesses when they were disclosed to him in response to his request in January of 2015.

With regard to the section of the Anesthesia Record entitled "Real Time Graph", several witnesses, including Donna Embrey, CRNA, told Mr. Ransom that they could not explain why the graph printed in different ways on different copies of the record. For instance, the graph on the "Real Time Graph" section of the record has the same shape on the 15 minute interval graph as on the 1 minute interval graph, but with different times. The witnesses testified that they thought this was because the graph became distorted when printed on different time interval versions of the record.

Regardless of the appearance of the graph, John Fisher, the Program Manager, Enterprise Architecture Development, Office of the Chief Information Officer (OCIO), and Brett Seyfried, Director, Clinical Systems at MUSC, told Mr. Ransom that there is no vital sign data in the PICIS database for any times prior to 7:48 a.m. This includes the graph.

Plaintiff did not specifically request information about who logged on to the anesthesia record until November 19, 2014. In response, MUSC produced what Mr. Ransom refers to as the "first audit trail." With regard to the "second audit trail" that was produced on September 21, 2015, MUSC produced this after digging deeper into the PICIS software and discovering that it existed.

It is thus very misleading to claim that MUSC failed to disclose a computer "glitch" until September, 2015. Mr. Ransom frequently misunderstands or misinterprets information provided to him and then says that we or MUSC have misled him.

Finally, it should be noted that Mr. Ransom did not answer the Court's very pertinent question as to how critical this information is to his case. He claims emphatically that the information is "critically important" because he has to prove medical malpractice, but he does not explain how the missing information in this inquiry could possibly help him prove his case. No previously missing data that has been recovered helps to establish any part of Plaintiff's malpractice claims.

2. Your Honor's second question to Mr. Ransom was: "[s]pecifically, how critical is the missing information, either unpreserved or destroyed, to your causes of action?" In response, Mr. Ransom stated: "[t]he vital signs portion of the anesthesia record, if not filled with empty boxes, would show what was taking place with Mr. Mikell's blood oxygen and exhaled carbon dioxide levels at time intervals as precise as every (10) ten seconds."

MUSC responds to this as follows: Importantly, blood oxygen saturation levels (SpO2%) and end tidal carbon dioxide (EtCO2) or what Mr. Ransom refers to as "exhaled carbon dioxide", are recorded for approximately 8 minutes before Mr. Mikell developed a junctional heart rhythm at 7:56 a.m. It was the junctional heart rhythm at 7:56 a.m. that precipitated the code or Mayday being called. The oxygen saturation levels and carbon dioxide levels were recorded in the "Real Time Variables" section of the Anesthesia Record beginning at 7:48 a.m. and were recorded every minute thereafter up to and through the time of the Mayday. This was confirmed by John Fisher following the hearing before Your Honor on December 11, 2015.

As previously explained to Mr. Ransom, the "Real Time Data Graph" is distorted in the one minute version of the Anesthesia Record (which is not the standard version). The most accurate version of the graph is contained in the fifteen minute version of the record. The data displayed in "graph" format for each time, for example 7:45 a.m. and 8:00 a.m., represents an average of the oxygen saturation levels over that fifteen minute period of time. The actual numeric value for the oxygen saturation level is recorded every minute in the "Real Time Variables" section beginning at 7:48 a.m. Mr. Ransom's statement about how the data is recorded in the "Real Time Graph" section of the record is not correct. Pat Aysse, RN explained this to him in her deposition on August 24, 2015. In her deposition, Ms. Aysse explained, "The SpO2 information is also down below in the graph, which is the same information or can be the same information as what's captured at the top. Without seeing it in the electronic version, I cannot

more specifically answer your question. I cannot give specific examples. I know that the realtime data graph primarily captures information off the Philips monitor. It was a decision of the anesthesia department not to show the numerical capturing of the data as well, they felt that was redundant, so we captured some things graphically, very much like they did on their paper record, and then we captured some things numerically. The information is the same." She explained further: "I'm going to -- the 15-minute example is where we pull the information and average -- there would be 15 data points, and we ask them to average the best of three closest to them to give us three points within the 15-minute block. The one-minute data point, it is the information that it is."

The "backup anesthesia data" for the Real Time Variables and Real Time Data Graph sections of the record were produced to Mr. Ransom.

3. The fourth question presented by Your Honor was, "Explain how the discovery process has not been proportionate to the issues at hand."

In response to this question, Mr. Ransom indicated that both Donna Embrey and Dr. Nelson were instructed not to answer certain questions at their depositions. The reason they were instructed not to answer certain questions was based on the peer review privilege.

As previously explained, MUSC believed for a very long time that a Mayday card was never completed for Mr. Mikell.

MUSC did not produce the "backup anesthesia data" at the beginning of the case because it was not specifically requested, nor was there any allegation or suspicion that the medical records had been improperly altered or destroyed.

As previously indicated, Ms. Aysse was first identified as a witness in January of 2015, not July of 2015. During Ms. Aysse's deposition on August 24, 2015, she stated that she had made a request to Brett Seyfried in MUSC's IT Department for clarification about the empty boxes in the Real Time Data section of the Anesthesia Record.

Mr. Ransom states that Dr. Reeves, the Chairman of the Department of Anesthesia and Perioperative Medicine at MUSC, was never disclosed as a witness by MUSC. This is incorrect. Dr. Reeves was identified by way of an Affidavit dated December 4, 2013. Dr. Reeves' Affidavit pertained to the issue of peer review. In his deposition dated September 22, 2015, Dr. Reeves testified that he first learned about the issue with the PICIS software approximately three to four days prior to his deposition based on his review of the audit trail and deposition testimony of Pat Aysse, RN.

Mr. Ransom indicates something with regard to a witness named Annette Thompson, RN. Again, Ms. Thompson's name appears on the first audit trail which was produced in January of 2015.

MUSC agrees that the discovery in this case has been enormously disproportionate to the issues at hand. There is simply no evidence that any document or data was deleted or destroyed by MUSC.

In his letter dated February 24, 2016, Mr. Ransom, again, states that Donna Embrey was instructed not to answer certain questions during her August 24, 2014 deposition and that Judge Dennis overruled some of the objections. Ms. Embrey was instructed not to answer certain questions because the questions concerned the peer review process, which is protected from discovery by statute, specifically, S.C. Code Ann § 40-71-10 and 20(A), et seq. and 42 U.S.C. § 299(B)(21). Judge Dennis did not categorically overrule the objections. Rather, his December 9, 2014 Order specifically stated that Plaintiff was permitted to "reconvene the depositions of Dr. Nelson, Dr. Payne and Nurse Embrey for the limited purpose of discovering whether any of them were involved in a medical staff committee investigation into Mr. Mikell's care, including whether the witnesses provided oral or written statements to the committee; *See*, SCRCP 30(j)(3). It is further ORDERED that none of the three witnesses shall be required to disclose the substance or content of any of the information they may have provided to the medical staff committee."

In her deposition dated February 22, 2016, Ms. Embrey did explain that she went back into Mr. Mikell's Anesthesia record on the evening of October 1, 2010 while Mr. Mikell was in the MSICU. She testified that she looked at the code sheet and does not believe that she ever actually took it out of his record – the paper copy of his record. This is discussed on page 110 of her deposition dated February 22, 2016. Ms. Embrey testified that she was not concerned with anything that happened prior to 7:55 a.m., which was when Mr. Mikell became unstable. Ms. Embrey explained that looking at the code sheet enabled her to sync the time that CPR was started. She specifically stated, "That's how I synced when CPR started, *et cetera*." Ms. Embrey also used the code sheet to "make sure of the time stamps on when we started CPR and when we defibrillated and that kind of stuff." She explained that after she reviewed the code sheet, she put the chart back where she obtained it in the MSICU. She testified that she never physically removed the Mayday Card from Mr. Mikell's medical record binder.

With regard to the Real Time Graph section of the Anesthesia Record, Ms. Embrey testified that she does not know why the graph appears to be compressed. She testified that the Graph contained in the fifteen minute record of the chart appeared to be most accurate because it indicated a decrease in Mr. Mikell's oxygen saturation sometime between 7:45 a.m. and 8:00 a.m.

In his letter to Your Honor, Mr. Ransom completely neglects to mention that after the December 11, 2015 hearing before Your Honor, MUSC's IT personnel met with him and explained both sections of the Anesthesia Record. During this meeting, John Fisher and Brett Seyfried explained and reviewed the vital sign data that was extracted from the PICIS database. They confirmed that no vital sign data exists in PICIS prior to 7:47 a.m. for either the Real Time Variables or Real Time Data Graph sections of the Anesthesia Record. Yet, Mr. Ransom continues to distort this information and refuses to accept the explanations provided.

Mr. Ransom spent an inordinate amount of time questioning Donna Embrey about the graphic portion of the record. She repeatedly told him that he needed to ask IT about the data graph and the information in the graph.

Mr. Ransom's portrayal of the PICIS software and what he calls a "glitch" is, likewise, disingenuous. What occurred in this case was nothing more than a computer software issue that required

troubleshooting. Nothing malfunctioned. IT Support was contacted on that day and the problem was addressed.

Mr. Ransom simply refuses to accept, as the truth, MUSC's explanation about the Mayday record and that for a very long time, for all of the good reasons previously discussed, we believed one had not been completed. Donna Embrey testified during her first deposition that she did not know whether a Mayday Card had been completed for Mr. Mikell's case. At the time, it was completely reasonable for her to think that because there was not a copy of the Mayday Card in the medical record.

A close analysis of Donna Embrey's first deposition on August 26, 2014 demonstrates that Mr. Ransom never asked her about the blank boxes in the Real Time Variables section of the Anesthesia record from 7:35 a.m. to 7:47 a.m. Yet, now, he accuses of her untruthful responses to questions he never asked.

Finally, we stand by our responses to Plaintiff's Second Discovery Requests; specifically, request number 8. Ms. Embrey admitted that her testimony about software problems related to PICIS was nothing more than a guess and that she had no firsthand knowledge of whether PICIS could retroactively populate data or how long data was stored in the PICIS system. In fact, she stated that she would defer to IT on those issues.

For Mr. Ransom to accuse us of providing misleading discovery responses is concerning. To be certain, MUSC confirmed that it does not maintain information of the number of times "this problem resulted in anesthesia data not being recorded in a patient's anesthesia record" in the ordinary course of business, and, therefore could not provide a response. This response was certified and confirmed by Brett Seyfreid, Director, Clinical Systems, at MUSC. As previously indicated to Mr. Ransom, the function encountered by Donna Embrey, CRNA with regard to being unable to open the patient record in PICIS was a built in safety function that prohibited two users from documenting in the electronic medical record at the same time. This information was obtained directly from the PICIS support team.

We believe that Mr. Ransom has not sought to depose any of the IT personnel because he knows that his arguments about lost or deleted data are incorrect. Finally, he maintains that the "Mayday Card appears to be the only accurate, contemporaneous record of what happened to Mr. Mikell." Again and reinforced by Donna Embrey, nothing in the Mayday Card reflects anything that happened before the Code was called. Plaintiff alleges no malpractice after the Code was called.

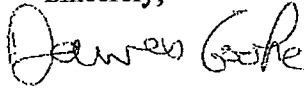
We respectfully urge Your Honor to consider the possibility that Plaintiff is exploiting innocent errors in witnesses' memories about the Mayday card and an artifact in the way data is graphically displayed in the one-minute-interval version of the electronic record, to paint MUSC and its counsel in an unfairly sinister light. This, and no intentional obfuscation by MUSC or its counsel, has caused a hugely expensive detour from the course of preparing this straightforward medical malpractice case for settlement or trial.

A copy of Ms. Embrey's complete deposition dated February 22, 2016 and August 26, 2016 is enclosed as are MUSC's responses to Plaintiff's Second Discovery Requests dated December 2, 2015.

The Honorable J.C. Nicholson, Jr.  
March 18, 2016  
Page 7

We understand and appreciate that Your Honor does not want yet another hearing in this matter. We believe, however, that the Court would discover the truth of this matter by closely questioning the attorneys and key MUSC personnel.

Sincerely,



M. Dawes Cooke, Jr.  
Alissa D. Fleming

MDCjr/ADF/jgc  
Enclosures

cc: **VIA EMAIL AND U.S. MAIL**  
Robert B. Ransom, Esquire  
Alex Apostolou, Esquire

## **Julia Childers**

---

**From:** Nicholson, J. C. Law Clerk (Brooklyn A. Burroughs) <JNicholsonLC@sccourts.org>  
**Sent:** Friday, March 18, 2016 11:12 AM  
**To:** M. Dawes Cooke  
**Cc:** alex@apostoloulaw.net; Deborah Tolle; Alissa Fleming; BertCone@aol.com  
**Subject:** RE: Mikell v MUSC; C/A No.: 2012-CP-10-7275

I am going to convey all of this to Judge Nicholson and I will get back to you as soon as possible. In the meantime no order will be issued since Mr. Ransom is out of town and you have information you would like to submit to Judge Nicholson. If he decides he wants a hearing or wants an order filed I will let you all know. A hearing can't be scheduled until the week of the 28<sup>th</sup> and you all are set for trial soon. I will update everyone with what Judge Nicholson decides.

Kind regards,  
Brook

### **Brooklyn A. Burroughs**

Law Clerk to The Honorable J.C. Nicholson, Jr.  
Circuit Court Judge  
100 Broad Street  
Charleston, South Carolina 29401  
Tel: (843) 958-5047  
jnicholsonlc@sccourts.org

---

**From:** M. Dawes Cooke [mailto:mdc@barnwell-whaley.com]  
**Sent:** Thursday, March 17, 2016 7:00 PM  
**To:** Nicholson, J. C. Law Clerk (Brooklyn A. Burroughs)  
**Cc:** alex@apostoloulaw.net; Deborah Tolle; Alissa Fleming; BertCone@aol.com  
**Subject:** Re: Mikell v MUSC; C/A No.: 2012-CP-10-7275

Brook, Alissa forwarded this to me. Mr. Ransom submitted a Declaration on February 22 and a letter on February 24. These were ostensibly in response to Judge Nicholson's questions of January 26, but they made some very disturbing claims that MUSC, Ms. Fleming, and I have deliberately obstructed discovery and falsified discovery responses. We requested a hearing and an opportunity to respond to these claims. We have worked very hard to prepare a detailed and accurate written response. We would have submitted it by now, but I have been immersed in preparing for a trial that is set to begin on Monday. We still very urgently request an opportunity to respond to these horrific allegations, because they are simply not true.

We appreciate the need for this case to move forward to trial. I would respectfully ask that Judge Nicholson consider allowing us to proceed with the depositions of the four people that Mr. Ransom selects and allow Mr. Ransom to submit his fee petition, but to hold in abeyance the imposition of sanctions until you have our response. We requested a hearing due to the gravity of Mr. Ransom's accusations, but if Judge Nicholson will not hear us we would ask that he at least receive our written response.

I regret that you and Judge Nicholson have had to spend the time on this that you have on this matter. It is unlike anything I can recall having experienced in almost thirty-five years of practice.

**M. DAWES COOKE, JR.**  
**BARNWELL WHALEY PATTERSON & HELMS, LLC**





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---

**From:** Nicholson, J. C. Law Clerk (Brooklyn A. Burroughs) [<mailto:JNicholsonLC@sccourts.org>]  
**Sent:** Thursday, March 17, 2016 3:37 PM  
**To:** [BertCone@aol.com](mailto:BertCone@aol.com); Nicholson, J. C.  
**Cc:** [alex@apostoloulaw.net](mailto:alex@apostoloulaw.net); Alissa Fleming  
**Subject:** RE: Mikell v MUSC; C/A No.: 2012-CP-10-7275

All,

Here is the latest update on this matter:

1. Judge Nicholson has decided the redacted information Mr. Ransom sent for in camera review is privileged and it will remain sealed.
2. Because there have been multiple hearings already, Judge Nicholson does not wish to have another hearing on the motion for sanctions at this time.
3. The motion for sanctions is partially granted. Mr. Ransom, you have requested to depose 8 people in light of the newly discovered information. You may pick 4 of those people to be deposed at the expense of MUSC. Judge Nicholson will order the payment of attorney's fees thus far for the relative motions to compel and motion for sanctions. MUSC is subject to additional sanctions if Judge Nicholson sees fit once the depositions have taken place.

Mr. Ransom, please submit a proposed order including the above terms. You will need to modify/ supplement your affidavit for attorney's fees once this issue is fully resolved.

If anyone has questions, I am available to help. Have a Happy St. Patrick's Day.

Kind regards,

Brook

**Brooklyn A. Burroughs**

Law Clerk to The Honorable J.C. Nicholson, Jr.

Circuit Court Judge

100 Broad Street

Charleston, South Carolina 29401

Tel: (843) 958-5047

[jnicholsonlc@sccourts.org](mailto:jnicholsonlc@sccourts.org)

---

**From:** [BertCone@aol.com](mailto:BertCone@aol.com) [<mailto:BertCone@aol.com>]

**Sent:** Tuesday, March 08, 2016 12:23 PM

**To:** Nicholson, J. C. Law Clerk (Brooklyn A. Burroughs); Nicholson, J. C.

**Cc:** [alex@apostoloulaw.net](mailto:alex@apostoloulaw.net); [afleming@barnwell-whaley.com](mailto:afleming@barnwell-whaley.com); [bertcone@aol.com](mailto:bertcone@aol.com)

**Subject:** Re: Mikell v MUSC; C/A No.: 2012-CP-10-7275

Dear Brook,

The short answer is, Yes.

In order to effectively represent my client's interests, there are several witnesses I would very much like to re-depose, including Dr. Guldán, Sheila Scarborough, Pat Aysse, Nurse Zwermer, Dr. Payne, Dr. Nelson and the defense expert, Dr. Berry (in Nashville).

I have not deposed Annette Thompson, but she apparently has detailed knowledge about what it took to fix the software "glitch" during Mr. Mikell's colonoscopy.

I would also like another 30(b)(6) deposition from MUSC to learn more about the scope of this software "glitch" and what the administration was doing to address it.

Best regards,

Rob Ransom

803-765-2383

[bertcone@aol.com](mailto:bertcone@aol.com)

In a message dated 3/8/2016 12:09:56 P.M. Eastern Standard Time, [JNicholsonLC@sccourts.org](mailto:JNicholsonLC@sccourts.org) writes:

Mr. Ransom,

Do you need to depose anyone else specifically on the issues brought to light by the February 22 deposition? Aside from the Motion for Sanctions, is there anything keeping you from being prepared for trial by the date certain? Judge Nicholson is currently reviewing everything both parties submitted and he has not yet decided if another hearing is necessary on the Motion for Sanctions. I will update you all as soon as any decisions are made.

Sincerely,

Brook

**Brooklyn A. Burroughs**

Law Clerk to The Honorable J.C. Nicholson, Jr.

Circuit Court Judge

100 Broad Street

Charleston, South Carolina 29401

Tel: (843) 958-5047

[jnicholsonlc@sccourts.org](mailto:jnicholsonlc@sccourts.org)

---

**From:** BertCone@aol.com [mailto:BertCone@aol.com]

**Sent:** Thursday, March 03, 2016 10:49 AM

**To:** Nicholson, J. C. Law Clerk (Brooklyn A. Burroughs); Nicholson, J. C.

**Cc:** [alex@apostoloulaw.net](mailto:alex@apostoloulaw.net); [afleming@barnwell-whaley.com](mailto:afleming@barnwell-whaley.com); [bertcone@aol.com](mailto:bertcone@aol.com)

**Subject:** Re: Mikell v MUSC; C/A No.: 2012-CP-10-7275

Dear Brook,

I apologize for having to make one last submission on the Plaintiff's Motion for Sanctions, but in order to complete the record, I need to provide the attached transcript of the deposition I obtained from Donna Embry, CRNA on February 22, 2016.

Among other things, Nurse Embry testified:

1. that the empty boxes in the anesthesia record were caused by a problem with the monitors and the anesthesia machine not communicating with the PICIS software. See, pages 26 - 31.
2. this was a well-know problem with the PICIS software which had happened to Nurse Embry as many as ten (10) other times and which had been discussed by MUSC at various department meetings. See, pages 28, 38 - 39, 48, 166 - 167 and 208.
3. it was Nurse Embry's understanding, based on prior instances when the problem occurred, that a technician would fix the problem, recapture missing data from a storage memory, and use that data to repopulate the patient's chart so that no data would be missing. See, pages 34 - 37 and 95 - 108.

4. in the late afternoon following Mr. Mikell's procedure, Nurse Embry used the Mayday card or code sheet, which she found in his hard copy hospital chart, to complete the electronic anesthesia record. See, pages 98 - 111.

5. Nurse Embry explained why she had not mentioned the software problem or her use of the Mayday card at her first deposition at pages 214 - 218.

If any of this information had been supplied at or near the time of Nurse Embry's first deposition (Aug 26, 2014), my client and I would have had almost 19 months to develop these issues with any number of other witnesses prior to trial. Instead, this information was not revealed until February 22, 2016, less than two months prior to the April 18, 2016 date certain trial date and long after important witnesses were already deposed.

Again, thank you for the court's patient consideration of this information.

Best regards,

Rob Ransom

803-765-2383

[bertcone@aol.com](mailto:bertcone@aol.com)

In a message dated 3/2/2016 10:31:41 A.M. Eastern Standard Time, [JNicholsonLC@sccourts.org](mailto:JNicholsonLC@sccourts.org) writes:

That will not be a problem since Judge Nicholson is not hearing motions during that time anyway. If he decides he does want to have a hearing I will let you all know and I'll make sure it does not interfere with your trip.

Sincerely,

Brook

**Brooklyn A. Burroughs**

Law Clerk to The Honorable J.C. Nicholson, Jr.

Circuit Court Judge

100 Broad Street

Charleston, South Carolina 29401

Tel: (843) 958-5047

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---

**From:** [BertCone@aol.com](mailto:BertCone@aol.com) [<mailto:BertCone@aol.com>]

**Sent:** Wednesday, March 02, 2016 8:31 AM

**To:** Nicholson, J. C. Law Clerk (Brooklyn A. Burroughs); Nicholson, J. C.

**Cc:** [alex@apostoloulaw.net](mailto:alex@apostoloulaw.net); [afleming@barnwell-whaley.com](mailto:afleming@barnwell-whaley.com); [bertcone@aol.com](mailto:bertcone@aol.com)

**Subject:** Re: Mikell v MUSC; C/A No.: 2012-CP-10-7275

Dear Brook,

If Judge Nicholson wishes to conduct another hearing, I respectfully request protection from March 14 - 24, 2016 in order to go on a long planned trip to South Asia.

Please let me know if this presents a problem.

Best regards,

Rob Ransom

Leventis & Ransom

Columbia, SC

803-765-2383

[bertcone@aol.com](mailto:bertcone@aol.com)

In a message dated 3/1/2016 6:10:38 P.M. Eastern Standard Time, [JNicholsonLC@sccourts.org](mailto:JNicholsonLC@sccourts.org) writes:

Received. Thank you. I will update you all when Judge Nicholson has a chance to review everything.

Sincerely,

Brook

**Brooklyn A. Burroughs**

Law Clerk to The Honorable J.C. Nicholson, Jr.

Circuit Court Judge

100 Broad Street

Charleston, South Carolina 29401

Tel: (843) 958-5047

[jnicholsonlc@sccourts.org](mailto:jnicholsonlc@sccourts.org)

---

**From:** Julia Childers [<mailto:jchilders@barnwell-whaley.com>]

**Sent:** Tuesday, March 01, 2016 5:12 PM

**To:** Nicholson, J. C. Law Clerk (Brooklyn A. Burroughs); Nicholson, J. C.

**Cc:** [bertcone@aol.com](mailto:bertcone@aol.com); [alex@apostoloulaw.net](mailto:alex@apostoloulaw.net); Alissa Fleming; Deborah Tolle

**Subject:** Mikell v MUSC; C/A No.: 2012-CP-10-7275

Dear Judge Nicholson,

Attached please find a letter from Dawes Cooke and Alissa Fleming regarding the above-referenced matter. By copy of this letter to them,

we are notifying counsel for the Plaintiff of our communication with the Court and providing a copy of the attachment to them.

Sincerely,

Julia Childers, Legal Assistant to

Alissa D. Fleming, Esquire

**JULIA CHILDERS**

**BARNWELL WHALEY PATTERSON & HELMS, LLC**

288 Meeting Street | Charleston SC 29401 | 843.577.7700 | 843.329.5328 (D)

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James J. Leventis
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Robert B. Ransom
bertcone@aol.com

March 28, 2016

Hon. J.C. Nicholson, Jr.
100 Broad Street, Suite 106
Charleston, SC 29401

VIA EMAIL: jnicholsonlc@sccourts.org

Re: Shon Turner v. MUSC
2012-CP-10-7275

Thank you for the opportunity to respond to Mr. Cooke's letter of March 18, 2016. I would begin by pointing out that Mr. Cooke has had virtually no personal involvement in this case prior to the second hearing on the Plaintiff's Motion for Sanctions. He attended the August 2014 depositions of Dr. Nelson and Nurse Embry, but none of the almost 30 other depositions taken in this case.

Mr. Cooke suggests MUSC did not disclose the software glitch and the email communications prior to Dr. Reeves' September 22, 2015 deposition because Plaintiff's counsel failed to ask the right questions – as though discovery is a game of blind man's bluff where crucial information can be withheld unless opposing counsel already knows it exists and phrases his inquiries precisely.

Let me address the suggestion that Donna Embry was not asked the right questions.

First, whatever the PICIS audit log shows about a computer linkage problem – and the technical entries in this log are hardly self-explanatory – that log was not produced by MUSC until six months after Nurse Embry's August 26, 2014 deposition. Second, beginning at page 27 of her August 26, 2014 deposition, Nurse Embry testified as follows:

- Q How was Mr. Mikell's oxygen saturation being monitored?
A By a finger probe, I believe, which is the modality that we use.
Q Finger probe pulse oximeter?
A That is correct.
Q Was it working correctly in his case?
A As far as I can recall, yes, sir. I do not recall any issues with that.
Q And was the [anesthesia] machine accurately recording his oxygen saturation levels?
A I mean, I don't recall any overt problems with it at the moment.

(Emphasis added.) So the right question was, in fact, put to Nurse Embry quite directly.

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The answer to this direct question was subsequently contradicted by both Dr. Reeves and Nurse Embry when they testified that a software "glitch" or communications "linkage problem" prevented blood oxygen saturation data from being recorded by the anesthesia machine.

Which is to say, the anesthesia machine was not accurately recording Mr. Mikell's oxygen saturation levels.

But perhaps this was a "covert" problem which Nurse Embry simply did not recall when directly asked. So let me examine Mr. Cooke's contention in greater detail with reference to other parts of Nurse Embry's testimony.

Beginning at page 81 of Nurse Embry's August 26, 2014 deposition, there was an extended discussion of the anesthesia record (MUSC Document Control No. 499), which contains the real time variables (empty boxes) and the real time graph.

Nurse Embry was initially asked about a gap in the real time graph, which she answered as follows:

"I do not have an explanation for that as far as why the monitors – no data is coming across."

August 26, 2014 deposition, page 81, lines 19 - 21 (emphasis added). This is certainly an interesting choice of words because Nurse Embry used the very same phrase – "data coming across" – during her February 22, 2016 deposition:

I looked at the screen . . . and noticed that the **data was not coming across** to the chart. **In other words, he wasn't linked.** I think they called it linking the chart. * *

* **[T]here was a problem with the data coming across** to my computer chart.

February 22, 2016 deposition, page 31, lines 2 - 7 and 20 - 22. So at her February 22, 2016 deposition, Nurse Embry was able to remember that "no data was coming across" because Mr. Mikell's chart was not linked. She did not share that same recollection on August 26, 2014:

"I cannot account for that hole in his vital signs. I can't."

August 26, 2014 deposition, page 82, lines 9 - 10 (emphasis added).

"I was trying to account for the lack of data on the record, and nothing really comes to mind."

August 26, 2014 deposition, page 82, line 24 to Page 83, line 1 (emphasis added).

At one point in the August 26, 2014 deposition, a break was taken and upon returning, Nurse Embry sought to clarify her earlier testimony about the gap in the anesthesia data. Beginning on page 91, she postulated that the break in data coming across the real time graph was explained by Mr. Mikell being moved from the colonoscopy procedure room to the post-anesthesia care unit.

This explanation lead to further questioning, culminating in Nurse Embry being asked about the general state of the anesthesia record:

- Q Do you have any explanation for why **none of these things** add up?
A **I don't have an explanation . . . I have no answer for that. . . .**
Q How is it possible that this data is all jumbled up like this?
A **I'm not sure.**
Q Have you ever seen printouts from the anesthesia machine where so many of these data points don't match up? Have you ever seen that before? And when there is gaps in the record?
A **I can't recall.**
Q So this is very unusual, isn't it?
A Again, **I can't recall** seeing something that was inaccurate on so many levels that's put in front of me, I guess.

August 26, 2014 deposition, page 94, line 1 to page 95, line 6 (emphasis added). Counsel then spent another four pages (pages 95 - 99) asking Nurse Embry about "other discrepancies in the record,"

At no point in almost 20 pages of testimony about the anesthesia record did Nurse Embry ever mention a linkage problem, software glitch or any email communications to fix it. Instead, Nurse Embry made it clear that – with the exception of moving Mr. Mikell from one room to another after the cardiac arrest – she could not explain any of the discrepancies in the anesthesia record, which were unlike anything she had seen before.

Of course, we now know Nurse Embry had experienced this same problem on several other occasions and knew both the cause and the solution.

It was only because Nurse Embry was unable to explain the discrepancies in the anesthesia record that I wrote a detailed letter to Ms. Fleming on September 4, 2014, asking her directly:

"You will note that there is no data recorded for respirations, or ETCO2 – or oxygen saturation – at any time prior to 7:48 a.m. . . . Why is there no data recorded for the first six minutes after the narrative states Mr. Mikell was hooked up to standard monitors with a ETCO2 waveform present? (emphasis added).

I challenge MUSC to show the court where it answered these questions by disclosing the software glitch or email communications at any time prior to Dr. Reeve's deposition on September 22, 2015. I also challenge MUSC to show the court where any witness was identified to explain the gaps in the anesthesia record. All MUSC can do is point to the names of witnesses it disclosed using only the broadest, most general language, leaving me to stumble around in the dark in order to learn these witnesses might testify about software glitches, computer linkage problems and email fixes.

Let me turn now to MUSC's position on the Mayday card.

Mr. Cooke says that MUSC "believed for a very long time that a Mayday card was never completed for Mr. Mikell." Yet its Mayday policy unequivocally requires a Mayday card. Dr. Payne's October 1, 2010 procedure note specifically refers to "code documentation." Donna Embry testified the Mayday card was in Mr. Mikell's paper chart on October 1, 2010 when she used it to rework the anesthesia narrative. Sheila Scarborough testified she received a fax copy of the Mayday card in her Risk Management office in December 2010. These things all happened "a very long time" before my September 24, 2014 letter to Mr. Cooke specifically asking about the Mayday card.

In short, Dr. Payne, Nurse Embry and Ms. Scarborough are all MUSC employees. Their knowledge is imputed to MUSC. Yet we are told that "for a very long time," MUSC was mistaken about whether its employees had properly documented a peer reviewed event?

Next, Mr. Cooke says, "There simply is no evidence that any document or data was deleted or destroyed by MUSC." No evidence except for:

- (1) Ms. Scarborough's testimony that she shredded the Risk Management copy of the Mayday card;
- (2) MUSC's inability to produce the chart copy of the Mayday card, a failure for which it has never provided any explanation;
- (3) MUSC's inability to explain missing pages in the printed anesthesia records it has produced;
- (4) Nurse Embry's testimony that she shredded a copy of the anesthesia record that she printed on October 2, 2010; and
- (5) Nurse Embry's testimony that she changed Dr. Nelson's entries in the anesthesia narrative, which Dr. Nelson said was done without his knowledge or permission; and which the defense expert, Dr. Berry, said he could not believe was even possible.

- (6) The curious failure of missing data to be repopulated into the Mr. Mikell's anesthesia record in the manner described by Nurse Embry on February 22, 2016.

In regard to this last item, let me respond in detail to Mr. Cooke's comments about backup anesthesia data.

Mr. Cooke contends that Nurse Embry has "no firsthand knowledge" of repopulating anesthesia charts with data stored in the memory of the Phillips monitor. According to Mr. Cooke, her testimony about this was "nothing more than a guess." That contention is a gross mischaracterization of Nurse Embry's actual testimony:

Q So what I want to ask you again is do you have any explanation for why those boxes are empty?

A The monitors were not communicate—the anesthesia monitor and the Phillips monitor were not communicating with my PICIS chart, for some reason.

Q Have you ever seen that happen before?

A Oh, a couple of times.

* * *

Q ... **How many times have you seen the monitors not communicating with the PICIS system?**

A I would say — **I would say maybe at least ten, maybe at least ten that I can recall.**

February 22, 2016 deposition, page 28, lines 2 - 19 (emphasis added).

Q Well, are you not supposed to check and make sure that all of the systems are working correctly before you administer the anesthetic? What reason would there be to omit the computerized charting system?

A There wouldn't be, and **usually, if there is data on your monitors, they are able to capture it retroactively later, I mean.**

Q Yeah? How do they do that?

A I'm not sure. I'm not certain. You'd have to ask IT.

Q Well, **why do you say that you think they can do that?**

A **Because I saw them do it on other — on other cases where there was data there, and they were able to capture it and populate it retroactively.**

Q Tell me more about that. When did that happen?

A **On a couple of other cases that I — that we had problems with the data coming across in PICIS.**

Q Tell me —

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A Sometimes the monitors – sometimes the monitors will store numbers for like 24 hours, et cetera, or something like that. They're – I believe they're stored in the monitors . . . I believe they're stored for a period of time, . . .

February 22, 2016 deposition, page 34, line 5 - page 35, line 19 (emphasis added).

Q **So in your experience on some occasions, some number of occasions,** there has been this problem with the monitors not communicating and some

A The monitors not communicating with PICIS, yes.

Q And **someone has been able to go back and pull the data off the system?**

A Or **pull it off the monitor, yes, uh-huh.**

* * *

Q Well, have you actually seen that done?

A **I've seen it done** . . .

February 22, 2016 deposition, page 36, lines 1 - 21 (emphasis added). Nurse Embry testified further about her personal experience with data being repopulated into anesthesia records when this communication linkage problem occurred:

Q So it was your expectation that whatever was necessary to correct this problem, it was something that she [Annette Thompson] could do from a remote computer terminal, and you didn't need to do anything further?

A That was my – yes, that was my expectation, yes, uh-huh, yes, that **she would catch everything** that had been – that had been occurring, but unfortunately, a failure for the chart – for the chart to open, yes, yes.

Q And **when you say catch everything** that had been occurring, **you mean the data** that hadn't been –

A Retroactively.

Q – imported?

A **Correct, yes, that it would capture it** and – you know, **yeah, yeah.**

Q **And is that the way that it had worked in the past was that when the [PICIS] person corrected this problem, that they were able to catch everything retroactively?**

A **Yes. I'm pretty sure** that they had been able to – uh-huh, **I'm pretty sure, yeah.**

February 22, 2016 deposition, page 95, line 12 to page 96, line 14 (emphasis added).

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Page Seven

In summary, in "a couple other cases" Nurse Embry personally witnessed dropped data be captured and repopulated in the chart and she is "pretty sure" that is what happened. Yet Mr. Cooke, who did not attend her February 22, 2016 deposition, describes Nurse Embry's detailed testimony as "guess" work by a witness with "no first hand knowledge."

While Nurse Embry herself used the word "problem" on more than a dozen separate occasions to describe this communication linkage issue, Mr. Cooke defends MUSC's written discovery responses by continuing to tell the court it is not a "problem," but rather the proper functioning of a "built in safety function," thus providing a semantic excuse for why MUSC is "unable" to say how often the "problem" has occurred.

It is true that I spoke informally with MUSC's IT personnel John Fisher and Brett Seyfried in the attorneys' conference room outside the courtroom immediately following the December 11, 2015 sanctions hearing. This informal conversation should not in any way be considered a timely response to the Plaintiff's discovery requests about backup data.

It is true also that Dr. Reeves submitted a December 4, 2013 Affidavit in support of MUSC's peer review privilege. That Affidavit says nothing about a software glitch or email communications to fix it. I challenge MUSC to show the court where it ever identified Dr. Reeves as a witness to the facts of this case or provided a summary of his anticipated testimony on the software glitch issue.

In conclusion, I greatly appreciate the court's careful attention to all of the detailed submissions on these issues. I realize this has been a very time consuming process. Yet MUSC's intimation that, "We would have told you all of this if only you had asked" is reflective of a deeply flawed approach to discovery and that attitude has required a great deal of time and effort to overcome.

Very truly yours,



Robert B. Ransom

c: M. Dawes Cooke, Jr.
Alissa Fleming
Alex Apostolou

Alissa Fleming

From: Nicholson, J. C. Law Clerk (Brooklyn A. Burroughs) <JNicholsonLC@sccourts.org>
Sent: Friday, April 1, 2016 11:26 AM
To: BertCone@aol.com; DMichel@charlestoncounty.org; Nicholson, J. C.
Cc: alex@apostoloulaw.net; M. Dawes Cooke; Alissa Fleming
Subject: RE: Turner v MUSC 2012-CP-10-7275

Rob,

I will pass this information along to the judge and let you know what he says about the fourth deposition. He has continuously said he will give you half of what you asked for, he just didn't want delay. If the fourth will not cause delay and opposing counsel is already on board with having the deposition, I imagine Judge Nicholson will approve. Dawes, are you okay with the 4th one? I'll have to speak with Judge Nicholson and get back to you all to give you a final answer.

Sincerely,
Brook

Brooklyn A. Burroughs
Law Clerk to The Honorable J.C. Nicholson, Jr.
Circuit Court Judge
100 Broad Street
Charleston, South Carolina 29401
Tel: (843) 958-5047
jnicholsonlc@sccourts.org

From: BertCone@aol.com [mailto:BertCone@aol.com]
Sent: Friday, April 01, 2016 11:20 AM
To: Nicholson, J. C. Law Clerk (Brooklyn A. Burroughs); DMichel@charlestoncounty.org; Nicholson, J. C.
Cc: alex@apostoloulaw.net; mdc@barnwell-whaley.com; afleming@barnwell-whaley.com; bertcone@aol.com
Subject: Re: Turner v MUSC 2012-CP-10-7275

Thank you, Brook.

Based on the forecasted ruling in your March 17 email, the parties have already scheduled 4 additional depositions, to take place on April 7 and 8.

I would respectfully request that the 4th deposition be permitted. The selected witnesses are:

Dr. Reeves (chairman of the anesthesia department)
Dr. Berry (defense medical expert)\
Annette Thompson (who fixed the software glitch during the colonoscopy)
John Fisher (an information technology employee at MUSC).

I do not anticipate any of these depositions being lengthy or burdensome, nor will they prevent us from being ready for trial on April 18.

Best regards,

Rob Ransom
803-765-2383
bertcone@aol.com

In a message dated 4/1/2016 11:09:33 A.M. Eastern Daylight Time, JNicholsonLC@sccourts.org writes:

All,

Judge Nicholson has agreed to hear the trial given his familiarity with the case. He is also aware that the trial may last more than one week and he is prepared for that if it happens. Judge Nicholson also received Dawes Cooke's request for protection for the 21st. Judge Nicholson will give Dawes protection for that day; however, the trial will continue and Ms. Fleming or someone else will have to be there on his behalf that day. His reasoning is that this case has been handled by Ms. Fleming for the most part up until recently and he sees no reason to delay that day of court unless both Ms. Fleming and Mr. Cooke cannot be present.

Judge Nicholson will formally rule on the Motion for Sanctions as soon as possible and it should not delay the trial. Although an Order has not been filed, he has made up his mind on the request for depositions. I suggest everyone prepares for those depositions Mr. Ransom requested as time is running short. Mr. Ransom has asked to depose 8 people in light of newly discovered information. Judge Nicholson is going to allow Mr. Ransom to depose his choice of 3 of the 8 people he asked to depose. I realize in my previous email I told you Judge Nicholson said 4 people could be deposed to make it half, but because more memos were sent delaying his ruling and because time is running out, Mr. Ransom can depose 3 people at this time. Mr. Ransom may submit a brief memo showing good cause if having 4 depositions becomes completely necessary. Judge Nicholson will consider allowing a fourth deposition, but he won't allow the request to delay trial. Go ahead and get the depositions scheduled and handled. As far as who will be responsible for paying for the depositions and the specifics of sanctions, if any, that will be addressed in a written Order as soon as possible.

As for the trial itself, please send your voir dire, witness lists, and pre-trial briefs to me in advance. Judge Nicholson prefers hard copies rather than reading electronically. He will likely hold a brief status conference the morning before the trial begins.

Let me know if you have any questions or concerns and I'm happy to help!

Kind regards,

Brook

Brooklyn A. Burroughs

Law Clerk to The Honorable J.C. Nicholson, Jr.

Circuit Court Judge

100 Broad Street

Charleston, South Carolina 29401

Tel: (843) 958-5047

jnicholsonlc@sccourts.org

From: Don Michel [<mailto:DMichel@charlestoncounty.org>]

Sent: Friday, April 01, 2016 10:37 AM

To: 'BertCone@aol.com'

Cc: alex@apostoloulaw.net; mdc@barnwell-whaley.com; afleming@barnwell-whaley.com; Nicholson, J. C. Law Clerk (Brooklyn A. Burroughs)

Subject: RE: Turner v MUSC 2012-CP-10-7275

Rob,

Judge Nicholson will be your trial judge that week.

As for any protection, that has to go directly through Judge Nicholson since he is your trial judge. I can't make that call since the case has been set date certain. You can follow up with Brook regarding any information on that.

Let me know if I can assist you with anything else.

Don

Don Michel

Court Management Supervisor

Charleston County Clerk of Court

Direct: 843-958-5013

<http://clerkofcourt.charlestoncounty.org>

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From: BertCone@aol.com [mailto:BertCone@aol.com]

Sent: Friday, April 01, 2016 10:33 AM

To: Don Michel

Cc: bertcone@aol.com; alex@apostoloulaw.net; mdc@barnwell-whaley.com; afleming@barnwell-whaley.com

Subject: Turner v MUSC 2012-CP-10-7275

Dear Don:

I hope you've had a good week.

The referenced case should be on the calendar for date certain jury trial the week of April 18.

Judge Nicholson has been very involved with pre-trial matters in the case. Would it be possible to set the case before him for trial?

Also, Dawes Cooke has written to request protection for Thursday April 21. I don't oppose that request, but if we miss that day in court, I fear the case cannot be completed in one week. It may run over regardless.

Your attention to these matters is appreciated.

Best regards,

Rob Ransom

803-765-2383

bertcone@aol.com

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## Alissa Fleming

---

**From:** BertCone@aol.com  
**Sent:** Friday, April 1, 2016 11:20 AM  
**To:** JNicholsonLC@sccourts.org; DMichel@charlestoncounty.org; JNicholsonJ@sccourts.org  
**Cc:** alex@apostoloulaw.net; M. Dawes Cooke; Alissa Fleming; bertcone@aol.com  
**Subject:** Re: Turner v MUSC 2012-CP-10-7275

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I would respectfully request that the 4th deposition be permitted. The selected witnesses are:

Dr. Reeves (chairman of the anesthesia department)  
Dr. Berry (defense medical expert)\  
Annette Thompson (who fixed the software glitch during the colonoscopy)  
John Fisher (an information technology employee at MUSC).

I do not anticipate any of these depositions being lengthy or burdensome, nor will they prevent us from being ready for trial on April 18.

Best regards,

Rob Ransom  
803-765-2383  
[bertcone@aol.com](mailto:bertcone@aol.com)

In a message dated 4/1/2016 11:09:33 A.M. Eastern Daylight Time, JNicholsonLC@sccourts.org writes:

All,

Judge Nicholson has agreed to hear the trial given his familiarity with the case. He is also aware that the trial may last more than one week and he is prepared for that if it happens. Judge Nicholson also received Dawes Cooke's request for protection for the 21<sup>st</sup>. Judge Nicholson will give Dawes protection for that day; however, the trial will continue and Ms. Fleming or someone else will have to be there on his behalf that day. His reasoning is that this case has been handled by Ms. Fleming for the most part up until recently and he sees no reason to delay that day of court unless both Ms. Fleming and Mr. Cooke cannot be present.

Judge Nicholson will formally rule on the Motion for Sanctions as soon as possible and it should not delay the trial. Although an Order has not been filed, he has made up his mind on the request for depositions. I suggest everyone prepares for those depositions Mr. Ransom requested as time is running short. Mr. Ransom has asked to depose 8 people in light of newly discovered information. Judge Nicholson is going to allow Mr. Ransom to depose his choice of 3 of the 8 people he asked to depose. I realize in my previous email I told you Judge Nicholson said 4 people could be deposed to make it half, but because more memos were sent delaying his ruling and because time is running out, Mr. Ransom can depose 3 people at this time. Mr. Ransom may submit a brief memo showing good cause if having 4 depositions becomes completely necessary. Judge Nicholson will consider allowing a fourth deposition, but he won't allow the request to delay trial. Go ahead and get the

depositions scheduled and handled. As far as who will responsible for paying for the depositions and the specifics of sanctions, if any, that will be addressed in a written Order as soon as possible.

As for the trial itself, please send your voir dire, witness lists, and pre-trial briefs to me in advance. Judge Nicholson prefers hard copies rather than reading electronically. He will likely hold a brief status conference the morning before the trial begins.

Let me know if you have any questions or concerns and I'm happy to help!

Kind regards,

Brook

**Brooklyn A. Burroughs**

Law Clerk to The Honorable J.C. Nicholson, Jr.

Circuit Court Judge

100 Broad Street

Charleston, South Carolina 29401

Tel: (843) 958-5047

[jnicholsonlc@sccourts.org](mailto:jnicholsonlc@sccourts.org)

---

**From:** Don Michel [<mailto:DMichel@charlestoncounty.org>]

**Sent:** Friday, April 01, 2016 10:37 AM

**To:** 'BertCone@aol.com'

**Cc:** alex@apostoloulaw.net; mdc@barnwell-whaley.com; afleming@barnwell-whaley.com; Nicholson, J. C. Law Clerk (Brooklyn A. Burroughs)

**Subject:** RE: Turner v MUSC 2012-CP-10-7275

Rob,

Judge Nicholson will be your trial judge that week.

As for any protection, that has to go directly through Judge Nicholson since he is your trial judge. I can't make that call since the case has been set date certain. You can follow up with Brook regarding any information on that.

Let me know if I can assist you with anything else.

Don

**Don Michel**

**Court Management Supervisor**

**Charleston County Clerk of Court**

**Direct: 843-958-5013**

<http://clerkofcourt.charlestoncounty.org>

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---

**From:** [BertCone@aol.com](mailto:BertCone@aol.com) [<mailto:BertCone@aol.com>]

**Sent:** Friday, April 01, 2016 10:33 AM

**To:** Don Michel

**Cc:** [bertcone@aol.com](mailto:bertcone@aol.com); [alex@apostoloulaw.net](mailto:alex@apostoloulaw.net); [mdc@barnwell-whaley.com](mailto:mdc@barnwell-whaley.com); [aflaming@barnwell-whaley.com](mailto:aflaming@barnwell-whaley.com)

**Subject:** Turner v MUSC 2012-CP-10-7275

Dear Don:

I hope you've had a good week.

The referenced case should be on the calendar for date certain jury trial the week of April 18.

Judge Nicholson has been very involved with pre-trial matters in the case. Would it be possible to set the case before him for trial?

Also, Dawes Cooke has written to request protection for Thursday April 21. I don't oppose that request, but if we miss that day in court, I fear the case cannot be completed in one week. It may run over regardless.

Your attention to these matters is appreciated.

Best regards,

Rob Ransom

803-765-2383

[bertcone@aol.com](mailto:bertcone@aol.com)

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Alissa Fleming

From: Nicholson, J. C. Law Clerk (Brooklyn A. Burroughs) <JNicholsonLC@sccourts.org>
Sent: Friday, April 1, 2016 11:09 AM
To: Don Michel; 'BertCone@aol.com'; Nicholson, J. C.
Cc: alex@apostoloulaw.net; M. Dawes Cooke; Alissa Fleming
Subject: RE: Turner v MUSC 2012-CP-10-7275

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(Brooklyn A. Burroughs)

Subject: RE: Turner v MUSC 2012-CP-10-7275

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Don Michel

Court Management Supervisor

Charleston County Clerk of Court

Direct: 843-958-5013

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Sent: Friday, April 01, 2016 10:33 AM

To: Don Michel

Cc: bertcone@aol.com; alex@apostoloulaw.net; mdc@barnwell-whaley.com; afleming@barnwell-whaley.com

Subject: Turner v MUSC 2012-CP-10-7275

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Rob Ransom

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bertcone@aol.com

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STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

) IN THE COURT OF COMMON PLEAS

)

) CIVIL ACTION NO.: 2012-CP-10-7275

SHON TURNER, as Personal  
Representative of the ESTATE OF  
CHARLES MIKELL, deceased,

Plaintiff,

vs.

MEDICAL UNIVERSITY OF  
SOUTH CAROLINA,

Defendant.

**DEFENDANT'S RESPONSE TO  
PLAINTIFF'S SECOND  
DISCOVERY REQUEST**

TO: ROBERT B. RANSOM, ESQUIRE, COUNSEL FOR THE PLAINTIFF:

Defendant Medical University of South Carolina (hereinafter "MUSC"), by and through  
its undersigned counsel, hereby responds to Plaintiff's Second Discovery Request as follows:

1. The Audit Trail bates labeled 4949 – 4951 contains the following "User" names:
  - a. Donna Embrey
  - b. Ann Thompson
  - c. Eric Nelson
  - d. Jeffrey Toohey

Please explain who Ann Thompson is and give a truthful, accurate and complete  
description of all information known to her with respect to the issues in this case.

**RESPONSE: Objection. MUSC objects to Interrogatory No. 1 on the grounds that it is overly broad and unduly burdensome to provide a description of all information known to this witness. The user "Thompson, Ann" that appears on the document identified as BWPH 4948-4951 represents a user named Annette Thompson, RN. Ms. Thompson is a Clinical Analyst at MUSC in the Department of OCIO (Office of the Chief Information Officer). She was identified by MUSC in its Seventh Supplemental Answers to Plaintiff's First Discovery Requests dated September 24, 2015. A summary of her expected testimony was provided at that time. In addition Ms. Thompson is available to be deposed. In the**

alternative, if Plaintiff has specific questions and/or topics that he would like to inquire about with regard to Ms. Thompson's knowledge, MUSC will address those specific questions and/or topics.

Without waiving and subject to the foregoing objections, in October of 2010, Ms. Thompson was employed by MUSC in the position of Clinical Analyst where her role was to support the PICIS electronic medical record. Ms. Thompson has information regarding the user application of the PICIS system. In addition, on the morning of October 1, 2010, Ms. Thompson responded to a service request by the anesthesia provider for Mr. Mikell, Donna Embrey, CRNA, stating that anesthesia provider could not open the record in PICIS system. In response to the service request, Ms. Thompson accessed the PICIS electronic medical system and used the ADT (admission, discharge, transfer) function and transferred the patient in the electronic record. This allowed Ms. Embrey to open the record in the procedure room and continue the session in the electronic medical system. Ms. Thompson later accessed the record in follow-up to the service call to determine whether the provider needed any additional help or information. She also recalls trying to call Donna Embrey, CRNA, to follow-up with the service call, but does not specifically recall speaking with her. Ms. Thompson believes that she followed up with Ms. Embrey again the following Monday.

2. Please provide a truthful, accurate and complete explanation of why Ann Thompson accessed the electronic medical record and what she did with that record, as reflected in the Audit Trail.

**RESPONSE:** See Answer to Interrogatory No. 1.

3. Please provide a truthful, accurate and complete description of all information known to Brett Seyfried with respect to the issues in this case.

**RESPONSE:** Objection. MUSC objects to Interrogatory No. 3 on the grounds that it is overly broad and unduly burdensome to provide a description of all information known to this witness. This witness is available to be deposed. In addition or in the alternative, if Plaintiff has specific questions or topics that he would like to pose to this witness, in writing, MUSC will consider responding to those specific questions and/or topics. Without waiving and subject to the foregoing objections, Brett Seyfried holds the position of Director, Clinical Systems at MUSC. In his role, he is responsible for budget, contracting, and overall direction of the portfolio of a 50 person team and 6 managers that directly support Cardiology Systems, Radiology and Imaging Systems, Emergency Systems, Perioperative Systems, Ancillary Clinical Systems, and Enterprise Lab systems. Mr. Seyfried has knowledge of the PICIS system and database. He has knowledge of the process involved in extracting archived data from the PICIS database. Mr. Seyfried was not responsible for the PICIS database at the time of the events giving rise to this lawsuit. In addition, he does not have any direct experience in the application of or directly in the

PICIS database. His knowledge is derived from database concepts and a more general understanding of applications and database structure.

4. Please provide a truthful, accurate and complete description of all information known to John Fisher with respect to the issues in this case.

**RESPONSE:** Objection. MUSC objects to Interrogatory No. 4 on the grounds that it is overly broad and unduly burdensome to provide a description of all information known to this witness. This witness is available to be deposed. In addition or in the alternative, if Plaintiff has specific questions or topics that he would like to pose to this witness, in writing, MUSC will consider responding to those specific questions and/or topics. Without waiving and subject to the foregoing objections, Mr. Fisher holds the position of Program Manager, Enterprise Technology Architecture, OCIO – Information Systems at MUSC. He was not employed by MUSC in October of 2010. In his current position, he is responsible for supporting the Anesthesia Team. Mr. Fisher has experience accessing the PICIS database. He knows how to query the database in order to retrieve data that is stored in the database. Mr. Fisher has information that leads to a good faith belief that no one at MUSC has or had the ability to delete data from the PICIS database and that, more probably than not, no data was deleted from the database. He also has information regarding the size of the database and the process and cost associated with retrieving data pertaining to Charles Mikell from the PICIS database.

5. Please provide a truthful, accurate and complete description of all information known to Pat Aysse with respect to the issues in this case.

**RESPONSE:** Objection. MUSC objects to Interrogatory No. 5 on the grounds that it is overly broad and unduly burdensome to provide a description of all information known to this witness. This witness is available to be deposed. In addition or in the alternative, if Plaintiff has specific questions or topics that he would like to pose to this witness, in writing, MUSC will consider responding to those specific questions and/or topics. Without waiving and subject to the foregoing objections, MUSC craves reference to the deposition testimony of Pat Aysse dated August 24, 2015. This deposition was left open and counsel for MUSC has had no further communication with this witness since the deposition is open.

6. The Audit Trail bates labeled 4988 – 4990 contains the following “Audit User” names:

- a. Coopera
- b. Embry
- c. Jones

- d. Petko
- e. Thompsa
- f. Toohey J
- g. Background
- h. CR Field

Please identify each of these users by full name and job title and provide a truthful, accurate and complete explanation for (i) who each of these "Adit (*sic*) Users" are; (ii) why each of them accessed the electronic medical record; and (iii) what they did with that record when they accessed it.

**RESPONSE:**

- a. **COOPERA:** Annette Cooper, CRNA. Ms. Cooper is a CRNA employed by MUSC. She provides anesthesia care services in Ashley River Tower. Ms. Cooper does not recall why she accessed Mr. Mikell's record.
- b. **EMBREY:** Donna Embrey, CRNA. Ms. Embrey is a CRNA employed by MUSC. She provided anesthesia care to Mr. Mikell during his colonoscopy on 10/1/10. Ms. Embrey accessed the electronic medical record in order to document the care provided to Mr. Mikell and to print a copy of the record for the patient chart.
- c. **Jonesti:** Tina Jones. Ms. Jones is a Patient Care Assistant employed by MUSC. At the time of Mr. Mikell's colonoscopy, she worked in the Post Anesthesia Care Unit (PACU). Ms. Jones accessed the electronic medical record in order to complete billing documentation. She made the following entries at 15:07 on 10/1/10: PACU Nurse TooheyJ, PACU? Y, PostOp Room # (txt): bed 3, ACU?:N, PACU End Time 1340, Pt to Stepdown? N.
- d. **PETKO:** Margaret Petko, RN. Ms. Petko was a nurse employed by MUSC and working in the Pre-Operative area on 10/1/10. She accessed the record to document the pre-operative work-up performed on Mr. Mikell prior to his colonoscopy. She also printed a copy of the pre-operative work-up to be placed in his chart.

- e. **THOMPSA:** Annette Thompson, RN. See Answer to Interrogatory No. 1.
- f. **TOOHEYJ:** Jeff Toohey, RN. Mr. Toohey was deposed in this case on August 25, 2014. He is a nurse employed by MUSC and provided care to Mr. Mikell in the PACU following Mr. Mikell's colonoscopy on 10/1/10. Mr. Toohey accessed the electronic medical record in order to document in the PACU record. Documentation completed by Mr. Toohey may be found in the PACU record on pages 604 through 612 of 2115 which were identified by MUSC as BWPH 1.554 (Mikell) MUSC 105-113. In addition, Mr. Toohey printed a copy of the PACU record to be placed in Mr. Mikell's chart upon transfer from the PACU to the ICU.
- g. **BACKGROUND:** This represents the identification of an automated process of the PICIS system. It does not represent an action by a human user.
- h. **CR\_FIELD:** This represents the identification of an automated process of the PICIS system. This function was a case tracking function. For instance, it tracked information such as the time the patient was in the room, time the case was started, time transferred to the PACU, etc.

5 (*sic*) The Audit Trail bates labeled 4988 – 4990 appears to indicate that the anesthesia record was printed on several occasions. Please produce each of the following:

- a. The document printed by Embry on 10/1/2010 at 18:25:31
- b. The document printed by Embry on 10/2/2010 at 18:14:02
- c. The document printed by Embry on 10/2/2010 at 18:15:02
- d. The document printed by Petko on 10/1/2010 at 15:15:06
- e. The document printed by Toohey on 10/1/2010 at 13:44:21
- f. The document printed by Toohey on 10/1/2010 at 13:44:27

If any of these documents are no longer available or do not exist, provide a truthful, accurate and complete explanation for what happened to them.

**RESPONSE:** Objection. MUSC objects to Interrogatory No. 5 on the grounds that it is overly broad and unduly burdensome. MUSC further objects to Interrogatory No. 5 on the

grounds that the total number of interrogatories permitted by Rule 33, SCRPC. Without waiving and subject to the foregoing objections:

- a. Upon information and belief, Ms. Embrey gave the print command on three occasions. One copy of the record that she printed was placed in the patient chart. MUSC has no record of what happened with regard to the other two print commands. They either did not print or were not retained.
- b. See answer to part (a) above.
- c. See answer to part (a) above.
- d. Upon information and belief, a copy of the document printed by Margaret Petko was the Pre-Anesthesia Evaluation which was placed in the patient's chart.
- e. Upon information and belief, a copy of the record printed by Jeff Toohey, RN was the Post Anesthesia Care Unit Record which was placed in the patient's chart.
- f. See response to subpart e. Upon information and belief, only one print request was successful. See answer to subpart e above.

6 (*sic*) The Audit Trail bates labeled 4988 – 4990 contains various terms and abbreviations.

- a. What do the words "BACKGROUND" and "CR\_FIELD" in the "Audit User" column mean or refer to?
- b. What do "Anesthesia Manager," "Remote Access," "OR Manager," "Printout Loader," "Preop Manager," "PACU Manager" and "SmarTrack" in the Application column mean or refer to?
- c. What do the words "Patient Record Accessed," "Case Record," "Patient Record Accessed," and "Print Command Ordered" in the Routine column mean or refer to?
- d. What do the words "PFACILITY" and "COURT" in the "Facility" column mean or refer to?

**RESPONSE:** Objection. MUSC objects to Interrogatory No. 6 on the grounds that it is overly broad and unduly burdensome. MUSC further objects to Interrogatory No. 6 on the grounds that the total number of interrogatories permitted by Rule 33, SCRPC. Without waiving and subject to the foregoing objections:



- a. **BACKGROUND:** This represents the identification of an automated process of the PICIS system. It does not represent an action by a human user.

**CR\_FIELD:** This represents the identification of an automated process of the PICIS system. This function was a case tracking function. For instance, it tracked information such as the time the patient was in the room, time the case was started, time transferred to the PACU, etc.

- b. **Anesthesia Manager:** This is the application that allowed Anesthesia completed its documentation in the PICIS system.

**Remote Access:** Indicates remote access of the record by a user.

**OR Manager:** This represents the application where the intraoperative nurses performed their documentation.

**Printout Loader:** This represents the application in PICIS which launches the printout from the workstation (computer). This is the time that the user activated the print function from the PICIS application.

**Preop Manager:** This represents the application in PICIS where the pre-anesthesia work-up was documented.

**PACU Manager:** This represents the program used to document post anesthesia care in PICIS.

**SmarTrack:** This represents the Elective Schedule Board for procedures. This tracked the patients undergoing procedures, the type of procedure, the time of the procedure.

- c. **Patient Record Accessed:** This indicates a live access of the record.

**Case Record:** This refers to the OR Record.

**Print Command Ordered:** This refers to PICIS receipt of the command to print the record. The command was sent to the central server then printed.

- d. **PFACILITY:** Unknown. This was not a facility built by the MUSC team. Upon information and belief, it was a default set in PICIS.

**COURT: This refers to the location, Ashley River Tower on Courteney Street.**

7. Produce any and all emails, correspondence or other documents, of any nature or kind whatsoever (whether in written or electronic format), discussing the computer linkage problem described by Dr. Reeves in his September 22, 2015 deposition. Please also provide a truthful, accurate and complete explanation for:

- a. When this problem was first discovered
- b. What steps were taken to correct it
- c. What notice, knowledge or information Nurse Embrey, Dr. Nelson, Dr. Payne and/or Mr. Mikell's other medical care providers had about this problem on October 1, 2010.

**RESPONSE: Objection. MUSC objects to Interrogatory No. 7 on the grounds that it is overly broad and unduly burdensome. MUSC further objects to Interrogatory No. 7 on the grounds that the total number of interrogatories permitted by Rule 33, SCRPC. MUSC further objects to Interrogatory No. 7 to the extent that it implies that there was a problem with the electronic medical record, software, or hard drive because there was not. The function encountered by Donna Embrey, CRNA with regard to being unable to open the patient record in PICIS was a built in safety function that prohibited two users from documenting in the electronic medical record at the same time. Without waiving and subject to the foregoing objections, see documents identified as BWPH File No. 1.554 (Mikell v. MUSC) 005012-005024. In addition:**

- a. Upon information and belief, Donna Embrey, CRNA noticed that she was unable to open the patient record in PICIS once Mr. Mikell was transferred to the procedure room. She noticed that she was not able to open the patient record sometime between 7:35 a.m. and 7:39 a.m. on October 1, 2010.
- b. Upon information and belief, Donna Embrey contacted the PICIS support team by going to a website designated for the use of MUSC employees to page other MUSC employees and sending a page to the PICIS support team. The Clinical Analyst who responded to the service request, Annette Thompson, RN, accessed the admit, discharge, transfer functionality in the PICIS electronic medical system for Mr. Mikell at approximately 7:46 a.m. on 10/1/10 and transferred him in the system. The patient had to be closed out of the PICIS system after leaving one computer workstation so that the record could be unlocked at another computer workstation so that the

care providers could document in the record. This is indicated in the PICIS audit trail which was identified as BWPH 4948-4951.

- c. Donna Embrey, CRNA learned that she could not open Mr. Mikell in the PICIS system after he was transferred in to the procedure room and when she tried to document in the electronic medical record system once Mr. Mikell was in the procedure room. This was sometime between 7:35 a.m. and 7:39 a.m. on 10/1/10.

8. In his September 22, 2015 deposition, Dr. Reeves described a computer linkage problem which prevented the anesthesia system from recording data during Mr. Mikell's colonoscopy.

- a. How was that computer problem identified during Mr. Mikell's colonoscopy?
- b. At what time during the colonoscopy was the problem discovered?
- c. Who discovered the problem?
- d. How did that person(s) discover the problem?
- e. What was done in response to discovery of the problem? Who was the problem reported to? By whom was it reported? When was it reported?
- f. Was discovery of the problem documented anywhere? If so, produce any and all such documentation.
- g. How many other times has this problem resulted in anesthesia data not being recorded in a patient's anesthesia record?

**RESPONSE:** Objection. MUSC objects to Interrogatory No. 8 on the grounds that the total number of interrogatories permitted by Rule 33, SCRPC. MUSC further objects to Interrogatory No. 8 to the extent that it implies that there was a problem with the electronic medical record, software, or hard drive because there was not. The function encountered by Donna Embrey, CRNA with regard to being unable to open the patient record in PICIS was a built in safety function that prohibited two users from documenting in the electronic medical record at the same time. Without waiving and subject to the foregoing objections:

- a. See Answer to Interrogatory No. 7.
- b. Between 7:35 a.m. and 7:39 a.m.

- c. Donna Embrey, CRNA
- d. Ms. Embrey tried to open Mr. Mikell's record in PICIS and was unable to do so.
- e. See Answer to Interrogatory No. 7. The PICIS Support Team. Donna Embrey, CRNA contacted the PICIS Support Team for assistance on the morning of 10/1/10 between 7:35 a.m. and 7:39 a.m.
- f. See the PICIS audit trail which was identified as BWPH 4948-4951. See also documents identified as BWPH File No. 1.554 (Mikell v. MUSC) 005012-005024.
- g. MUSC did not maintain this information in the ordinary course of business and therefore, is unable to provide a response to this question.

9. The following requests apply to the anesthesia record bates labeled MUSC PAGE 494 OF 2115 through MUSC PAGE 501 OF 2115:

- a. Who printed this document on October 2, 2010 at 18:15?
- b. Why was this document printed?
- c. Was any information or data added, deleted or changed in any way? If so, please describe the additions, deletions or changes.

**RESPONSE:** Objection. MUSC objects to Interrogatory No. 9 on the grounds that the total number of interrogatories permitted by Rule 33, SCRCP. Without waiving and subject to the foregoing objection:

- a. MUSC does not have direct knowledge of who printed the document referenced in Interrogatory No. 9 at this time. The records do not provide sufficient information to allow MUSC to provide a response to this subpart.
- b. See answer to subpart (a).
- c. Any additions, deletions, or modifications to the PICIS Anesthesia Record are identified in the PICIS audit trail which was identified as BWPH 4948-4951.

10. The following requests apply to the anesthesia record bates labeled MUSC PAGE 502 of 2115 through 505 of 2115:

- a. Who printed this document on October 1, 2010 at 13:45?
- b. Why was this document printed?
- c. Was any information or data added, deleted or changed in any way? If so, please describe the additions, deletions or changes.
- d. Where is Page 1 of 5 (referring to the numbers in the bottom center of the document)?

**RESPONSE:** Objection. MUSC objects to Interrogatory No. 10 on the grounds that the total number of interrogatories permitted by Rule 33, SCRCP. Without waiving and subject to the foregoing objection:

- a. MUSC does not have direct knowledge of who printed the document referenced in Interrogatory No. 10 at this time. The records do not provide sufficient information to allow MUSC to provide a response to this subpart.
- b. See answer to subpart (a).
- c. Any additions, deletions, or modifications to the PICIS Anesthesia Record are identified in the PICIS audit trail which was identified as BWPH 4948-4951.
- d. MUSC has made a reasonable inquiry with regard to subpart (d) and is unable to obtain sufficient information to provide a response to this subpart.

11. The following requests apply to the anesthesia record bates labeled MUSC PAGE 604 OF 2115 through MUSC PAGE 612 OF 2115:

- a. Who printed this document on October 1, 2010 at 13:47?
- b. Why was this document printed?
- c. Was any information or data added, deleted or changed in any way? If so, please describe the additions, deletions or changes.
- d. Why does the word "Confidential" appear at the bottom center of each of the pages of this document?

**RESPONSE:** Objection. MUSC objects to Interrogatory No. 11 on the grounds that the total number of interrogatories permitted by Rule 33, SCRCP. Without waiving and subject to the foregoing objection:

- a. MUSC does not have direct knowledge of who printed the document referenced in Interrogatory No. 11 at this time. The records do not provide sufficient information to allow MUSC to provide a response to this subpart.
- b. See answer to subpart (a).
- c. Any additions, deletions, or modifications to the record are identified in the PICIS audit trail which was identified as BWPH 4948-4951.
- d. The PACU record contained "Confidential" at the bottom of the page when printed. This was a design by the manufacturer, PICIS.

12. Provide a truthful, accurate and complete description of all problems, malfunctions, glitches, errors, or other similar issues with the anesthesia equipment used during Mr. Mikell's colonoscopy, including but not limited to a description of any problems which effected the recording of anesthesia data. With respect to each such problem, etc., state the date when the problem was first discovered, by whom and in what manner. Also explain what was done to correct the problem.

**RESPONSE:** Objection. MUSC objects to Interrogatory No. 12 on the grounds that the total number of interrogatories permitted by Rule 33, SCRCP. Without waiving and subject to the foregoing objection, MUSC is not aware of any problems on 10/1/10 with the anesthesia equipment used during Mr. Mikell's colonoscopy or the electronic medical record.

13. In its response to the Plaintiff's Second request for Admission No. 4, MUSC states that data was not recorded for 7:59 a.m., 8:07 a.m., 8:10 a.m. 8:13 a.m., and 8:14 a.m. Please provide a truthful, accurate and complete explanation for why data was not recorded for those times.

**RESPONSE:** Objection. MUSC objects to Interrogatory No. 13 on the grounds that the total number of interrogatories permitted by Rule 33, SCRCP. Without waiving and subject to the foregoing objection, data appears in the record for the time of 8:10 a.m. With regard to the remaining times, the records do not reflect a definitive reason as to why certain data for the times referenced in Interrogatory No. 13 was not recorded. Upon

information and belief and based on the information contained in the record, Mr. Mikell was being resuscitated during the requested times and an arterial line was being placed.

14. State Mr. Mikell's blood oxygen saturation levels at each of the following times:

- a. 7:40 a.m.
- b. 7:41 a.m.
- c. 7:42 a.m.
- d. 7:43 a.m.
- e. 7:44 a.m.
- f. 7:45 a.m.
- g. 7:46 a.m.
- h. 7:47 a.m.

If MUSC is unable to provide this information, provide a truthful, accurate and complete explanation for why it cannot do so.

**RESPONSE:** Objection. MUSC objects to Interrogatory No. 14 on the grounds that the total number of interrogatories permitted by Rule 33, SCRCP. Without waiving and subject to the foregoing objections, this data was not captured in the patient record since the record could not be opened until the transfer was completed by the Clinical Analyst, Annette Thompson, RN.

15. Identify all persons consulted in responding to these discovery requests and give a detailed description of the information provided by each such person.

**RESPONSE:** Objection. MUSC objects to Interrogatory No. 15 on the grounds that the total number of interrogatories permitted by Rule 33, SCRCP. MUSC further objects to Interrogatory No. 15 to the extent that it seeks the conclusions, legal theories, and mental impressions of MUSC or counsel for MUSC and are therefore, protected from disclosure by the work product doctrine.

16. With respect to Alissa Fleming's September 14, 2015 letter to Plaintiff's counsel, explain in detail:

- a. The basis for the predicted cost of extracting archived data;

- b. The basis for the predicted cost of shifting various project responsibilities.

**RESPONSE:** Objection. MUSC objects to Interrogatory No. 16 on the grounds that the total number of interrogatories permitted by Rule 33, SCRCP. The cost of extracting the data from the PICIS database is based on the following:

The calculation of man hours was determined by taking the number of tables in the PICIS database and estimating a time period of approximately thirty minutes per table to search each table and another 15-20 minutes to format the information into a readable format. John Fisher is the only employee of MUSC who is capable of performing the extraction. The cost reflects the amount he would be paid in salary during that time. The database contains approximately 1,603 tables and is made up of 669,650,431 rows of data. The full PICIS database takes approximately 300 Gigabytes of data in disk space. The data stored on a row is referenced by the use of Primary Keys, often ID numbers generated by the database itself. To determine if a row contains information for a specific patient, the IDs for that patient and for that table must be determined. The estimated time for an extractor to retrieve data is influenced by the following factors:

- time to write Standard Query Language (SQL) queries against the table,
- time to ensure that the data being queried is specific to Mr. Mikell,
- time to verify that the data being queried is valid,
- time to move data from the database connection interface to Microsoft Excel,
- time to do formatting in Excel and save the file.

It is estimated to take another 10-15 minutes per table for an extractor to do all of the above including (1) making additions to the SQL query to make data more human readable, and (2) formatting the data in Excel to make the information more human readable.

Based on the foregoing, MUSC estimates that it would take the following amount of time to extract PICIS information from the database for Mr. Mikell:

- Raw Data (not human readable): 524 hours and 19 minutes at 20 minutes per table;
- Human Readable Data: 801 hours and 30 minutes at 30 minutes per table.

The PICIS database was implemented by MUSC in approximately 2007 and was used until June 30, 2014. The database houses 145,007 distinct patient medical record numbers in the PICIS Surgery module and 99,468 distinct patient medical record numbers in the PICIS Anesthesia module. This is not reflective of the total number of procedures housed in the database since any one patient could have more than one procedure.



Mr. Fisher has completed a search, thus far, of 2 of approximately 150+ tables related to Mr. Mikell's 10/1/10 colonoscopy. He has spent approximately 100 hours, thus far, navigating and extracting data from the database.

Mr. Fisher is directly responsible and/or the manager over the following projects:

|                                                |                                                 |
|------------------------------------------------|-------------------------------------------------|
| <b>Directly Responsible For</b>                | <b>Management Only</b>                          |
| <b>OR Traffic Tracking Research</b>            | <b>MUSC Directory Mobile Phone Application</b>  |
| <b>UHC Quarterly Submission Tool</b>           | <b>MUSC Historical Walking Tour application</b> |
| <b>Anesthesia AfterHours Reporting Utility</b> | <b>Mobile Catalyst Application</b>              |
| <b>PPRNet Submission and Processing System</b> | <b>Hand Hygiene Tracker</b>                     |
| <b>ATC Database Redesign</b>                   | <b>Leader on Call Support Application</b>       |
| <b>STS Anesthesia Module Upload Interface</b>  | <b>Accountability of Disclosure Processor</b>   |
| <b>NSQIP Data Upload Interface</b>             | <b>OCIO Downtime Logger</b>                     |
| <b>3M CGS DRG Updater Utility</b>              | <b>Alumni Association Mobile Application</b>    |
| <b>Anestheisa iVital</b>                       | <b>Heparin Calculator Update</b>                |
| <b>MUSC OCAO Intake Interface</b>              | <b>Master Site Charge Tool</b>                  |
| <b>Patient Readmission Assessment Utility</b>  |                                                 |

In addition, he is the manager responsible for the Enterprise Architecture Development Team and Anesthesia IT Special Projects. He has four employees who report to him. The time spent extracting the remaining data from the database would take him away from the managerial responsibilities and projects that he is responsible for which would result in a total cost shifting of approximately \$2.8 million.

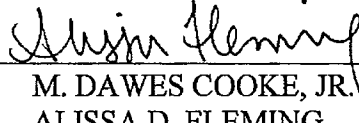
17. Produce in properly formatted, useable form the database entries created by Sheila Scarbrough using information from the Cardiopulmonary Resuscitation Event Form for Mr. Mikell's cardiac arrest.

**RESPONSE:** Objection. MUSC objects to Interrogatory No. 17 on the grounds that the total number of interrogatories permitted by Rule 33, SCRPC. Without waiving and subject to the foregoing objection, see documents identified as BWPH 1.554 (Mikell v. MUSC) 004991-005011.

18. Identify the person(s) who created/completed the Cardiopulmonary Resuscitation Event Form for Mr. Mikell's cardiac arrest.

**RESPONSE:** Objection. MUSC objects to Interrogatory No. 18 on the grounds that the total number of interrogatories permitted by Rule 33, SCRPC. Without waiving and subject to the foregoing objection, MUSC is unable to identify sufficient documentation or records that definitively provide the answer to Interrogatory No. 18. Upon information and belief, the DDC nurse assigned to Mr. Mikell's case on 10/1/10 most likely would have documented in the Cardiopulmonary Resuscitation Event Form.

BARNWELL WHALEY PATTERSON  
& HELMS, LLC

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ATTORNEYS FOR DEFENDANT THE  
MEDICAL UNIVERSITY OF SOUTH CAROLINA

December 2, 2015  
Charleston, South Carolina

**CPA Event****Patient ID:** 270428782**Active element groups:** CPA Admin, CPA Event**Created:** 12/29/2010 17:05:05 GMT-05:00**Last Updated:** 06/18/2011 08:09:55 GMT-04:00

|                                                                                                                               |                                                           |                                                                               |                     |
|-------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------|-------------------------------------------------------------------------------|---------------------|
| OPTIONAL: Local Event ID:                                                                                                     |                                                           | 270428782                                                                     |                     |
| Did patient receive chest compressions and/or defibrillation during this event?                                               | <input checked="" type="checkbox"/> Yes                   | <input type="checkbox"/> No/Not Documented (does NOT meet inclusion criteria) |                     |
| Date/Time the need for chest compressions (or defibrillation when initial rhythm was VF or Pulseless VT) was FIRST recognized | 10 / 01 / 2010 07 : 56<br><small>MM DD YYYY HH MI</small> | <input type="checkbox"/>                                                      | Time Not Documented |
| <b>Pre-Event</b>                                                                                                              |                                                           |                                                                               |                     |
| System Entry Date                                                                                                             |                                                           | 10 / 01 / 2010 07 : 00<br><small>MM DD YYYY HH MI</small>                     |                     |
| Was patient discharged from an Intensive Care Unit (ICU) within 24 hours prior to this CPA event?                             | <input type="checkbox"/> Yes                              | <input type="checkbox"/> No                                                   |                     |
| OPTIONAL: If yes, date admitted to non ICU unit (after ICU discharge)                                                         | <small>MM DD YYYY</small>                                 |                                                                               |                     |
| OPTIONAL: Was patient discharged from an Post Anesthesia Care Unit (PACU) within 24 hrs prior to this CPA event?              | <input type="checkbox"/> Yes                              | <input checked="" type="checkbox"/> No                                        |                     |
| OPTIONAL: Was patient in the ED within 24 hours prior to this CPA event?                                                      | <input type="checkbox"/> Yes                              | <input checked="" type="checkbox"/> No                                        |                     |
| OPTIONAL: Did patient receive conscious/procedural sedation or general anesthesia within 24 hrs prior to this CPA event?      | <input checked="" type="checkbox"/> Yes                   | <input type="checkbox"/> No                                                   |                     |
| OPTIONAL: Enter vital signs taken in the 4 hours prior to the CPA event (up to 4 sets).                                       |                                                           |                                                                               |                     |
| <input type="checkbox"/>                                                                                                      |                                                           | Pre-Event VS Unknown/Not Documented                                           |                     |
| <b>Saved Entries:</b>                                                                                                         |                                                           |                                                                               |                     |
| Date/Time                                                                                                                     | 10/01/2010 07:15                                          |                                                                               |                     |
| Heart Rate                                                                                                                    | 77                                                        | not checked                                                                   | Not Documented      |
| Systolic Blood Pressure                                                                                                       | 166                                                       | not checked                                                                   | Not Documented      |
| Diastolic Blood Pressure                                                                                                      | 89                                                        | not checked                                                                   | Not Documented      |
| Respiratory Rate                                                                                                              | 18                                                        | not checked                                                                   | Not Documented      |
| SpO2                                                                                                                          | 98                                                        | not checked                                                                   | Not Documented      |
| Temperature                                                                                                                   | 36.6                                                      | not checked                                                                   | Not Documented      |
| Units                                                                                                                         | o C                                                       |                                                                               |                     |
| <b>Enter new entries below:</b>                                                                                               |                                                           |                                                                               |                     |
| Date/Time                                                                                                                     | <small>MM DD YYYY HH MI</small>                           |                                                                               |                     |
| Heart Rate                                                                                                                    | <small>(0 - 999)</small>                                  | <input type="checkbox"/>                                                      | Not Documented      |
| Systolic Blood Pressure                                                                                                       | <small>(0 - 999)</small>                                  | <input type="checkbox"/>                                                      | Not Documented      |
| Diastolic Blood Pressure                                                                                                      | <small>(0 - 999)</small>                                  | <input type="checkbox"/>                                                      | Not Documented      |
| Respiratory Rate                                                                                                              | <small>(0 - 999)</small>                                  | <input type="checkbox"/>                                                      | Not Documented      |
| SpO2                                                                                                                          | <small>(0 - 100)</small>                                  | <input type="checkbox"/>                                                      | Not Documented      |

## CPA Event

Patient ID: 270428782

Active element groups: CPA Admin, CPA Event

Created: 12/29/2010 17:05:05 GMT-05:00  
Last Updated: 06/18/2011 08:09:55 GMT-04:00

|                                                                       |                                                                                        |                                            |                                                                                  |
|-----------------------------------------------------------------------|----------------------------------------------------------------------------------------|--------------------------------------------|----------------------------------------------------------------------------------|
| Temperature                                                           | _____ (0.0 - 150.0)                                                                    | <input type="checkbox"/>                   | Not Documented                                                                   |
| Units                                                                 | <input type="checkbox"/> °C <input type="checkbox"/> °F                                |                                            |                                                                                  |
| Date/Time                                                             | ____/____/____ : ____<br>MM DD YYYY HH MI                                              |                                            |                                                                                  |
| Heart Rate                                                            | _____ (0 - 999)                                                                        | <input type="checkbox"/>                   | Not Documented                                                                   |
| Systolic Blood Pressure                                               | _____ (0 - 999)                                                                        | <input type="checkbox"/>                   | Not Documented                                                                   |
| Diastolic Blood Pressure                                              | _____ (0 - 999)                                                                        | <input type="checkbox"/>                   | Not Documented                                                                   |
| Respiratory Rate                                                      | _____ (0 - 999)                                                                        | <input type="checkbox"/>                   | Not Documented                                                                   |
| SpO2                                                                  | _____ (0 - 100)                                                                        | <input type="checkbox"/>                   | Not Documented                                                                   |
| Temperature                                                           | _____ (0.0 - 150.0)                                                                    | <input type="checkbox"/>                   | Not Documented                                                                   |
| Units                                                                 | <input type="checkbox"/> °C <input type="checkbox"/> °F                                |                                            |                                                                                  |
| Date/Time                                                             | ____/____/____ : ____<br>MM DD YYYY HH MI                                              |                                            |                                                                                  |
| Heart Rate                                                            | _____ (0 - 999)                                                                        | <input type="checkbox"/>                   | Not Documented                                                                   |
| Systolic Blood Pressure                                               | _____ (0 - 999)                                                                        | <input type="checkbox"/>                   | Not Documented                                                                   |
| Diastolic Blood Pressure                                              | _____ (0 - 999)                                                                        | <input type="checkbox"/>                   | Not Documented                                                                   |
| Respiratory Rate                                                      | _____ (0 - 999)                                                                        | <input type="checkbox"/>                   | Not Documented                                                                   |
| SpO2                                                                  | _____ (0 - 100)                                                                        | <input type="checkbox"/>                   | Not Documented                                                                   |
| Temperature                                                           | _____ (0.0 - 150.0)                                                                    | <input type="checkbox"/>                   | Not Documented                                                                   |
| Units                                                                 | <input type="checkbox"/> °C <input type="checkbox"/> °F                                |                                            |                                                                                  |
| Did patient have an out-of-hospital arrest leading to this admission? | <input type="checkbox"/> Yes                                                           | <input type="checkbox"/> No/Not Documented |                                                                                  |
| Pre-existing Conditions at Time of Event (check all that apply)       |                                                                                        |                                            |                                                                                  |
| <input type="checkbox"/>                                              | None (Review options below carefully)                                                  | <input type="checkbox"/>                   | Acute CNS non-stroke event                                                       |
| <input type="checkbox"/>                                              | Acute stroke                                                                           | <input type="checkbox"/>                   | Baseline depression in CNS function                                              |
| <input type="checkbox"/>                                              | Cardiac malformation/abnormality - acyanotic (pediatric and newborn/neonate only)      | <input type="checkbox"/>                   | Cardiac malformation/abnormality - cyanotic (pediatric and newborn/neonate only) |
| <input type="checkbox"/>                                              | Congenital malformation/abnormality (Non-Cardiac) (pediatric and newborn/neonate only) | <input type="checkbox"/>                   | Congestive heart failure (this admission)                                        |
| <input checked="" type="checkbox"/>                                   | Congestive heart failure (prior to [X] this admission)                                 |                                            | Diabetes Mellitus                                                                |
| <input type="checkbox"/>                                              | Hepatic insufficiency                                                                  | <input type="checkbox"/>                   | Hypotension/hypoperfusion                                                        |
| <input type="checkbox"/>                                              | Major trauma                                                                           | <input type="checkbox"/>                   | Metastatic or hematologic malignancy                                             |
| <input type="checkbox"/>                                              | Metabolic/electrolyte abnormality                                                      | <input type="checkbox"/>                   | Myocardial ischemia/infarction (this admission)                                  |
| <input type="checkbox"/>                                              | Myocardial ischemia/infarction (prior to this admit)                                   | <input type="checkbox"/>                   | Pneumonia                                                                        |

## CPA Event

Patient ID: 270428782

Active element groups: CPA Admin, CPA Event

Created: 12/29/2010 17:05:05 GMT-05:00

Last Updated: 06/18/2011 08:09:55 GMT-04:00

|                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                          |                                         |                                            |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------|-----------------------------------------|--------------------------------------------|
| <input checked="" type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                               | Renal insufficiency                                      | <input checked="" type="checkbox"/>     | Respiratory insufficiency                  |
| <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                          | Septicemia                                               |                                         |                                            |
| Interventions ALREADY IN PLACE when need for chest compressions and/or defibrillation was first recognized (check all that apply)                                                                                                                                                                                                                                                                                                                 |                                                          |                                         |                                            |
| PART A:                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                          | <input type="checkbox"/>                | None                                       |
| <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                          | Assisted or mechanical ventilation (includes CPAP/BiPAP) |                                         |                                            |
| <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                          | Intra-arterial catheter                                  |                                         |                                            |
| <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                          | Invasive airway                                          |                                         |                                            |
| Monitoring:                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                          |                                         |                                            |
| <input checked="" type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                               | ECG                                                      |                                         |                                            |
| <input checked="" type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                               | Pulse oximetry                                           |                                         |                                            |
| Vascular access:                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                          | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No/Not Documented |
| Any vasoactive agent in place?                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                          | <input type="checkbox"/> Yes            | <input type="checkbox"/> No/Not Documented |
| PART B:                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                          | <input type="checkbox"/>                | None                                       |
| <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                          | IV/IO continuous infusion of antiarrhythmic(s)           |                                         |                                            |
| <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                          | Conscious/procedural sedation                            |                                         |                                            |
| <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                          | Dialysis/extracorporeal filtration therapy (ongoing)     |                                         |                                            |
| <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                          | Internal cardiac defibrillator (ICD)                     |                                         |                                            |
| <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                          | End Tidal CO2 (ETCO2) Monitoring                         |                                         |                                            |
| <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                          | Supplemental oxygen (cannula, mask, hood, or tent)       |                                         |                                            |
| <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                          | Extracorporeal membrane oxygenation (ECMO)               |                                         |                                            |
| Historic                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                          |                                         |                                            |
| <p>Note: DO NOT complete this tab for any NEW patient records. The data elements in this tab are historic, meaning they have been retired. If you have any data shown here, it reflects how these questions were answered at the time that the data elements were active. If you find, as part of a data review, that you inappropriately answered a data element listed here, you may change your response. Otherwise, leave this tab blank.</p> |                                                          |                                         |                                            |
| CPA 2.1 PRE-EVENT                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                          |                                         |                                            |
| OPTIONAL: Was patient discharged from an Intensive Care Unit (ICU) prior to this CPA event?                                                                                                                                                                                                                                                                                                                                                       |                                                          | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No     |
| 2.2 Pre-Existing Conditions                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                          |                                         |                                            |
| Pre-existing Conditions at Time of Event                                                                                                                                                                                                                                                                                                                                                                                                          |                                                          |                                         |                                            |
| <input checked="" type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                               | Arrhythmia (excludes sinus tachycardia)                  |                                         |                                            |
| <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                          | HIV Positive                                             |                                         |                                            |
| <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                          | AIDS (if HIV Positive)                                   |                                         |                                            |
| 2.3 Interventions ALREADY IN PLACE when need for chest compressions and/or defibrillation was first recognized                                                                                                                                                                                                                                                                                                                                    |                                                          |                                         |                                            |
| Interventions ALREADY IN PLACE when need for chest compressions and/or defibrillation was first recognized Part A:                                                                                                                                                                                                                                                                                                                                |                                                          |                                         |                                            |
| <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                          | Pacemaker                                                |                                         |                                            |
| <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                          | Apnea                                                    |                                         |                                            |
| <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                          | Apnea/bradycardia                                        |                                         |                                            |
| Interventions ALREADY IN PLACE when need for chest compressions and/or defibrillation was first recognized: Vascular Access:                                                                                                                                                                                                                                                                                                                      |                                                          |                                         |                                            |
| <input checked="" type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                               | Peripheral vein                                          |                                         |                                            |
| <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                          | Central vein/PICC                                        |                                         |                                            |
| <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                          | Intraosseous (IO)                                        |                                         |                                            |

## CPA Event

Patient ID: 270428782

Active element groups: CPA Admin, CPA Event

Created: 12/29/2010 17:05:05 GMT-05:00

Last Updated: 06/18/2011 08:09:55 GMT-04:00

|                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|----------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <input type="checkbox"/>                                                                                             | Umbilical vein (UVC)                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <input type="checkbox"/>                                                                                             | Umbilical artery (UAC)                                                                                                                                                                                                                                                                                                                                                                                                                     |
| Interventional already in place when need for chest compressions and/or defibrillation was first recognized: Part B: |                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <input type="checkbox"/>                                                                                             | Amiodarone/Cordarone                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <input type="checkbox"/>                                                                                             | Lidocaine                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <input type="checkbox"/>                                                                                             | Procainamide                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <input type="checkbox"/>                                                                                             | Other antiarrhythmics, specify:                                                                                                                                                                                                                                                                                                                                                                                                            |
| IV/IO continuous infusion of vasoactive agent(s) (Specify):                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <input type="checkbox"/>                                                                                             | Dobutamine                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <input type="checkbox"/>                                                                                             | Dopamine > 3mcg/kg/min                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <input type="checkbox"/>                                                                                             | Epinephrine                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <input type="checkbox"/>                                                                                             | Nitroglycerin                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <input type="checkbox"/>                                                                                             | Norepinephrine                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <input type="checkbox"/>                                                                                             | Phenylephrine                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <input type="checkbox"/>                                                                                             | Other vasoactive agents, specify:                                                                                                                                                                                                                                                                                                                                                                                                          |
| <input type="checkbox"/>                                                                                             | Chest tube(s)                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <input type="checkbox"/>                                                                                             | Inhaled nitric oxide therapy (newborn/neonate)                                                                                                                                                                                                                                                                                                                                                                                             |
| <input type="checkbox"/>                                                                                             | Intra-aortic balloon pump                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <input type="checkbox"/>                                                                                             | Prostaglandins - continuous infusion (newborn/neonate)                                                                                                                                                                                                                                                                                                                                                                                     |
| <input type="checkbox"/>                                                                                             | Pulmonary artery (PA) catheter                                                                                                                                                                                                                                                                                                                                                                                                             |
| <input checked="" type="checkbox"/>                                                                                  | Sedative/narcotic - continuous infusion (including PCA)                                                                                                                                                                                                                                                                                                                                                                                    |
| <input type="checkbox"/>                                                                                             | Other prior interventions in place, specify:                                                                                                                                                                                                                                                                                                                                                                                               |
|                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| Event                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| Date/Time of Birth                                                                                                   | 01 / 25 / 1961<br>MM DD YYYY                                                                                                                                                                                                                                                                                                                                                                                                               |
| Age at Event                                                                                                         | 49 in                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| (X) Years                                                                                                            | <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                   |
| ( ) Months                                                                                                           | <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                   |
| ( ) Weeks                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| ( ) Days                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| ( ) Hours                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| ( ) Minutes                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| Subject Type                                                                                                         | <input checked="" type="checkbox"/> Ambulatory/Outpatient<br><input type="checkbox"/> Emergency Department<br><input type="checkbox"/> Hospital Inpatient - (rehab, skilled nursing, mental health wards)<br><input type="checkbox"/> Rehab Facility Inpatient<br><input type="checkbox"/> Skilled Nursing Facility Inpatient<br><input type="checkbox"/> Mental Health Facility Inpatient<br><input type="checkbox"/> Visitor or Employee |

## CPA Event

Patient ID: 270428782

Active element groups: CPA Admin, CPA Event

Created: 12/29/2010 17:05:05 GMT-05:00

Last Updated: 06/18/2011 08:09:55 GMT-04:00

|                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                           |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------|
| Illness Category                                                                                                                                                                                                                                                                                                                                                                                                                                       | <input type="checkbox"/> Medical-Cardiac<br><input type="checkbox"/> Surgical-Cardiac<br><input type="checkbox"/> Obstetric<br><input type="checkbox"/> Other (Visitor/Employee)                                                                                                                                                                                                     | <input checked="" type="checkbox"/> Medical-Noncardiac<br><input type="checkbox"/> Surgical-Noncardiac<br><input type="checkbox"/> Trauma |
| Event Location (area)                                                                                                                                                                                                                                                                                                                                                                                                                                  | <input type="checkbox"/> Ambulatory/Outpatient Care Unit (CCU) Area<br><input type="checkbox"/> Cardiac Catheterization Lab<br><input type="checkbox"/> Emergency Department (ED)<br><input type="checkbox"/> Newborn Nursery<br><input type="checkbox"/> Pediatric ICU (PICU)<br><input type="checkbox"/> Same-day surgical area<br><input type="checkbox"/> Unknown/Not Documented |                                                                                                                                           |
| Event Location (name):                                                                                                                                                                                                                                                                                                                                                                                                                                 | <input type="checkbox"/> Adult Coronary<br><input type="checkbox"/> Adult ICU<br><input checked="" type="checkbox"/> Delivery Suite<br><input type="checkbox"/> General Inpatient Area<br><input type="checkbox"/> Operating Room (OR)<br><input type="checkbox"/> Post-anesthesia Recovery Room (PACU)<br><input type="checkbox"/> Telemetry unit or Step-down unit                 |                                                                                                                                           |
| Event Witnessed?                                                                                                                                                                                                                                                                                                                                                                                                                                       | <input checked="" type="checkbox"/> Yes<br><input type="checkbox"/> No/Not Documented                                                                                                                                                                                                                                                                                                |                                                                                                                                           |
| Was a hospital-wide resuscitation response activated?                                                                                                                                                                                                                                                                                                                                                                                                  | <input checked="" type="checkbox"/> Yes<br><input type="checkbox"/> No/Not Documented                                                                                                                                                                                                                                                                                                |                                                                                                                                           |
| Historic<br>Note: DO NOT complete this tab for any NEW patient records. The data elements in this tab are historic, meaning they have been retired. If you have any data shown here, it reflects how these questions were answered at the time that the data elements were active. If you find, as part of a data review, that you inappropriately answered a data element listed here, you may change your response. Otherwise, leave this tab blank. |                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                           |
| 3.1 Event                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                           |
| Illness Category:                                                                                                                                                                                                                                                                                                                                                                                                                                      | <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                             | Newborn                                                                                                                                   |
| If Yes, date/time call made to (or received by) hospital switchboard paging system                                                                                                                                                                                                                                                                                                                                                                     | 10 / 01 / 2010 07 : 57<br><small>MM DD YYYY HH MI</small>                                                                                                                                                                                                                                                                                                                            | <input type="checkbox"/> Time Not Documented                                                                                              |
| Was the call made prior to recognition of need for chest compressions and/or defibrillation?                                                                                                                                                                                                                                                                                                                                                           | <input type="checkbox"/> Yes<br><input checked="" type="checkbox"/> No/Not Documented                                                                                                                                                                                                                                                                                                |                                                                                                                                           |
| 4.1 Immediate Cause                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                           |
| (RECORD ALL THAT DIRECTLY CONTRIBUTED TO EVENT)                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                           |
| <input type="checkbox"/> Abdominal silo reduction (newborn/neonate < 28 days)                                                                                                                                                                                                                                                                                                                                                                          | <input type="checkbox"/> Active myocardial ischemia (acute coronary                                                                                                                                                                                                                                                                                                                  | <input type="checkbox"/> Acute pneumothorax<br><input type="checkbox"/> Acute pulmonary edema                                             |

## CPA Event

Patient ID: 270428782

Created: 12/29/2010 17:05:05 GMT-05:00  
Last Updated: 06/18/2011 08:09:55 GMT-04:00

Active element groups: CPA Admin, CPA Event

|                                                                                          |                                                       |                                     |                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                |                                                    |                                              |
|------------------------------------------------------------------------------------------|-------------------------------------------------------|-------------------------------------|---------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------|----------------------------------------------------|----------------------------------------------|
| <input type="checkbox"/>                                                                 | Acute pulmonary embolism                              | <input checked="" type="checkbox"/> | Acute respiratory insufficiency                   | <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                                             | Acute stroke                                   | <input type="checkbox"/>                           | Arrhythmia                                   |
| <input type="checkbox"/>                                                                 | Conscious/procedural sedation                         | <input type="checkbox"/>            | Hypotension/hypoperfusion                         | <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                                             | Hypothermia                                    | <input type="checkbox"/>                           | Inadequate or obstruction of invasive airway |
| <input type="checkbox"/>                                                                 | Inadequate or obstruction of natural airway           | <input type="checkbox"/>            | Invasive airway displacement                      | <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                                             | Malfunction of device for assisted ventilation | <input type="checkbox"/>                           | Status epilepticus                           |
| <input type="checkbox"/> Metabolic/electrolyte abnormality (if newborn/neonate, specify) |                                                       |                                     |                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                |                                                    |                                              |
|                                                                                          |                                                       | <input type="checkbox"/>            | Acidosis (pH < 7.2 arterial, venous or capillary) |                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                |                                                    |                                              |
|                                                                                          |                                                       | <input type="checkbox"/>            | Glucose < 40 mg/dL                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                |                                                    |                                              |
|                                                                                          |                                                       | <input type="checkbox"/>            | Ionized Calcium < 1 mmol/L or < 4 mg/dL           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                |                                                    |                                              |
|                                                                                          |                                                       | <input type="checkbox"/>            | Sodium < 125 mEq/L                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                |                                                    |                                              |
|                                                                                          |                                                       | <input type="checkbox"/>            | Magnesium > 4 mEq/L                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                |                                                    |                                              |
|                                                                                          |                                                       | <input type="checkbox"/>            | Potassium > 6.5 mEq/L                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                |                                                    |                                              |
| Toxicological problem (specify):                                                         |                                                       |                                     |                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                |                                                    |                                              |
| <input checked="" type="checkbox"/>                                                      | Adverse drug effect/reaction (specify drug): propofol |                                     |                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                |                                                    |                                              |
| <input type="checkbox"/>                                                                 | Drug overdose (specify drug):                         |                                     |                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                |                                                    |                                              |
| <input type="checkbox"/>                                                                 | Poisoning (specify drug):                             |                                     |                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                |                                                    |                                              |
| Unknown/Not Documented                                                                   |                                                       | <input type="checkbox"/>            |                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                |                                                    |                                              |
| Intl Condition/Defib/Vent                                                                |                                                       |                                     |                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                |                                                    |                                              |
| Condition that best describes this event:                                                |                                                       |                                     |                                                   | <input checked="" type="checkbox"/> Patient was PULSELESS when need for chest compressions and/or need for defibrillation of initial rhythm VF/Pulseless VT was first identified<br><input type="checkbox"/> Patient had a pulse (poor perfusion) requiring chest compressions PRIOR to becoming pulseless<br><input type="checkbox"/> Patient had a pulse (poor perfusion) requiring chest compressions, but did NOT become pulseless at any time during this event |                                                |                                                    |                                              |
| Did patient receive chest compressions (includes open cardiac massage)?                  |                                                       |                                     |                                                   | <input checked="" type="checkbox"/> Yes                                                                                                                                                                                                                                                                                                                                                                                                                              | <input type="checkbox"/> No/Not Documented     | <input type="checkbox"/> No, Per Advance Directive |                                              |
| Compression Method(s) used (check all that apply):                                       |                                                       |                                     |                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                |                                                    |                                              |
| <input checked="" type="checkbox"/>                                                      | Standard Manual Compression                           |                                     |                                                   | <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                                             | Automatic Compressor                           |                                                    |                                              |



## CPA Event

Patient ID: 270428782

Active element groups: CPA Admin, CPA Event

Created: 12/29/2010 17:05:05 GMT-05:00

Last Updated: 06/18/2011 08:09:55 GMT-04:00

|                                                                                                                     |                                 |                                                                                                                                                                                                                                                                                                                                                                                                          |                                                 |
|---------------------------------------------------------------------------------------------------------------------|---------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------|
| <input type="checkbox"/>                                                                                            | Open chest CPR (direct          | <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                 | Unknown/Not Documented                          |
| <input type="checkbox"/>                                                                                            | [internal] cardiac compression) |                                                                                                                                                                                                                                                                                                                                                                                                          |                                                 |
| <input type="checkbox"/>                                                                                            | IAC-CPR (interposed abdominal   |                                                                                                                                                                                                                                                                                                                                                                                                          |                                                 |
|                                                                                                                     | compression cardiopulmonary     |                                                                                                                                                                                                                                                                                                                                                                                                          |                                                 |
|                                                                                                                     | resuscitation)                  |                                                                                                                                                                                                                                                                                                                                                                                                          |                                                 |
| Date/Time compression started                                                                                       |                                 | 10/01/2010 07:56                                                                                                                                                                                                                                                                                                                                                                                         | <input type="checkbox"/> Time Not Documented    |
|                                                                                                                     |                                 | MM DD YYYY HH MI                                                                                                                                                                                                                                                                                                                                                                                         |                                                 |
| <b>If compressions provided while pulse present:</b>                                                                |                                 |                                                                                                                                                                                                                                                                                                                                                                                                          |                                                 |
| Rhythm when patient with pulse FIRST received chest compressions during event:                                      |                                 | <input type="checkbox"/> Accelerated idioventricular rhythm (AIVR) <input type="checkbox"/> Bradycardia<br><input type="checkbox"/> Pacemaker <input type="checkbox"/> Supraventricular tachyarrhythmia (SVTarrhy)<br><input type="checkbox"/> Sinus (including sinus tachycardia) <input type="checkbox"/> Ventricular Tachycardia (VT) with a pulse<br><input type="checkbox"/> Unknown/Not Documented |                                                 |
| If pulseless at ANY time during event:                                                                              |                                 |                                                                                                                                                                                                                                                                                                                                                                                                          |                                                 |
| Date/Time pulselessness first identified:                                                                           |                                 | 10/01/2010 07:56                                                                                                                                                                                                                                                                                                                                                                                         | <input type="checkbox"/> Time Not Documented    |
|                                                                                                                     |                                 | MM DD YYYY HH MI                                                                                                                                                                                                                                                                                                                                                                                         |                                                 |
| First documented pulseless rhythm:                                                                                  |                                 | <input type="checkbox"/> Asystole<br><input checked="" type="checkbox"/> Pulseless Electrical Activity (PEA)<br><input type="checkbox"/> Pulseless Ventricular Tachycardia<br><input type="checkbox"/> Ventricular Fibrillation (VF)<br><input type="checkbox"/> Unknown/Not Documented                                                                                                                  |                                                 |
| Was automated external defibrillator (AED) or manual defibrillator in AED/Shock Advisory mode applied?              |                                 | <input type="checkbox"/> Yes<br><input type="checkbox"/> No/Not Documented<br><input checked="" type="checkbox"/> Not Applicable (not used by facility)                                                                                                                                                                                                                                                  |                                                 |
| Date/Time AED or manual defibrillator in AED/Shock Advisory mode applied?                                           |                                 |                                                                                                                                                                                                                                                                                                                                                                                                          | <input type="checkbox"/> Time Not Documented    |
|                                                                                                                     |                                 | MM DD YYYY HH MI                                                                                                                                                                                                                                                                                                                                                                                         |                                                 |
| Did the patient have Ventricular Fibrillation (VF) OR Pulseless Ventricular Tachycardia ANY time during this event? |                                 | <input checked="" type="checkbox"/> Yes<br><input type="checkbox"/> No/Not Documented                                                                                                                                                                                                                                                                                                                    |                                                 |
| Date/Time of Ventricular Fibrillation (VF) OR Pulseless Ventricular Tachycardia?                                    |                                 | 10/01/2010 08:11                                                                                                                                                                                                                                                                                                                                                                                         | <input type="checkbox"/> Unknown/Not Documented |
|                                                                                                                     |                                 | MM DD YYYY HH MI                                                                                                                                                                                                                                                                                                                                                                                         |                                                 |
| Was Defibrillation shock provided for Ventricular Fibrillation (VF) OR Pulseless Ventricular Tachycardia?           |                                 | <input checked="" type="checkbox"/> Yes<br><input type="checkbox"/> No/Not Documented<br><input type="checkbox"/> No, Per Advance Directive                                                                                                                                                                                                                                                              |                                                 |
| Total # of shocks                                                                                                   |                                 | 1                                                                                                                                                                                                                                                                                                                                                                                                        | <input type="checkbox"/> Unknown/Not Documented |
| <b>Saved Entries:</b>                                                                                               |                                 |                                                                                                                                                                                                                                                                                                                                                                                                          |                                                 |
| Date/Time                                                                                                           | 10/01/2010 08:11                | not checked                                                                                                                                                                                                                                                                                                                                                                                              | Not documented                                  |
| Energy (joules)                                                                                                     | 360                             | not checked                                                                                                                                                                                                                                                                                                                                                                                              | Not Documented                                  |
| <b>Enter new entries below:</b>                                                                                     |                                 |                                                                                                                                                                                                                                                                                                                                                                                                          |                                                 |
| Date/Time                                                                                                           |                                 | <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                 | Not documented                                  |

**CPA Event**

Patient ID: 270428782

Active element groups: CPA Admin, CPA Event

Created: 12/29/2010 17:05:05 GMT-05:00

Last Updated: 06/18/2011 08:09:55 GMT-04:00

|                                                                                                                                                                                                              |                 |                                                                                   |                             |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|-----------------------------------------------------------------------------------|-----------------------------|
| Energy (joules)                                                                                                                                                                                              | _____ (0 - 999) | <input type="checkbox"/>                                                          | Not Documented              |
| Date/Time                                                                                                                                                                                                    |                 | <input type="checkbox"/>                                                          | Not documented              |
| Energy (joules)                                                                                                                                                                                              | _____ (0 - 999) | <input type="checkbox"/>                                                          | Not Documented              |
| Date/Time                                                                                                                                                                                                    |                 | <input type="checkbox"/>                                                          | Not documented              |
| Energy (joules)                                                                                                                                                                                              | _____ (0 - 999) | <input type="checkbox"/>                                                          | Not Documented              |
| Documented reason (s) (patient, medical, hospital related or other) for not providing defibrillation shock for Ventricular Fibrillation (VF) or Pulseless Ventricular Tachycardia (VT) in first two minutes? |                 | <input type="checkbox"/> Yes                                                      | <input type="checkbox"/> No |
| Patient Reason(s):                                                                                                                                                                                           |                 |                                                                                   |                             |
| <input type="checkbox"/> Initial Refusal (e.g. family refused)                                                                                                                                               |                 |                                                                                   |                             |
| Medical Reason(s):                                                                                                                                                                                           |                 |                                                                                   |                             |
| <input type="checkbox"/> ICD in place which shocked patient within first 2 minutes of identification of VF or Pulseless VT                                                                                   |                 |                                                                                   |                             |
| <input type="checkbox"/> LVAD or BIVAD In place                                                                                                                                                              |                 |                                                                                   |                             |
| <input type="checkbox"/> Rhythm change to non-shockable rhythm within 2 minutes of identification of VF or Pulseless VT                                                                                      |                 |                                                                                   |                             |
| <input type="checkbox"/> Spontaneous Return of Circulation within first 2 minutes of identification of VF or Pulseless VT                                                                                    |                 |                                                                                   |                             |
| Hospital Related or Other Reason(s):                                                                                                                                                                         |                 |                                                                                   |                             |
| <input type="checkbox"/> Equipment related delay (e.g., defibrillator not available, pad not attached)                                                                                                       |                 |                                                                                   |                             |
| <input type="checkbox"/> In-hospital time delay (e.g. code team delays, personnel not familiar with protocol or equipment, unable to locate hospital defibrillator)                                          |                 |                                                                                   |                             |
| <input type="checkbox"/> Other                                                                                                                                                                               |                 |                                                                                   |                             |
| Please Specify: _____                                                                                                                                                                                        |                 |                                                                                   |                             |
| Types of Ventilation/Airways used                                                                                                                                                                            |                 |                                                                                   |                             |
| <input type="checkbox"/> None                                                                                                                                                                                |                 |                                                                                   |                             |
| <input type="checkbox"/> Unknown/Not Documented                                                                                                                                                              |                 |                                                                                   |                             |
| Ventilation/Airways Used (select all that apply):                                                                                                                                                            |                 |                                                                                   |                             |
| <input checked="" type="checkbox"/> Bag-Valve-Mask                                                                                                                                                           |                 |                                                                                   |                             |
| <input type="checkbox"/> Mask and/or Nasal CPAP/BiPAP                                                                                                                                                        |                 |                                                                                   |                             |
| <input type="checkbox"/> Mouth-to-Barrier Device                                                                                                                                                             |                 |                                                                                   |                             |
| <input type="checkbox"/> Mouth-to-Mouth                                                                                                                                                                      |                 |                                                                                   |                             |
| <input type="checkbox"/> Laryngeal Mask Airway (LMA)                                                                                                                                                         |                 |                                                                                   |                             |
| <input type="checkbox"/> Endotracheal Tube (ET)                                                                                                                                                              |                 |                                                                                   |                             |
| <input type="checkbox"/> Tracheostomy Tube                                                                                                                                                                   |                 |                                                                                   |                             |
| <input type="checkbox"/> Other Non-Invasive Ventilation, Specify _____                                                                                                                                       |                 |                                                                                   |                             |
| Was any Endotracheal Tube (ET) or Tracheostomy Tube inserted/re-inserted during event?                                                                                                                       |                 | <input type="checkbox"/> Yes                                                      | <input type="checkbox"/> No |
| Date/Time Endotracheal Tube (ET) or Tracheostomy Tube inserted if not already in place and/or re-inserted during event:                                                                                      |                 | <input type="checkbox"/>                                                          | Time Not Documented         |
| Method(s) of confirmation used to ensure correct placement of Endotracheal Tube (ET) or Tracheostomy Tube (check all that apply):                                                                            |                 | <input type="checkbox"/> Waveform capnography (waveform ETCO2)                    |                             |
|                                                                                                                                                                                                              |                 | <input type="checkbox"/> Capnometry (numeric ETCO2)                               |                             |
|                                                                                                                                                                                                              |                 | <input type="checkbox"/> Exhaled CO2 colorimetric monitor (ETCO2 by color change) |                             |

## CPA Event

Patient ID: 270428782

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| <input type="checkbox"/> Esophageal detection devices<br><input type="checkbox"/> Revisualization with direct laryngoscopy<br><input type="checkbox"/> None of the above<br><input type="checkbox"/> Not Documented                                                                                                                                                                                                                        |                                                                                                                                                                                                    |
| Historic                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                    |
| Note: DO NOT complete this tab for any NEW patient records. The data elements in this tab are historic, meaning they have been retired. If you have any data shown here, it reflects how these questions were answered at the time that the data elements were active. If you find, as part of a data review, that you inappropriately answered a data element listed here, you may change your response. Otherwise, leave this tab blank. |                                                                                                                                                                                                    |
| 4.1 Initial condition                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                    |
| Compression Method(s) used:                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                    |
| <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                   | Mechanical piston CPR                                                                                                                                                                              |
| <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                   | Active Compression-Decompression device (ACD-CPR)                                                                                                                                                  |
| <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                   | Load-distributing band (LDB) CPR / Circumferential CPR                                                                                                                                             |
| <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                   | Interposed Abdominal Compression (IAC-CPR)                                                                                                                                                         |
| Was Impedence Threshold Device used?                                                                                                                                                                                                                                                                                                                                                                                                       | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No/Not Documented                                                                                                                 |
| Was patient w/pulse CONSCIOUS when need for compression first identified?                                                                                                                                                                                                                                                                                                                                                                  | <input type="checkbox"/> Yes<br><input type="checkbox"/> No<br><input type="checkbox"/> Unknown/Not Documented                                                                                     |
| Was patient w/ pulse BREATHING when need for compressions first identified?                                                                                                                                                                                                                                                                                                                                                                | <input type="checkbox"/> Yes<br><input type="checkbox"/> No<br><input type="checkbox"/> Agonal<br><input type="checkbox"/> Assisted Ventilation<br><input type="checkbox"/> Unknown/Not Documented |
| 4.2 AED and VF/Pulseless VT                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                    |
| Details of Each Shock                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                    |
| Saved Entries:                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                    |
| Date/Time                                                                                                                                                                                                                                                                                                                                                                                                                                  | 10/01/2010 08:11 not checked Not documented                                                                                                                                                        |
| Defibrillator Type/Mode                                                                                                                                                                                                                                                                                                                                                                                                                    | Manual/Conventional                                                                                                                                                                                |
| Waveform                                                                                                                                                                                                                                                                                                                                                                                                                                   | Biphasic                                                                                                                                                                                           |
| Energy (joules)                                                                                                                                                                                                                                                                                                                                                                                                                            | 360                                                                                                                                                                                                |
| Was there a return of pulse/heart rate AFTER shock and chest compressions?                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                    |
| What was the rhythm after shock and 2 minutes of chest compressions?                                                                                                                                                                                                                                                                                                                                                                       | Sinus (including sinus tachycardia)                                                                                                                                                                |
| Enter new entries below:                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                    |
| Date/Time                                                                                                                                                                                                                                                                                                                                                                                                                                  | MM/DD/YYYY HH:MI [ ] Not documented                                                                                                                                                                |
| Defibrillator Type/Mode                                                                                                                                                                                                                                                                                                                                                                                                                    | <input type="checkbox"/> Automated external defibrillator (AED)                                                                                                                                    |

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|----------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Waveform                                                                   | <input type="checkbox"/> Manual/Conventional<br><input type="checkbox"/> Internal Cardiac Defibrillator (ICD)<br><input type="checkbox"/> Unknown/Not Documented<br><input type="checkbox"/> Biphasic <input type="checkbox"/> Monophasic <input type="checkbox"/> Unknown/Not Documented                                                                                                                                                                                                                                                                                                                                                                 |
| Energy (joules)                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| Was there a return of pulse/heart rate AFTER shock and chest compressions? | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Documented                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| What was the rhythm after shock and 2 minutes of chest compressions?       | <input type="checkbox"/> Asystole<br><input type="checkbox"/> Accelerated idioventricular rhythm (AIVR)<br><input type="checkbox"/> Bradycardia<br><input type="checkbox"/> Pacemaker<br><input type="checkbox"/> Pulseless Electrical Activity (PEA)<br><input type="checkbox"/> Sinus (including sinus tachycardia)<br><input type="checkbox"/> Supraventricular tachyarrhythmia (SVTarrhy)<br><input type="checkbox"/> Ventricular Tachycardia (VT) with a pulse<br><input type="checkbox"/> Ventricular Tachycardia (VT) without a pulse<br><input type="checkbox"/> Ventricular Fibrillation (VF)<br><input type="checkbox"/> Unknown/Not Documented |
| Date/Time                                                                  | __/__/__ :__ [ ]<br><small>MM DD YYYY HH MI</small>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| Defibrillator Type/Mode                                                    | <input type="checkbox"/> Automated external defibrillator (AED)<br><input type="checkbox"/> Manual/Conventional<br><input type="checkbox"/> Internal Cardiac Defibrillator (ICD)<br><input type="checkbox"/> Unknown/Not Documented                                                                                                                                                                                                                                                                                                                                                                                                                       |
| Waveform                                                                   | <input type="checkbox"/> Biphasic <input type="checkbox"/> Monophasic <input type="checkbox"/> Unknown/Not Documented                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| Energy (joules)                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| Was there a return of pulse/heart rate AFTER shock and chest compressions? | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Documented                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| What was the rhythm after shock and 2 minutes of chest compressions?       | <input type="checkbox"/> Asystole<br><input type="checkbox"/> Accelerated idioventricular rhythm (AIVR)<br><input type="checkbox"/> Bradycardia<br><input type="checkbox"/> Pacemaker<br><input type="checkbox"/> Pulseless Electrical Activity (PEA)<br><input type="checkbox"/> Sinus (including sinus tachycardia)<br><input type="checkbox"/> Supraventricular tachyarrhythmia (SVTarrhy)<br><input type="checkbox"/> Ventricular Tachycardia (VT) with a pulse<br><input type="checkbox"/> Ventricular Tachycardia (VT) without a pulse                                                                                                              |

## CPA Event

Patient ID: 270428782

Active element groups: CPA Admin, CPA Event

Created: 12/29/2010 17:05:05 GMT-05:00

Last Updated: 06/18/2011 08:09:55 GMT-04:00

|                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                          |                                                      |
|------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|------------------------------------------------------|
|                                                                                                      | <input type="checkbox"/> Ventricular Fibrillation (VF)<br><input type="checkbox"/> Unknown/Not Documented                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                          |                                                      |
| Date/Time                                                                                            | __/__/__ :__ [ ]<br><small>MM DD YYYY HH MI</small>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                          | Not documented                                       |
| Defibrillator Type/Mode                                                                              | <input type="checkbox"/> Automated external defibrillator (AED)<br><input type="checkbox"/> Manual/Conventional<br><input type="checkbox"/> Internal Cardiac Defibrillator (ICD)<br><input type="checkbox"/> Unknown/Not Documented                                                                                                                                                                                                                                                                                                                                                                                                                       |                          |                                                      |
| Waveform                                                                                             | <input type="checkbox"/> Biphasic <input type="checkbox"/> Monophasic <input type="checkbox"/> Unknown/Not Documented                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                          |                                                      |
| Energy (joules)                                                                                      | _____                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                          |                                                      |
| Was there a return of pulse/heart rate AFTER shock and chest compressions?                           | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Documented                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                          |                                                      |
| What was the rhythm after shock and 2 minutes of chest compressions?                                 | <input type="checkbox"/> Asystole<br><input type="checkbox"/> Accelerated idioventricular rhythm (AIVR)<br><input type="checkbox"/> Bradycardia<br><input type="checkbox"/> Pacemaker<br><input type="checkbox"/> Pulseless Electrical Activity (PEA)<br><input type="checkbox"/> Sinus (including sinus tachycardia)<br><input type="checkbox"/> Supraventricular tachyarrhythmia (SVTarrhy)<br><input type="checkbox"/> Ventricular Tachycardia (VT) with a pulse<br><input type="checkbox"/> Ventricular Tachycardia (VT) without a pulse<br><input type="checkbox"/> Ventricular Fibrillation (VF)<br><input type="checkbox"/> Unknown/Not Documented |                          |                                                      |
| Invasive Airway Device                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                          |                                                      |
| <input checked="" type="checkbox"/>                                                                  | Endotracheal Tube (ET)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | <input type="checkbox"/> | Laryngeal Mask Airway (LMA)                          |
| <input type="checkbox"/>                                                                             | Other Invasive Airway/Ventilation, Specify _____                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                          |                                                      |
| Was any invasive airway inserted/re-inserted during event?                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                          |                                                      |
| <input checked="" type="checkbox"/>                                                                  | Yes, initial insertion of invasive airway achieved                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | <input type="checkbox"/> | Yes, re-insertion of invasive airway achieved        |
| <input type="checkbox"/>                                                                             | No, already in place                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | <input type="checkbox"/> | No, per Advanced Directive                           |
| <input type="checkbox"/>                                                                             | No, responded to non-invasive therapy                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | <input type="checkbox"/> | No, not inserted (includes unsuccessfully attempted) |
| Date and Time Invasive Airway Inserted if not already in place and/or Re-inserted during event       | 10/01/2010 08:02 [ ]<br><small>MM DD YYYY HH MI</small>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                          | Time Not Documented                                  |
| Method(s) of confirmation used to ensure correct placement of invasive airway (check all that apply) |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                          |                                                      |
| <input checked="" type="checkbox"/>                                                                  | Auscultation                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | <input type="checkbox"/> | Esophageal detector device (EDD)                     |
| <input checked="" type="checkbox"/>                                                                  | Exhaled CO2 detector                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | <input type="checkbox"/> | Flexible fiberoptic laryngoscope                     |

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|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------|-----------------------------------------|--------------------------------------------|
| <input type="checkbox"/>                                                                                                                                                                                                                 | X-ray (w/ results prior to end of event)                 | <input type="checkbox"/>                | Performed, method unknown/not documented   |
| <input type="checkbox"/>                                                                                                                                                                                                                 | None/Not documented                                      |                                         |                                            |
| <input type="checkbox"/>                                                                                                                                                                                                                 | Other                                                    |                                         |                                            |
| <b>Other Interventions</b>                                                                                                                                                                                                               |                                                          |                                         |                                            |
| Was IV/IO Epinephrine BOLUS administered?                                                                                                                                                                                                |                                                          | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No/Not Documented |
| Date/Time of FIRST IV/IO bolus dose<br>MM DD YYYY HH MI                                                                                                                                                                                  |                                                          | <input type="checkbox"/>                | Time Not Documented                        |
| Total Number of Doses                                                                                                                                                                                                                    | 1                                                        | <input type="checkbox"/>                | Unknown/Not Documented                     |
| Was IV/IO Vasopressin BOLUS administered?                                                                                                                                                                                                |                                                          | <input type="checkbox"/> Yes            | <input type="checkbox"/> No/Not Documented |
| Date/Time of FIRST IV/IO bolus dose<br>MM DD YYYY HH MI                                                                                                                                                                                  |                                                          | <input type="checkbox"/>                | Time Not Documented                        |
| Total Number of Doses                                                                                                                                                                                                                    | (0 - 99)                                                 | <input type="checkbox"/>                | Unknown/Not Documented                     |
| If IV/IO Epinephrine or Vasopressin BOLUS was not administered within the first five minutes of the event, was there a documented patient, medical, hospital related or other reason for not providing Epinephrine or Vasopressin bolus? |                                                          | <input type="checkbox"/> Yes            | <input type="checkbox"/> No                |
| Patient Reason(s):                                                                                                                                                                                                                       |                                                          |                                         |                                            |
| <input type="checkbox"/> Initial Refusal (e.g. family refused)                                                                                                                                                                           |                                                          |                                         |                                            |
| Medical Reason(s):                                                                                                                                                                                                                       |                                                          |                                         |                                            |
| <input type="checkbox"/> Patient already receiving vasopressor (e.g. Epinephrine or Vasopressin) as a continuous IV infusion prior to and during arrest                                                                                  |                                                          |                                         |                                            |
| <input type="checkbox"/> Spontaneous Return of Circulation within first 5 minutes of the date/time pulselessness was first identified (or the need for chest compressions was first recognized (pediatric only))                         |                                                          |                                         |                                            |
| <input type="checkbox"/> Medication allergy                                                                                                                                                                                              |                                                          |                                         |                                            |
| Hospital Related or Other Reason(s):                                                                                                                                                                                                     |                                                          |                                         |                                            |
| <input type="checkbox"/> In-hospital time delay (e.g., delay in locating medication)                                                                                                                                                     |                                                          |                                         |                                            |
| <input type="checkbox"/> No route to deliver medication (e.g. no IV/IO access)                                                                                                                                                           |                                                          |                                         |                                            |
| <input type="checkbox"/> Other                                                                                                                                                                                                           |                                                          |                                         |                                            |
| Please Specify:                                                                                                                                                                                                                          |                                                          |                                         |                                            |
| Select all either initiated, or if already in place immediately prior to, continued during event.                                                                                                                                        |                                                          |                                         |                                            |
| <input type="checkbox"/>                                                                                                                                                                                                                 | None (Select only after careful review of options below) |                                         |                                            |
| <input checked="" type="checkbox"/>                                                                                                                                                                                                      | Antiarrhythmic medication(s):                            |                                         |                                            |
| <input type="checkbox"/>                                                                                                                                                                                                                 | Adenosine/Adenocard                                      |                                         |                                            |
| <input checked="" type="checkbox"/>                                                                                                                                                                                                      | Amiodarone/Cordarone                                     |                                         |                                            |
| <input type="checkbox"/>                                                                                                                                                                                                                 | Lidocaine                                                |                                         |                                            |
| <input type="checkbox"/>                                                                                                                                                                                                                 | Procainamide                                             |                                         |                                            |
| <input type="checkbox"/>                                                                                                                                                                                                                 | Other antiarrhythmics:                                   |                                         |                                            |

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|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <input checked="" type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                        | Vasopressor(s) other than epinephrine bolus and vasopressin bolus:                                                                                                                                                     |
| <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                   | Dobutamine                                                                                                                                                                                                             |
| <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                   | Dopamine > 3mcg/kg/min                                                                                                                                                                                                 |
| <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                   | Epinephrine, IV/IO continuous infusion                                                                                                                                                                                 |
| <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                   | Norepinephrine                                                                                                                                                                                                         |
| <input checked="" type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                        | Phenylephrine                                                                                                                                                                                                          |
| <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                   | Vasopressin, IV/IO continuous infusion                                                                                                                                                                                 |
| <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                   | Other vasopressors:                                                                                                                                                                                                    |
| <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                   | Atropine                                                                                                                                                                                                               |
| <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                   | Calcium chloride/Calcium gluconate                                                                                                                                                                                     |
| <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                   | Dextrose bolus                                                                                                                                                                                                         |
| <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                   | Magnesium sulfate                                                                                                                                                                                                      |
| <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                   | Reversal agent (e.g. naloxone/Narcan, flumazenil/Romazicon, neostigmine/Prostigmin)                                                                                                                                    |
| <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                   | Sodium bicarbonate                                                                                                                                                                                                     |
| <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                   | Other drug interventions:                                                                                                                                                                                              |
| Select each intervention that was employed during the resuscitation event.                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                        |
| <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                   | None (review options below carefully)                                                                                                                                                                                  |
| <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                   | Cardiopulmonary bypass / extracorporeal CPR (ECPR)                                                                                                                                                                     |
| <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                   | Chest tube(s) inserted                                                                                                                                                                                                 |
| <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                   | Needle thoracostomy                                                                                                                                                                                                    |
| <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                   | Pacemaker, transcutaneous                                                                                                                                                                                              |
| <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                   | Pacemaker, transvenous or epicardial                                                                                                                                                                                   |
| <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                   | Pericardiocentesis                                                                                                                                                                                                     |
| <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                   | Other non-drug interventions                                                                                                                                                                                           |
| <b>Historic</b>                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                        |
| Note: DO NOT complete this tab for any NEW patient records. The data elements in this tab are historic, meaning they have been retired. If you have any data shown here, it reflects how these questions were answered at the time that the data elements were active. If you find, as part of a data review, that you inappropriately answered a data element listed here, you may change your response. Otherwise, leave this tab blank. |                                                                                                                                                                                                                        |
| <b>5.1 Epinephrine/Vasopressin</b>                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                        |
| Was Epinephrine BOLUS administered?                                                                                                                                                                                                                                                                                                                                                                                                        | <input checked="" type="checkbox"/> Yes<br><input type="checkbox"/> No/Not Documented                                                                                                                                  |
| Delivered Via (check all that apply):                                                                                                                                                                                                                                                                                                                                                                                                      | <input checked="" type="checkbox"/> Intravascular/Intraosseous (IV/IO)<br><input type="checkbox"/> Endotracheal/Tracheostomy Tube<br><input type="checkbox"/> Other<br><input type="checkbox"/> Unknown/Not Documented |
| Other, specify:                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                        |
| Highest IV/IO                                                                                                                                                                                                                                                                                                                                                                                                                              | 1.0 Dose unit <input checked="" type="checkbox"/> mg <input type="checkbox"/> Unknown/Not                                                                                                                              |

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| Epinephrine bolus given                                                                                                                                                                                                                                                   | ( ) mL of 1:1,000<br>( ) mL of 1:10,000                               | Documented                                                       |
| Was Vasopressin BOLUS administered?                                                                                                                                                                                                                                       | ( ) Yes<br>(X) No/Not Documented                                      |                                                                  |
| Delivered Via (check all that apply):                                                                                                                                                                                                                                     | ( ) Intravascular/intraosseous (IV/IO)<br>( ) Other                   | ( ) Endotracheal/Tracheostomy Tube<br>( ) Unknown/Not Documented |
| Specify: _____                                                                                                                                                                                                                                                            |                                                                       |                                                                  |
| 5.2 Other Drug Interventions                                                                                                                                                                                                                                              |                                                                       |                                                                  |
| ( )                                                                                                                                                                                                                                                                       | Dextrose bolus with insulin                                           |                                                                  |
| ( )                                                                                                                                                                                                                                                                       | Fluid bolus for volume expansion                                      |                                                                  |
| ( )                                                                                                                                                                                                                                                                       | Glycopyrrolate                                                        |                                                                  |
| ( )                                                                                                                                                                                                                                                                       | Neuromuscular blocker/muscle relaxant                                 |                                                                  |
| ( )                                                                                                                                                                                                                                                                       | Prostaglandin E1 (PGE)                                                |                                                                  |
| ( )                                                                                                                                                                                                                                                                       | Sedative/induction agent                                              |                                                                  |
| ( )                                                                                                                                                                                                                                                                       | THAM (alkalinizing agent)                                             |                                                                  |
| ( )                                                                                                                                                                                                                                                                       | Other alkalinizing agents _____                                       |                                                                  |
| 5.3 Non-Drug Interventions                                                                                                                                                                                                                                                |                                                                       |                                                                  |
| ( )                                                                                                                                                                                                                                                                       | Blood transfusion                                                     |                                                                  |
| (X)                                                                                                                                                                                                                                                                       | Central venous line inserted                                          |                                                                  |
| ( )                                                                                                                                                                                                                                                                       | Echocardiogram                                                        |                                                                  |
| ( )                                                                                                                                                                                                                                                                       | Ice to the head (for cooling)                                         |                                                                  |
| ( )                                                                                                                                                                                                                                                                       | Thoracentesis                                                         |                                                                  |
| ( )                                                                                                                                                                                                                                                                       | Tracheostomy / Cricothyrotomy (placed during event)                   |                                                                  |
| Event Outcome                                                                                                                                                                                                                                                             |                                                                       |                                                                  |
| Was ANY documented return of adequate circulation [ROC] (in the absence of ongoing chest compressions return of adequate pulse/heart rate by palpation, auscultation, Doppler, arterial blood pressure waveform, or documented blood pressure) achieved during the event? | (X) Yes<br>( ) No/Not Documented                                      |                                                                  |
| Date/Time of FIRST adequate return of circulation (ROC):                                                                                                                                                                                                                  | <u>10/01/2010 08:12</u><br>MM DD YYYY HH MI                           | ( ) Time Not Documented                                          |
| Reason resuscitation ended:                                                                                                                                                                                                                                               | (X) Survived - ROC<br>( ) Died - Efforts terminated, no sustained ROC |                                                                  |
| Date and time sustained ROC <i>began lasting &gt; 20 min</i> OR resuscitation efforts were terminated (End of event)                                                                                                                                                      | <u>10/01/2010 08:12</u><br>MM DD YYYY HH MI                           | ( ) Time Not Documented                                          |
| Highest patient temperatures during first 24 hrs after ROC                                                                                                                                                                                                                |                                                                       |                                                                  |
| Temperature: 97.6                                                                                                                                                                                                                                                         | ( ) C (X) F                                                           | Temperature Not Documented                                       |



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|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------|
| Site:                                                                                                                                                                                                                                                                                                                                                                                                                                             | <input type="checkbox"/> Axillary <input type="checkbox"/> Bladder <input type="checkbox"/> Blood <input type="checkbox"/> Brain <input type="checkbox"/> Oral <input type="checkbox"/> Rectal <input type="checkbox"/> Surface <input checked="" type="checkbox"/> Other <input type="checkbox"/> Unk <input type="checkbox"/> Tympanic<br>(skin, temporal) |                                                                                                                          |
| Date/Time Recorded:                                                                                                                                                                                                                                                                                                                                                                                                                               | <u>10/01/2010</u> <u>15:00</u><br>MM DD YYYY HH MI                                                                                                                                                                                                                                                                                                           | <input type="checkbox"/> Time Not Documented                                                                             |
| Historic                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                          |
| <i>Note: DO NOT complete this tab for any NEW patient records. The data elements in this tab are historic, meaning they have been retired. If you have any data shown here, it reflects how these questions were answered at the time that the data elements were active. If you find, as part of a data review, that you inappropriately answered a data element listed here, you may change your response. Otherwise, leave this tab blank.</i> |                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                          |
| <b>6.1 Event Outcome</b>                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                          |
| Reason resuscitation ended:                                                                                                                                                                                                                                                                                                                                                                                                                       | <input type="checkbox"/> Died - Advance directive<br><input type="checkbox"/> Died - Medical futility<br><input type="checkbox"/> Died - Restrictions by family                                                                                                                                                                                              |                                                                                                                          |
| <b>6.2 Post-ROC Care</b>                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                          |
| Was induced hypothermia initiated after return of circulation (ROC) achieved?                                                                                                                                                                                                                                                                                                                                                                     | <input checked="" type="checkbox"/> Yes<br><input type="checkbox"/> No/Not Documented                                                                                                                                                                                                                                                                        |                                                                                                                          |
| Lowest patient temperatures during first 24 hrs after ROC                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                          |
| Temperature <u>92.4</u>                                                                                                                                                                                                                                                                                                                                                                                                                           | <input type="checkbox"/> C <input checked="" type="checkbox"/> F                                                                                                                                                                                                                                                                                             | Site: <u>Unk<sup>(2)</sup></u> Date/Time <u>10/01/2010</u> <u>18:00</u><br>Recorded MM DD YYYY HH MI Time Not Documented |
| Lowest/highest blood glucose levels during first 24 hrs after ROC (*If only one glucose level is documented, enter as BOTH the highest and lowest level)                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                          |
| Lowest                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                          |
| Glucose Level _____<br>(0.0 - 99999.0)                                                                                                                                                                                                                                                                                                                                                                                                            | <input type="checkbox"/> Unknown/ Not Documented                                                                                                                                                                                                                                                                                                             | Date/Time _____<br>Recorded MM DD YYYY HH MI Time Not Documented                                                         |
| Highest                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                          |
| Glucose Level _____                                                                                                                                                                                                                                                                                                                                                                                                                               | <input type="checkbox"/> Unknown/ Not Documented                                                                                                                                                                                                                                                                                                             | Date/Time _____<br>Recorded MM DD YYYY HH MI Time Not Documented                                                         |
| <b>CPR Quality</b>                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                          |
| Was performance of CPR monitored or guided using any of the following? (Check all that apply)                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                          |
| <input type="checkbox"/> None                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                          |
| <input type="checkbox"/> Waveform Capnography/End Tidal CO2 (ETCO2)                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                          |
| <input type="checkbox"/> Arterial Wave Form/Diastolic Pressure                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                          |
| <input type="checkbox"/> CPR mechanics device (e.g. accelerometer, force transducer, TFI device)                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                          |
| <input type="checkbox"/> CPR quality coach                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                          |
| <input type="checkbox"/> Metronome                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                          |
| <input type="checkbox"/> Other, Specify: _____                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                          |

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|----------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------|---------------------------------------------------------------------|
| If CPR mechanics device (e.g. accelerometer, force transducer, TFI device) used: |                                                                                                             |                                                                |                                                                     |
| Average compression rate:                                                        | _____ (0 - 999)                                                                                             | (per minute)                                                   | <input type="checkbox"/> Not Documented                             |
| Average compression depth:                                                       | _____ (0.1 - 999.9)                                                                                         | ( ) mm ( ) cm ( ) inches                                       | <input type="checkbox"/> Not Documented                             |
| Compression fraction:                                                            | _____ (0.0 - 1.0)                                                                                           | (enter number between 0 and 1)                                 | <input type="checkbox"/> Not Documented                             |
| Percent of chest compressions with complete release:                             | _____ (0 - 100)                                                                                             | (%)                                                            | <input type="checkbox"/> Not Documented                             |
| Average Ventilation Rate:                                                        | _____ (0 - 999)                                                                                             | (per minute)                                                   | <input type="checkbox"/> Not Documented                             |
| Longest Pre-shock pause:                                                         | _____ (0 - 999)                                                                                             | (seconds)                                                      | <input type="checkbox"/> Not Documented                             |
| Was a team debriefing on the quality of CPR provided completed after the event?  | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Documented |                                                                |                                                                     |
| OPTIONAL:                                                                        |                                                                                                             |                                                                |                                                                     |
| <input type="checkbox"/>                                                         |                                                                                                             | No/Not Documented                                              |                                                                     |
| Universal Precautions                                                            |                                                                                                             |                                                                |                                                                     |
| <input type="checkbox"/>                                                         |                                                                                                             | Not followed by all team members (specify in comments section) |                                                                     |
| Documentation                                                                    |                                                                                                             |                                                                |                                                                     |
| <input type="checkbox"/>                                                         |                                                                                                             | Signature of code team leader not on code sheet                |                                                                     |
| <input type="checkbox"/>                                                         |                                                                                                             | Missing other signatures                                       |                                                                     |
| <input type="checkbox"/>                                                         |                                                                                                             | Initial ECG rhythm not documented                              |                                                                     |
| <input type="checkbox"/>                                                         |                                                                                                             | Medication route(s) not documented                             |                                                                     |
| <input type="checkbox"/>                                                         |                                                                                                             | Incomplete documentation                                       |                                                                     |
| <input type="checkbox"/>                                                         |                                                                                                             | Other (specify in comments section)                            |                                                                     |
| Alerting Hospital-Wide Resuscitation Response                                    |                                                                                                             |                                                                |                                                                     |
| <input type="checkbox"/>                                                         |                                                                                                             | Delay                                                          |                                                                     |
| <input type="checkbox"/>                                                         |                                                                                                             | Pager issue(s)                                                 |                                                                     |
| <input type="checkbox"/>                                                         |                                                                                                             | Other (specify in comments section)                            |                                                                     |
| Airway                                                                           |                                                                                                             |                                                                |                                                                     |
| <input type="checkbox"/>                                                         | Aspiration related to provision of airway                                                                   | <input type="checkbox"/>                                       | Delay                                                               |
| <input type="checkbox"/>                                                         | Delayed recognition of airway misplacement/displacement                                                     | <input type="checkbox"/>                                       | Intubation attempted, not achieved                                  |
| <input type="checkbox"/>                                                         | Multiple intubation attempts                                                                                | _____ (0 - 99)                                                 | Number of attempts <input type="checkbox"/> Unknown/ Not Documented |
| <input type="checkbox"/>                                                         |                                                                                                             | Other (specify in comments section)                            |                                                                     |
| Vascular Access                                                                  |                                                                                                             |                                                                |                                                                     |
| <input type="checkbox"/>                                                         | Delay                                                                                                       | <input type="checkbox"/>                                       | Inadvertent arterial cannulation                                    |
| <input type="checkbox"/>                                                         | Infiltration/Disconnection                                                                                  | <input type="checkbox"/>                                       | Other (specify in comments section)                                 |
| Chest Compression                                                                |                                                                                                             |                                                                |                                                                     |
| <input type="checkbox"/>                                                         |                                                                                                             | Delay                                                          |                                                                     |

## CPA Event

Patient ID: 270428782

Active element groups: CPA Admin, CPA Event

Created: 12/29/2010 17:05:05 GMT-05:00

Last Updated: 06/18/2011 08:09:55 GMT-04:00

|                                                                                          |                                                                 |                             |                        |
|------------------------------------------------------------------------------------------|-----------------------------------------------------------------|-----------------------------|------------------------|
| <input type="checkbox"/>                                                                 | No back board                                                   |                             |                        |
| <input type="checkbox"/>                                                                 | Other (specify in comments section)                             |                             |                        |
| <b>Defibrillations</b>                                                                   |                                                                 |                             |                        |
| <input type="checkbox"/>                                                                 | Energy level lower/higher than recommended                      |                             |                        |
| <input type="checkbox"/>                                                                 | Initial delay, personnel not available to operate defibrillator |                             |                        |
| <input type="checkbox"/>                                                                 | Initial delay, issues with defibrillator access to patient      |                             |                        |
| <input type="checkbox"/>                                                                 | Initial delay, issue with paddle placement                      |                             |                        |
| <input type="checkbox"/>                                                                 | Equipment malfunction                                           |                             |                        |
| <input type="checkbox"/>                                                                 | Given, not indicated                                            |                             |                        |
| <input type="checkbox"/>                                                                 | Indicated, not given                                            |                             |                        |
| <input type="checkbox"/>                                                                 | Other (specify in comments section)                             |                             |                        |
| <b>Medications</b>                                                                       |                                                                 |                             |                        |
| <input type="checkbox"/>                                                                 | Delay                                                           | <input type="checkbox"/>    | Route                  |
| <input type="checkbox"/>                                                                 | Dose                                                            | <input type="checkbox"/>    | Selection              |
| <input type="checkbox"/>                                                                 | Other (specify in comments section)                             |                             |                        |
| <b>Leadership</b>                                                                        |                                                                 |                             |                        |
| <input type="checkbox"/>                                                                 | Delay in identifying leader                                     | <input type="checkbox"/>    | Knowledge of equipment |
| <input type="checkbox"/>                                                                 | Knowledge of medications/protocols                              | <input type="checkbox"/>    | Knowledge of roles     |
| <input type="checkbox"/>                                                                 | Team oversight                                                  | <input type="checkbox"/>    | Too many team members  |
| <input type="checkbox"/>                                                                 | Other (specify in comments section)                             |                             |                        |
| <b>Protocol Deviation</b>                                                                |                                                                 |                             |                        |
| <input type="checkbox"/>                                                                 | ACLS/PALS                                                       |                             |                        |
| <input type="checkbox"/>                                                                 | NRP                                                             |                             |                        |
| <input type="checkbox"/>                                                                 | Other (specify in comments section)                             |                             |                        |
| <b>Equipment</b>                                                                         |                                                                 |                             |                        |
| <input type="checkbox"/>                                                                 | Availability                                                    |                             |                        |
| <input type="checkbox"/>                                                                 | Function                                                        |                             |                        |
| <input type="checkbox"/>                                                                 | Other (specify in comments section)                             |                             |                        |
| <b>Comments</b>                                                                          |                                                                 |                             |                        |
| <b>Was this cardiac arrest event the patient's index (first) event?</b>                  |                                                                 |                             |                        |
| <input type="checkbox"/> Yes                                                             |                                                                 | <input type="checkbox"/> No |                        |
| NOTE: Please do not enter any patient identifiable information in these optional fields. |                                                                 |                             |                        |
| Field 1                                                                                  | _____                                                           | Field 2                     | _____                  |
| Field 3                                                                                  | _____                                                           | Field 4                     | _____                  |
| Field 5                                                                                  | _____                                                           | Field 6                     | _____                  |
| Field 7                                                                                  | _____                                                           | Field 8                     | _____                  |
| Field 9                                                                                  | _____                                                           | Field 10                    | _____                  |
| Field 11                                                                                 | _____ <sup>(3)</sup>                                            | Field 12                    | _____ <sup>(4)</sup>   |
| Field 13                                                                                 | Unknown                                                         | Field 14                    | Unknown                |
| <b>Historic</b>                                                                          |                                                                 |                             |                        |

**CPA Event**

Patient ID: 270428782

Active element groups: CPA Admin, CPA Event

Created: 12/29/2010 17:05:05 GMT-05:00

Last Updated: 06/18/2011 08:09:55 GMT-04:00

*Note: DO NOT complete this tab for any NEW patient records. The data elements in this tab are historic, meaning they have been retired. If you have any data shown here, it reflects how these questions were answered at the time that the data elements were active. If you find, as part of a data review, that you inappropriately answered a data element listed here, you may change your response. Otherwise, leave this tab blank.*

**CPA 7.1 CPR QUALITY**

|                                                                                                                                              |                                                                                                                                                                                                                              |
|----------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Was continuous end tidal CO2 monitoring used to monitor quality of CPR?                                                                      | <input type="checkbox"/> Yes<br><input type="checkbox"/> No<br><input type="checkbox"/> Not Documented<br><input checked="" type="checkbox"/> No/Not Documented                                                              |
| If Yes, was an end tidal CO2 value of >10 mmHg achieved?                                                                                     | <input type="checkbox"/> Yes<br><input type="checkbox"/> No<br><input type="checkbox"/> Not Documented<br><input type="checkbox"/> No/Not Documented                                                                         |
| Was arterial line diastolic pressure used to monitor compression quality? (Required for pediatric and newborn/neonate patients only)         | <input type="checkbox"/> Yes<br><input type="checkbox"/> No<br><input type="checkbox"/> Not Documented<br><input type="checkbox"/> N/A (arterial line not in place)<br><input checked="" type="checkbox"/> No/Not Documented |
| Was a device or technology used to monitor quality of compressions?                                                                          | <input type="checkbox"/> Yes<br><input type="checkbox"/> No<br><input type="checkbox"/> Not Documented<br><input checked="" type="checkbox"/> No/Not Documented                                                              |
| Was a compression rate greater than 100/minute maintained during CPR?                                                                        | <input type="checkbox"/> Yes<br><input type="checkbox"/> No<br><input type="checkbox"/> Not Documented<br><input type="checkbox"/> No/Not Documented                                                                         |
| Were compressions interrupted (hands off period) for >10 seconds at any time during CPR (other than for interventions such as ET placement)? | <input type="checkbox"/> Yes<br><input type="checkbox"/> No<br><input type="checkbox"/> Not Documented<br><input type="checkbox"/> No/Not Documented                                                                         |
| Were compressions interrupted for > 15 sec (30 seconds for neonates) for interventions such as invasive airway placement during CPR?         | <input type="checkbox"/> Yes<br><input type="checkbox"/> No<br><input type="checkbox"/> Not Documented<br><input type="checkbox"/> No/Not Documented                                                                         |
| Did ventilation rate exceed 10/min (20/min for ped patients), excluding the initial confirmation of tracheal tube placement?                 | <input type="checkbox"/> Yes<br><input type="checkbox"/> No<br><input type="checkbox"/> Not Documented<br><input type="checkbox"/> No/Not Documented                                                                         |
| <b>Measures</b>                                                                                                                              |                                                                                                                                                                                                                              |

**CPA Event**

**Patient ID: 270428782**

**Active element groups: CPA Admin, CPA Event**

**Created: 12/29/2010 17:05:05 GMT-05:00**

**Last Updated: 06/18/2011 08:09:55 GMT-04:00**

|  |
|--|
|  |
|--|

This form is Complete

## Selection Options for CPA Event

### (1) - Event Location (name):

005E  
005W  
006E  
006W  
007W  
008E  
008W  
009E  
009W  
010W  
1 West  
2JRU  
2TCU  
4PACU  
4PCU  
4STI  
6MIC  
7CHA  
7CHB  
7CHC  
7CHE  
8CHD  
8CHE  
8CHF  
9NSI  
A CATH  
A DIA  
A IR  
A OUT  
A PAC  
A RAD  
A3W  
A4E  
A5E  
A5W  
A6E  
A6W  
ACCU  
ACTI  
AMSI  
AMSPCU  
CPC  
HCC

### Selection Options for CPA Event

|                                |
|--------------------------------|
| L & D                          |
| PED                            |
| PED CATH                       |
| U CATH                         |
| U DIA                          |
| U ENDO                         |
| U IR                           |
| U OUT                          |
| U RAD                          |
| (2) - Low temp site - Historic |
| Axillary                       |
| Bladder                        |
| Blood                          |
| Brain                          |
| Oral                           |
| Rectal                         |
| Surface (skin, temporal)       |
| Other                          |
| Unk                            |
| Tympanic                       |
| (3) - CPA Optional 11          |
| (4) - CPA Optional 12          |

|          |                  |              |                         |
|----------|------------------|--------------|-------------------------|
| Acct (5) | Actual Completed | Actual Hours | App Affected<br>0 Picis |
|----------|------------------|--------------|-------------------------|

|                           |           |      |  |
|---------------------------|-----------|------|--|
| Acct (5)                  |           |      |  |
| Actual Completed          |           |      |  |
| Actual Hours              |           | 0    |  |
| Adware(536871009)         |           |      |  |
| App Affected              | Picis     |      |  |
| App Team                  | CSS-OR-LD |      |  |
| App#Close                 |           |      |  |
| App#Open                  |           | 1794 |  |
| Assigned Group            | 1001;     |      |  |
| Assigned Team             | CSS-OR-LD |      |  |
| Assigned To               | thompsa   |      |  |
| Billing Entity            |           |      |  |
| Bots/Backdoors(536871010) |           |      |  |

10/1/2010 10:22:56 AM thompsa My patient is not in the transfer census list. –  
Original Location and Phone: ART 2017, 876-5962 – Original App & Error: Picis,  
PICIS Anes Mgr Assigned to thompsa Annette Thompson of Team CSS-OR-LD

|                           |                                                |                 |
|---------------------------|------------------------------------------------|-----------------|
| Call History              |                                                |                 |
| Call#                     |                                                | 788925          |
| Caller ID                 |                                                | 349758          |
| Comments                  |                                                |                 |
| Computer ID / IP addr     |                                                |                 |
| Contains PHI/HIPAA        |                                                |                 |
| Conversation              | My patient is not in the transfer census list. |                 |
| Correct Team              |                                                |                 |
| Create Date               |                                                | 10/1/2010 10:22 |
| Dept                      | Main Anesthesia                                |                 |
| DNS Hijack(536871018)     |                                                |                 |
| Email alias               | embrey                                         |                 |
| Email Phishing(536871017) |                                                |                 |
| End                       |                                                |                 |
| Entity                    |                                                |                 |



|                      |                                |      |                 |
|----------------------|--------------------------------|------|-----------------|
| Error                | PICIS Anes Mgr                 |      |                 |
| Error#Close          |                                |      |                 |
| Error#Open           |                                |      |                 |
| Exchange             |                                | TRUE |                 |
| First                | Donna                          |      |                 |
| Full_Name(536871007) | Annette Thompson               |      |                 |
| GAB Created          | Jul 9 2007 4:01PM              |      |                 |
| GAB Flag             |                                |      |                 |
| GAB GW               | None                           |      |                 |
| GAB MNA              | Active                         |      |                 |
| GAB Modified By      |                                |      |                 |
| GAB Modified         | Jan 27 2010 9:45AM             |      |                 |
| GAB Note             |                                |      |                 |
| GAB Oacis            |                                | TRUE |                 |
| GAB PH Publish       |                                | TRUE |                 |
| GAB Publish          |                                |      |                 |
| GAB Sponsor ID       |                                |      |                 |
| GAB SSN              |                                |      |                 |
| GAB SSN2(536870995)  |                                |      |                 |
| GW Forwarding        |                                |      |                 |
| Honorific            |                                |      |                 |
| Hourly Rate          |                                |      | 75              |
| Hours Billed         |                                |      | 0               |
| ID                   |                                |      |                 |
| KB Note              | patient in current census list |      |                 |
| Last Modified        | thompsa                        |      |                 |
| Last Name            | Embrey                         |      |                 |
| Location             | ART 2017                       |      |                 |
| Malware(536871006)   |                                |      |                 |
| Middle               | Benton                         |      |                 |
| Modified Date        |                                |      | 10/1/2010 10:22 |
| NetID Status         | Active                         |      |                 |
| NetID                | dbe2                           |      |                 |
| Notify Type          |                                |      | 0               |

|                           |                              |                                |                 |
|---------------------------|------------------------------|--------------------------------|-----------------|
| Original Modify           |                              |                                |                 |
| Other(536871019)          |                              |                                |                 |
| Phone Owner               | DDC SP PROC                  |                                |                 |
| Phone                     | 876-5962                     |                                |                 |
| Piracy(536871016)         |                              |                                |                 |
| Primary_unitCode          |                              |                                | 9735000         |
| Project (5)               |                              |                                |                 |
| Report (4)                |                              |                                |                 |
| Resolution Note           | pt transferred using ADT spy |                                |                 |
| Rogue Software(536871012) |                              |                                |                 |
| Solution#                 |                              |                                |                 |
| SPAM(536871015)           |                              |                                |                 |
| Spyware(536871013)        |                              |                                |                 |
| Start                     |                              |                                |                 |
| Status                    | Closed                       |                                |                 |
|                           | New thompsa                  | 10/1/2010 10:22:56 AM Assigned |                 |
|                           | WIP                          | Waiting Fixed                  |                 |
|                           | Closed thompsa               | 10/1/2010 10:22:56 AM          |                 |
| Status-History            |                              |                                |                 |
| New.USER                  | thompsa                      |                                |                 |
| New.TIME                  |                              |                                | 10/1/2010 10:22 |
| Assigned.USER             |                              |                                |                 |
| Assigned.TIME             |                              |                                |                 |
| WIP.USER                  |                              |                                |                 |
| WIP.TIME                  |                              |                                |                 |
| Waiting.USER              |                              |                                |                 |
| Waiting.TIME              |                              |                                |                 |
| Fixed.USER                |                              |                                |                 |
| Fixed.TIME                |                              |                                |                 |
| Closed.USER               | thompsa                      |                                |                 |
| Closed.TIME               |                              |                                | 10/1/2010 10:22 |
| Submitted by              | thompsa                      |                                |                 |
| Survey Date               |                              |                                |                 |
| Survey Sent               |                              |                                |                 |
| SysApp                    |                              |                                |                 |

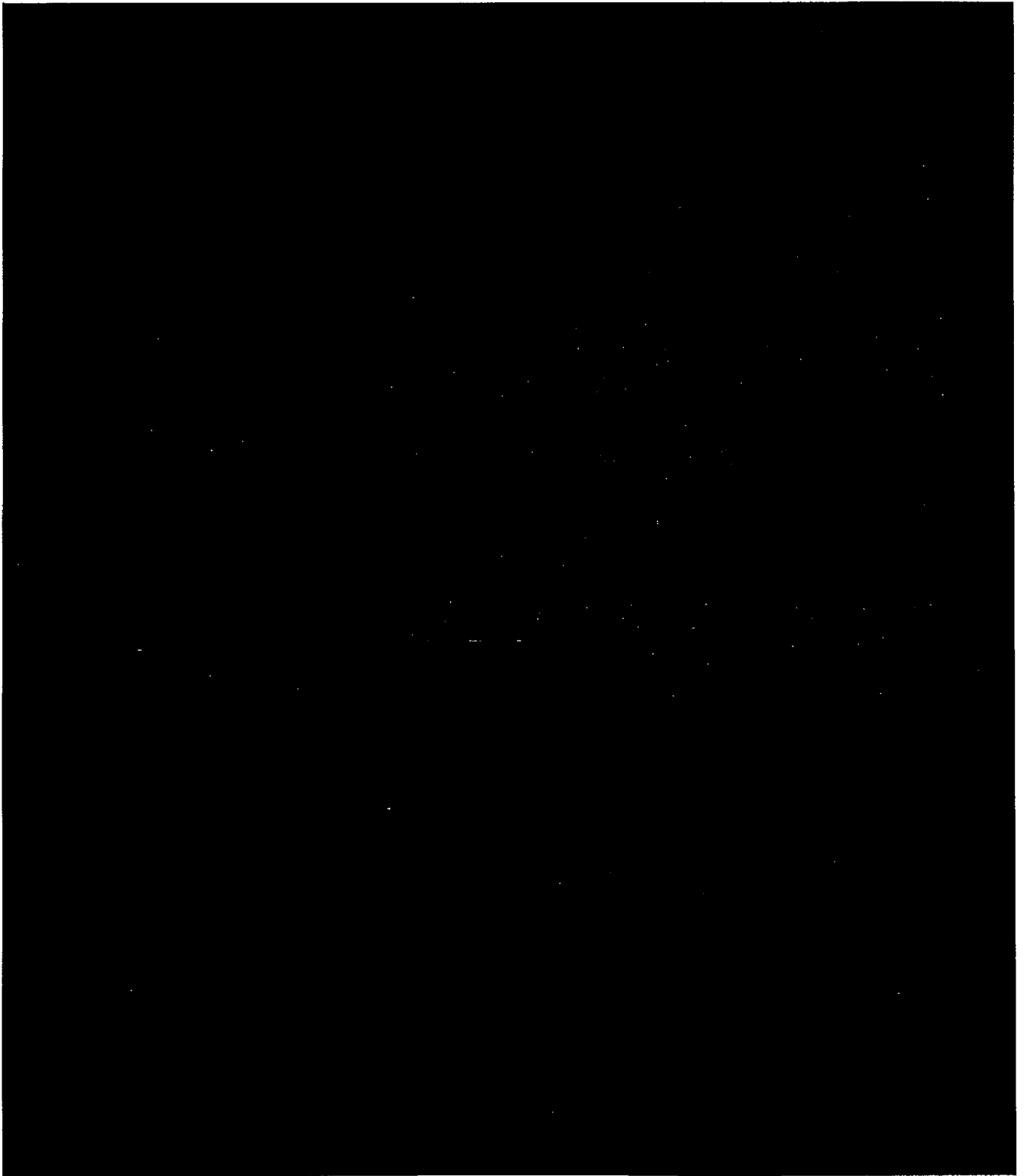
|                        |                                                                                                                                                                                                                                             |                 |
|------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|
| Team ID                |                                                                                                                                                                                                                                             | 277             |
| Team Leader(536871027) | jdm9                                                                                                                                                                                                                                        |                 |
| Team                   |                                                                                                                                                                                                                                             |                 |
| Temp Holding           |                                                                                                                                                                                                                                             |                 |
| Trojans(536871014)     |                                                                                                                                                                                                                                             |                 |
| Unit (7)               |                                                                                                                                                                                                                                             |                 |
| unitCode1              |                                                                                                                                                                                                                                             | 9735000         |
| unitCode2              |                                                                                                                                                                                                                                             | 2714000         |
| unitCode3              |                                                                                                                                                                                                                                             |                 |
| unitCode4              |                                                                                                                                                                                                                                             |                 |
| VIP                    |                                                                                                                                                                                                                                             |                 |
| Virus/Worms(536871011) |                                                                                                                                                                                                                                             |                 |
| Word 1                 |                                                                                                                                                                                                                                             |                 |
| Word 2                 |                                                                                                                                                                                                                                             |                 |
| Word 3                 |                                                                                                                                                                                                                                             |                 |
| Word 4                 |                                                                                                                                                                                                                                             |                 |
| App Team               | CSS-OR-LD                                                                                                                                                                                                                                   |                 |
| App#Open               |                                                                                                                                                                                                                                             | 1794            |
| Assigned Group         | 1001;                                                                                                                                                                                                                                       |                 |
| Assigned Team          | CSS-OR-LD                                                                                                                                                                                                                                   |                 |
| Assigned To            | thompsa                                                                                                                                                                                                                                     |                 |
| Call History           | 10/1/2010 10:22:56 AM thompsa My patient is not in the transfer census list. --<br>Original Location and Phone: ART 2017, 876-5962 -- Original App & Error: Picis,<br>PICIS Anes Mgr Assigned to thompsa Annette Thompson of Team CSS-OR-LD |                 |
| Call#                  |                                                                                                                                                                                                                                             | 788925          |
| Caller ID              |                                                                                                                                                                                                                                             | 349758          |
| Conversation           | My patient is not in the transfer census list.                                                                                                                                                                                              |                 |
| Create Date            |                                                                                                                                                                                                                                             | 10/1/2010 10:22 |
| Dept                   | Main Anesthesia                                                                                                                                                                                                                             |                 |
| Email alias            | embrey                                                                                                                                                                                                                                      |                 |
| Error                  | PICIS Anes Mgr                                                                                                                                                                                                                              |                 |
| Exchange               | TRUE                                                                                                                                                                                                                                        |                 |
| First                  | Donna                                                                                                                                                                                                                                       |                 |

|                        |                                |                 |
|------------------------|--------------------------------|-----------------|
| Full_Name(536871007)   | Annette Thompson               |                 |
| KB Note                | patient in current census list |                 |
| Last Modified          | thompsa                        |                 |
| Last Name              | Embrey                         |                 |
| Location               | ART 2017                       |                 |
| Middle                 | Benton                         |                 |
| Modified Date          |                                | 10/1/2010 10:22 |
| NetID Status           | Active                         |                 |
| NetID                  | dbe2                           |                 |
| Phone Owner            | DDC SP PROC                    |                 |
| Phone                  | 876-5962                       |                 |
| Primary_unitCode       |                                | 9735000         |
| Resolution Note        | pt transferred using ADT spy   |                 |
| Status                 | Closed                         |                 |
| New.USER               | thompsa                        |                 |
| New.TIME               |                                | 10/1/2010 10:22 |
| Closed.USER            | thompsa                        |                 |
| Closed.TIME            |                                | 10/1/2010 10:22 |
| Submitted by           | thompsa                        |                 |
| Team Leader(536871027) | jdm9                           |                 |

ALL MESSAGES

18-NOV-2015

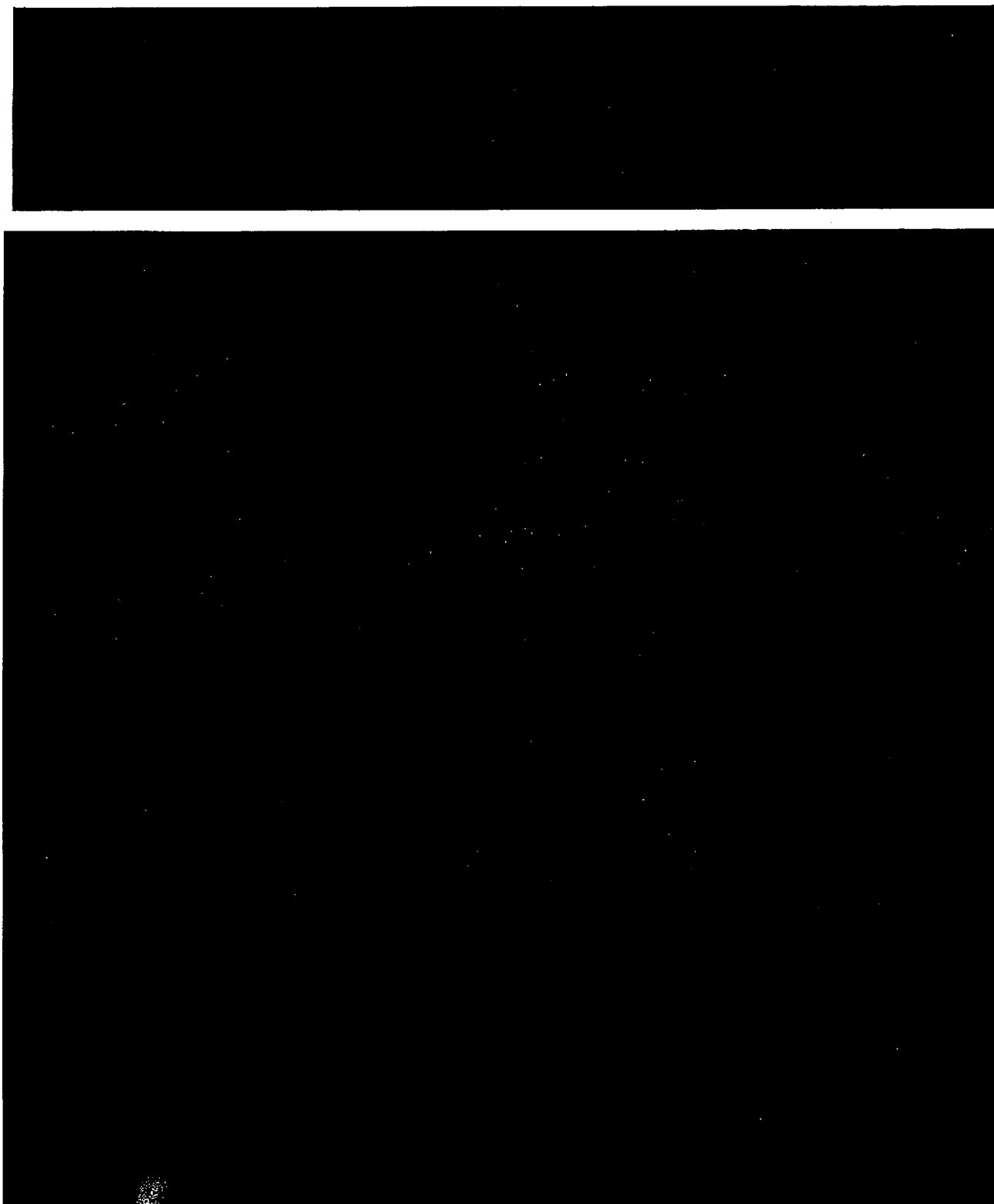
Page 1



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18-NOV-2015

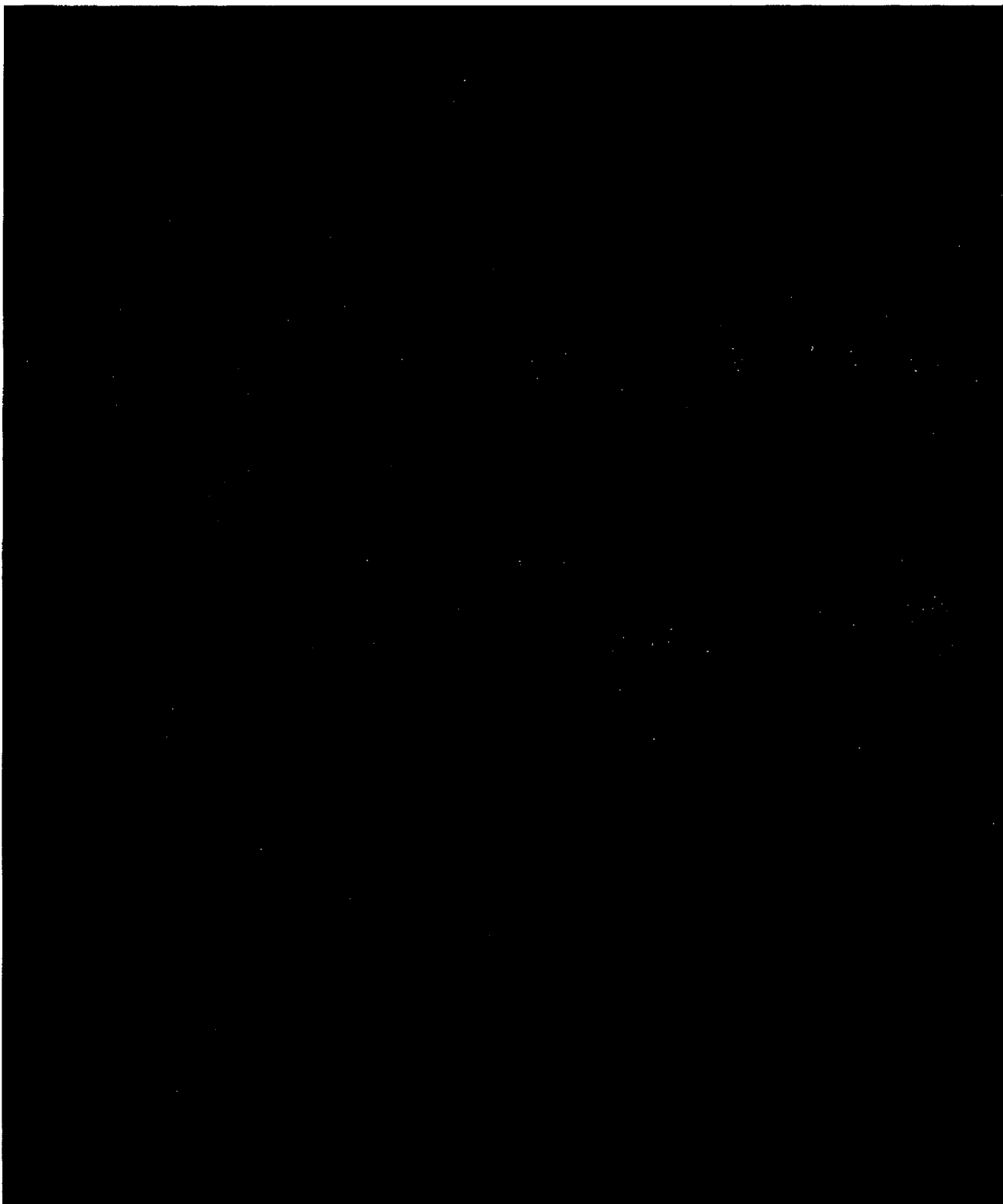
Page 2



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18-NOV-2015

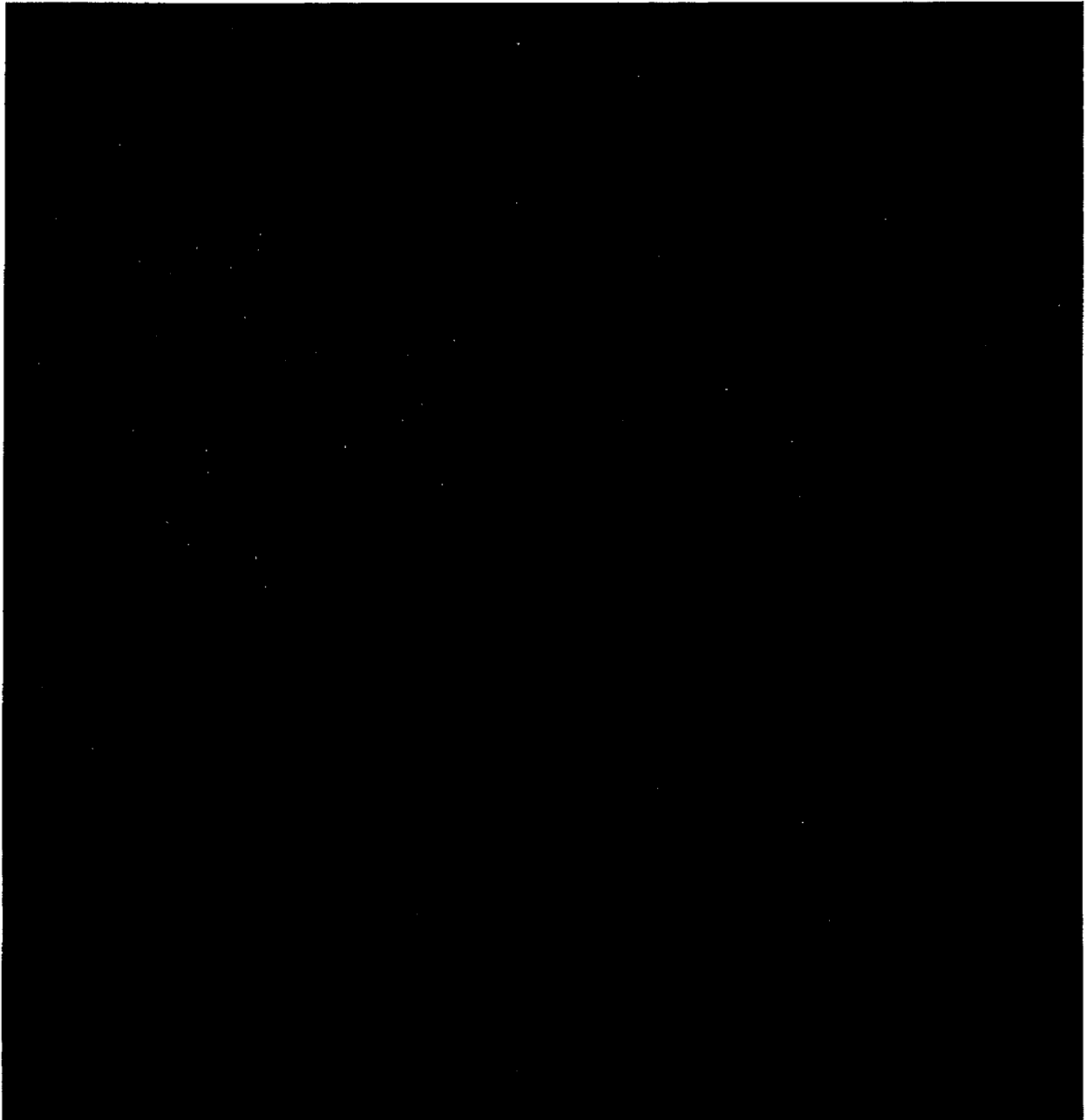
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Page 5



## 18-NOV-2015

Page 6

Recipient Messaging ID: 12727      Recipient Name: Thompson, Annette

Message Seq#: 48732521 Type: MEDICAL  
Sending User: WWW\_USER Sending Machine: 128.23.180.200  
Date Entered: 01-OCT-2010 07:46 AM  
Email Flag: F Fax Flag: F Page Flag: T Print Flag: F Urgent Flag: F  
Date Archived: 01-OCT-2010 07:46 AM Archiving User: TNPP  
Application Machine: TNPP-1  
Message Text: hey- can u call me abck. TX! donna #6-5962/128.23.180.200

Message Remark:

Follow Ups: 01-OCT-10 07:46 12 AM PAGE QUEUED Pager: 0005356 Priority: 0 Rebeep: F Queue#: 2  
01-OCT-10 07:46 12 AM PAGE QUEUED Pager: 8436934889@vtext.com Priority: 0  
Rebeep: F Queue#: 3

Recipient Messaging ID: 12727      Recipient Name: Thompson, Annette

```

Message Seq#: 48732421                                     Type: MEDICAL
Sending User: WWW_USER                                     Sending Machine: 128.23.180.200
Date Entered: 01-OCT-2010 07:39 AM
Email Flag: F      Fax Flag: F      Page Flag: T      Print Flag: F      Urgent Flag: F
Date Archived: 01-OCT-2010 07:39 AM      Archiving User: SMTP
Application Machine: SMTP-1
Message Text: hey- call me re; NORA pt not in transfer bucket.TX!! Donna #6-
5962/128.23.180.200

```

Message Remark:

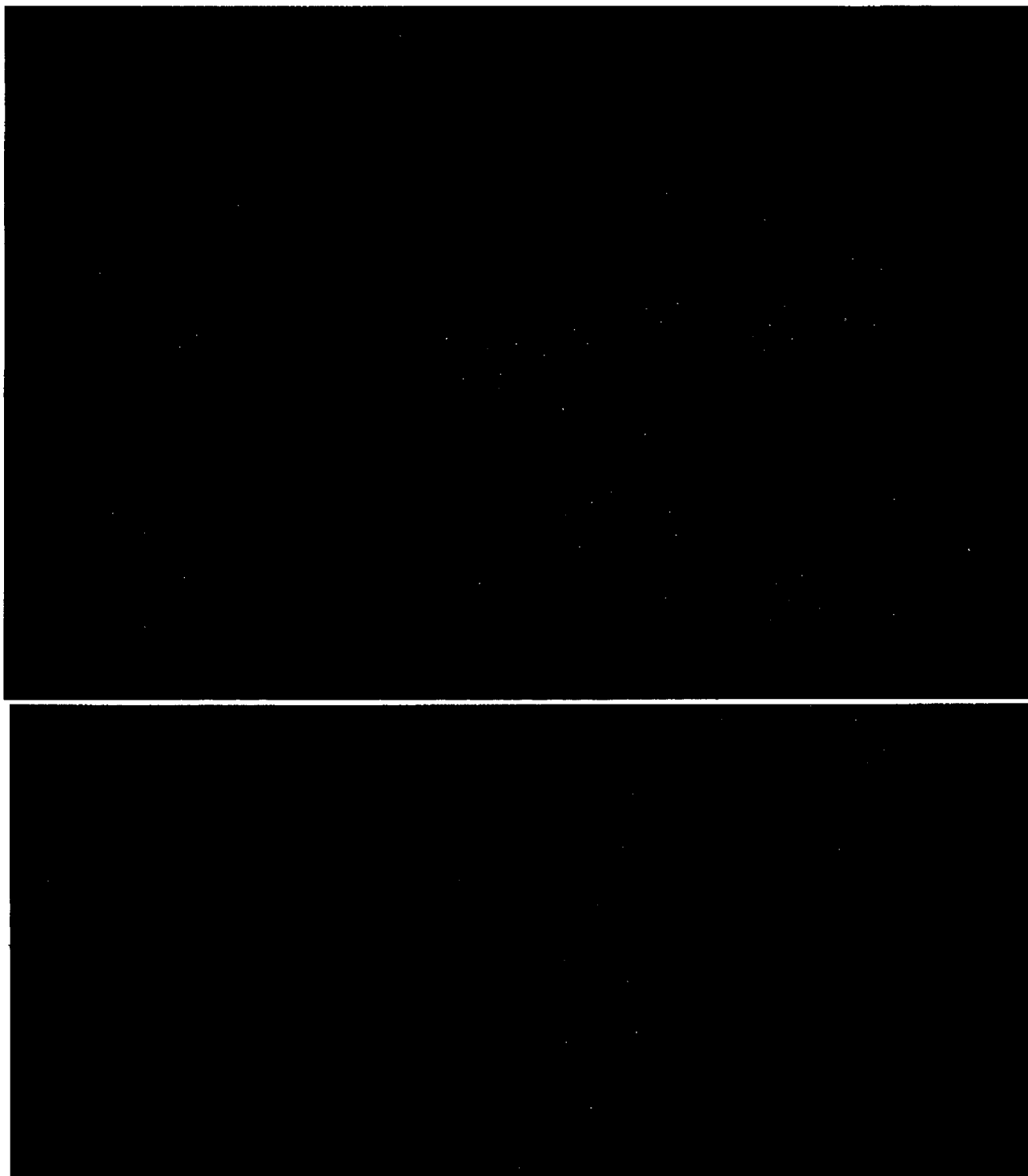
Follow Ups: 01-OCT-10 07:39 08 AM PAGE QUEUED Pager: 0005356 Priority: 0 Rebeep: F Queue#: 2  
01-OCT-10 07:39 08 AM PAGE QUEUED Pager: 8436934889@vtext.com Priority: 0

ALL MESSAGES

18-NOV-2015

Page 7

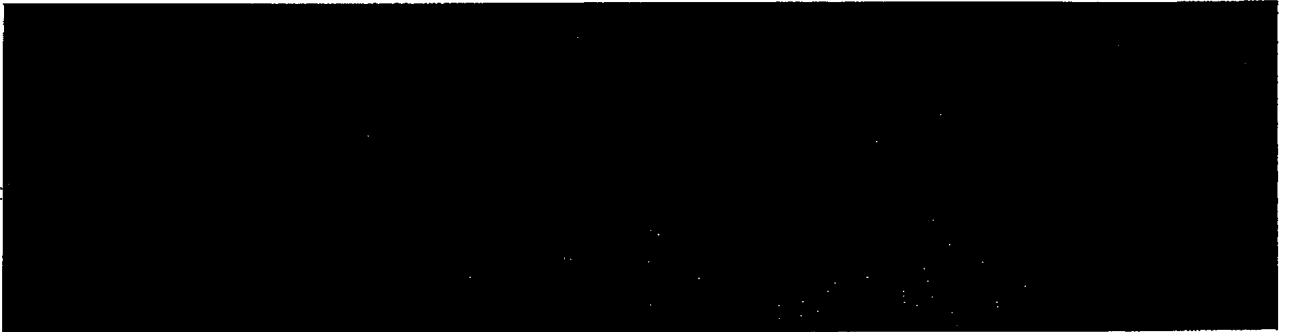
Rebeep: F Queue#: 3



ALL MESSAGES

18-NOV-2015

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|                                 |   |                                       |
|---------------------------------|---|---------------------------------------|
| STATE OF SOUTH CAROLINA         | ) | IN THE COURT OF COMMON PLEAS          |
|                                 | ) |                                       |
| COUNTY OF CHARLESTON            | ) | CIVIL ACTION NO.: 2012-CP-10-7275     |
|                                 | ) |                                       |
| SHON TURNER, as Personal        | ) |                                       |
| Representative of the ESTATE OF | ) |                                       |
| CHARLES MIKELL, deceased,       | ) |                                       |
|                                 | ) | <b>DEFENDANT'S AMENDED</b>            |
| Plaintiff,                      | ) | <b>RESPONSE TO PLAINTIFF'S SECOND</b> |
|                                 | ) | <b>REQUEST FOR ADMISSIONS</b>         |
| vs.                             | ) |                                       |
|                                 | ) |                                       |
| MEDICAL UNIVERSITY OF           | ) |                                       |
| SOUTH CAROLINA,                 | ) |                                       |
|                                 | ) |                                       |
| Defendant.                      | ) |                                       |
|                                 | ) |                                       |

TO: ROBERT B. RANSOM, ESQUIRE, COUNSEL FOR THE PLAINTIFF:

Defendant Medical University of South Carolina (hereinafter "MUSC"), by and through its undersigned counsel, hereby amends its responses to Plaintiff's Second Requests for Admission as follows:

**AMENDED RESPONSES TO SECOND REQUEST FOR ADMISSIONS**

1. Admit that pursuant to MUSC policies and procedures, there should be a code sheet, code documentation and/or "May Day card" for Mr. Mikell's cardiac arrest. If this Request is denied, then pursuant to Rule 34, SCRCP, produce all MUSC policies, procedures and guidelines in effect on October 1, 2010 relating to documentation of May Day codes.

**RESPONSE: Objection.** Defendant MUSC objects to Request No. 1 on the grounds that the total number of requests for admission served on this defendant, including subparts, exceeds the number permitted by Rule 36(b), SCRCP. Without waiving and subject to the foregoing objection, MUSC admits that the Emergency Medical Response Policy PC-19, C-14 provides that a Mayday is to be documented in the Cardiopulmonary Resuscitation

**Form. MUSC further states that the relevant clinical information for Mr. Mikell's Mayday on October 1, 2010 is included in the Anesthesia Record. In addition, see documents bates labeled BWPH 004948 – 004956 entitled Emergency Medical Response Policy PC-19, C-14.**

2. Admit that there is no code sheet, code documentation and/or “May Day card” for Mr. Mikell’s cardiac arrest. If this Request is denied, then pursuant to Rule 34, SCRPC, explain why the code sheet, code documentation and/or “May Day card” have not previously been produced.

**RESPONSE: Objection. Defendant MUSC objects to Request No. 2 on the grounds that the total number of requests for admission served on this defendant, including subparts, exceeds the number permitted by Rule 36(b), SCRPC. Without waiving and subject to the foregoing objection, denied. Although MUSC is unable to locate the Cardiopulmonary Resuscitation Form for Mr. Mikell, the relevant clinical information for Mr. Mikell's Mayday on October 1, 2010 is included in the Anesthesia Record which has been previously produced in this case.**

3. Admit that MUSC has no explanation for why there is no code sheet, code documentation and/or “May Day card” for Mr. Mikell’s cardiac arrest.

**RESPONSE: Objection. Defendant MUSC objects to Request No. 3 on the grounds that the total number of requests for admission served on this defendant, including subparts, exceeds the number permitted by Rule 36(b), SCRPC. Without waiving and subject to the foregoing objection, denied. Although MUSC is unable to locate the Cardiopulmonary Resuscitation Form for Mr. Mikell, the relevant clinical information for Mr. Mikell's Mayday on October 1, 2010 is included in the Anesthesia Record.**

4. Admit that blood oxygen saturation data is missing from the anesthesia record for Mr. Mikell's colonoscopy for each of the following times:

- a. 7:42 am
- b. 7:43 am
- c. 7:44 am
- d. 7:45 am
- e. 7:46 am
- f. 7:47 am
- g. 7:59 am
- h. 8:07 am
- i. 8:09 am
- j. 8:11 am
- k. 8:12 am
- l. 8:13 am
- m. 8:14 am

If this Request is denied, then pursuant to Rule 34, SCRCPP, produce the blood oxygen saturation data for each of the referenced times and pursuant to Rule 33, SCRCPP, explain why that data has not previously been produced.

**RESPONSE:** Objection. Defendant MUSC objects to Request No. 4 on the grounds that the total number of requests for admission served on this defendant, including subparts, exceeds the number permitted by Rule 36(b), SCRCPP. Without waiving and subject to the foregoing objection, denied. Defendant MUSC cannot produce the data requested for the following times: 7:59 a.m., 8:07 a.m., 8:09 a.m., 8:10 a.m., 8:11 a.m., 8:12 a.m., 8:13 a.m.,

and 8:14 a.m. because it was not recorded in the record at those intervals. However, the data was continuously viewed during the colonoscopy procedure on October 1, 2010.

5. Admit that MUSC has no explanation for why blood oxygen saturation data is missing from the anesthesia record for Mr. Mikell's colonoscopy (*see*, Request No. 4, above). If this Request is denied, then pursuant to Rule 33, SCRPC, then provide MUSC's explanation for the missing blood oxygen saturation data.

**RESPONSE:** Objection. Defendant MUSC objects to Request No. 5 on the grounds that the total number of requests for admission served on this defendant, including subparts, exceeds the number permitted by Rule 36(b), SCRPC. Defendant MUSC further objects to Request No. 5 on the grounds that the use of the word "missing" is inaccurate. Without waiving and subject to the foregoing objection, denied. The data was continuously viewed during the colonoscopy procedure on October 1, 2010, but was not recorded in the record at the following intervals: 7:59 a.m., 8:07 a.m., 8:09 a.m., 8:10 a.m., 8:11 a.m., 8:12 a.m., 8:13 a.m., and 8:14 a.m. In further answering Request No. 5 and without waiving the foregoing objections, Defendant MUSC states that explanations responsive to this request were provided in the deposition testimony, to date.

6. Admit that data and information relating to Mr. Mikell's October 1, 2010 colonoscopy were captured and recorded by a computerized Endoworks system used in connection with the colonoscopy.

**RESPONSE:** Objection. Defendant MUSC objects to Request No. 6 on the grounds that the total number of requests for admission served on this defendant, including subparts, exceeds the number permitted by Rule 36(b), SCRPC. Without waiving and subject to the foregoing objections, admit.



7. Admit that images, data and information captured and/or recorded by Endoworks system during Mr. Mikell's colonoscopy are missing. If this Request is denied, then pursuant to Rule 34, SCRCF, produce all images, data and information captured and recorded by the Endoworks system and pursuant to Rule 33, SCRCF, explain why the images, data or information have not previously been produced.

**RESPONSE: Objection. Defendant MUSC objects to Request No. 7 on the grounds that the total number of requests for admission served on this defendant, including subparts, exceeds the number permitted by Rule 36(b), SCRCF. Without waiving and subject to the foregoing objection, denied. Please see document bates labeled 3599.**

8. Admit that there is no documentation in the MUSC chart of any medical decision about Mr. Mikell's suitability or need for an ICD (Implantable Cardioverter Defibrillator). If this Request is denied, then pursuant to Rule 34, SCRCF, produce all such documentation and pursuant to Rule 33, SCRCF, explain why the documentation has not previously been produced.

**RESPONSE: Objection. Defendant MUSC objects to Request No. 8 on the grounds that the total number of requests for admission served on this defendant, including subparts, exceeds the number permitted by Rule 36(b), SCRCF. Without waiving and subject to the foregoing objection, denied.**

[SIGNATURE ON FOLLOWING PAGE]

BARNWELL WHALEY PATTERSON  
& HELMS, LLC

By: 

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ATTORNEYS FOR DEFENDANT THE  
MEDICAL UNIVERSITY OF SOUTH CAROLINA

September 21, 2015  
Charleston, South Carolina

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

) IN THE COURT OF COMMON PLEAS  
)  
) CIVIL ACTION NO.: 2012-CP-10-7275

SHON TURNER, as Personal  
Representative of the ESTATE OF  
CHARLES MIKELL, deceased,

Plaintiff,

vs.

MEDICAL UNIVERSITY OF  
SOUTH CAROLINA,

Defendant.

**DEFENDANT'S AMENDED  
RESPONSE TO PLAINTIFF'S THIRD  
REQUEST FOR ADMISSIONS**

TO: ROBERT B. RANSOM, ESQUIRE, COUNSEL FOR THE PLAINTIFF:

Defendant Medical University of South Carolina (hereinafter "MUSC"), by and through its undersigned counsel, hereby amends its responses to the Plaintiff's Third Request for Admissions as follows:

**AMENDED RESPONSES TO THIRD REQUEST FOR ADMISSIONS**

1. Admit there is no archived data from the PICIS anesthesia system

**RESPONSE:** Objection. Defendant MUSC objects to Request No. 1 on the grounds that the total number of requests for admission served on this defendant, including subparts, exceeds the number permitted by Rule 36(b), SCRCP. Without waiving and subject to the foregoing objection, denied.

2. Admit there is no electronic audit trail from the PICIS anesthesia system.

**RESPONSE:** Objection. Defendant MUSC objects to Request No. 2 on the grounds that the total number of requests for admission served on this defendant, including subparts, exceeds the number permitted by Rule 36(b), SCRCP. Without waiving and subject to the foregoing objection, denied

3. If Request No. 1 is denied, then produce all of the archived data.

**RESPONSE:** See documents bates labeled BWPH 4948 – 4951. The Anesthesia Record was previously produced on May 17, 2013. In addition, see documents bates labeled BWPH 4988 – 4990.

4. If Request No. 2 is denied, then (a) identify all persons who logged onto the PICIS anesthesia system; (b) state the date and time when they did so; and (c) describe in detail any and all additions, deletions, alterations, changes or other entries made to the anesthesia record.

**RESPONSE:** Objection. MUSC objects to the production of information and/or data identifying all individuals who logged on to the PICIS anesthesia system on the grounds that it is overly broad and not reasonably calculated to lead to the discovery of admissible evidence. Without waiving and subject to the foregoing objections, see documents bates labeled BWPH 4948 – 4950. The documents previously produced and bates labeled BWPH 4948-4950 indicate the identity of the persons who logged onto the PICIS system for the purpose of making modifications, and/or deletions to the information. The documents reflect the date and time that such information was modified or deleted. The documents also reflect the additions, deletions, and modifications made. Upon continued investigation, MUSC produces herewith the documents bates labeled BWPH 4988 – 4990. The documents bates labeled BWPH 4988 – 4990 identify persons who logged on to the system and the routine undertaken for the dates of October 1, 2010 through October 2, 2010.

[SIGNATURE ON FOLLOWING PAGE]

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& HELMS, LLC

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ATTORNEYS FOR DEFENDANT THE  
MEDICAL UNIVERSITY OF SOUTH CAROLINA

Charleston, South Carolina  
September 21, 2015

Audit Trail by Patient From 10/1/2010 00:01:00 to 10/2/2010 23:59:00

Patient Name: MIKELL, CHARLES L

MRN: 001400764

Account Number: 270428782

| Audit User | Audit Datetime     | Application        | Routine                 | Action   | Facility  |
|------------|--------------------|--------------------|-------------------------|----------|-----------|
| COOPERA    | 10/1/2010 14:44:40 | Anesthesia Manager | Patient Record Accessed |          | PFACILITY |
| COOPERA    | 10/1/2010 14:44:48 | Remote Access      | Patient Record Accessed |          | PFACILITY |
| embrey     | 10/1/2010 07:34:06 | OR Manager         | Case Record             | EDIT HDR | COURT     |
| embrey     | 10/1/2010 07:34:25 | OR Manager         | Case Record             | EDIT HDR | COURT     |
| EMBREY     | 10/1/2010 07:34:57 | Anesthesia Manager | Patient Record Accessed |          | PFACILITY |
| EMBREY     | 10/1/2010 07:47:14 | Anesthesia Manager | Patient Record Accessed |          | PFACILITY |
| EMBREY     | 10/1/2010 07:47:18 | Anesthesia Manager | Patient Record Accessed |          | PFACILITY |
| EMBREY     | 10/1/2010 08:54:53 | Anesthesia Manager | Patient Record Accessed |          | PFACILITY |
| EMBREY     | 10/1/2010 08:54:56 | Anesthesia Manager | Patient Record Accessed |          | PFACILITY |
| EMBREY     | 10/1/2010 09:26:36 | Anesthesia Manager | Patient Record Accessed |          | PFACILITY |
| EMBREY     | 10/1/2010 09:26:50 | Remote Access      | Patient Record Accessed |          | PFACILITY |
| EMBREY     | 10/1/2010 09:28:16 | Remote Access      | Patient Record Accessed |          | PFACILITY |
| EMBREY     | 10/1/2010 09:49:07 | Anesthesia Manager | Patient Record Accessed |          | PFACILITY |
| EMBREY     | 10/1/2010 09:49:10 | Remote Access      | Patient Record Accessed |          | PFACILITY |
| EMBREY     | 10/1/2010 16:54:02 | Anesthesia Manager | Patient Record Accessed |          | PFACILITY |
| EMBREY     | 10/1/2010 17:03:51 | Anesthesia Manager | Patient Record Accessed |          | PFACILITY |
| EMBREY     | 10/1/2010 17:04:09 | Remote Access      | Patient Record Accessed |          | PFACILITY |
| EMBREY     | 10/1/2010 17:14:01 | Remote Access      | Patient Record Accessed |          | PFACILITY |
| EMBREY     | 10/1/2010 17:17:01 | Anesthesia Manager | Patient Record Accessed |          | PFACILITY |
| EMBREY     | 10/1/2010 17:17:04 | Anesthesia Manager | Patient Record Accessed |          | PFACILITY |
| EMBREY     | 10/1/2010 18:25:31 | Printout Loader    | Print Command Ordered   |          | PFACILITY |
| EMBREY     | 10/2/2010 16:16:26 | Anesthesia Manager | Patient Record Accessed |          | PFACILITY |

Audit Trail by Patient From 10/1/2010 00:01:00 to 10/2/2010 23:59:00

Patient Name: MIKELL, CHARLES L

MRN: 001400764

Account Number: 270428782

| Audit User | Audit Datetime     | Application        | Routine                 | Action     | Facility  |
|------------|--------------------|--------------------|-------------------------|------------|-----------|
| EMBREY     | 10/2/2010 18:16:41 | Remote Access      | Patient Record Accessed |            | PFACILITY |
| EMBREY     | 10/2/2010 17:51:03 | Anesthesia Manager | Patient Record Accessed |            | PFACILITY |
| EMBREY     | 10/2/2010 17:51:17 | Remote Access      | Patient Record Accessed |            | PFACILITY |
| EMBREY     | 10/2/2010 18:11:58 | Anesthesia Manager | Patient Record Accessed |            | PFACILITY |
| EMBREY     | 10/2/2010 18:12:12 | Remote Access      | Patient Record Accessed |            | PFACILITY |
| EMBREY     | 10/2/2010 18:14:02 | Printout Loader    | Print Command Ordered   |            | PFACILITY |
| EMBREY     | 10/2/2010 18:14:38 | Anesthesia Manager | Patient Record Accessed |            | PFACILITY |
| EMBREY     | 10/2/2010 18:14:50 | Remote Access      | Patient Record Accessed |            | PFACILITY |
| EMBREY     | 10/2/2010 18:15:02 | Printout Loader    | Print Command Ordered   |            | PFACILITY |
| jonesll    | 10/1/2010 15:08:32 | OR Manager         | Case Record             | VIEW SECT  | COURT     |
| jonesll    | 10/1/2010 15:08:34 | OR Manager         | Case Record             | EDIT SECT  | COURT     |
| jonesll    | 10/1/2010 15:08:37 | OR Manager         | Case Record             | CLOSE SECT | COURT     |
| PETKO      | 10/1/2010 15:10:44 | Preop Manager      | Patient Record Accessed |            | PFACILITY |
| PETKO      | 10/1/2010 15:15:06 | Preop Manager      | Print Command Ordered   |            | PFACILITY |
| THOMPSA    | 10/1/2010 09:53:33 | Remote Access      | Patient Record Accessed |            | PFACILITY |
| THOMPSA    | 10/1/2010 09:53:33 | Preop Manager      | Patient Record Accessed |            | PFACILITY |
| THOMPSA    | 10/1/2010 09:55:16 | Preop Manager      | Patient Record Accessed |            | PFACILITY |
| TOOHEYJ    | 10/1/2010 09:12:10 | PACU Manager       | Patient Record Accessed |            | PFACILITY |
| TOOHEYJ    | 10/1/2010 09:12:13 | PACU Manager       | Patient Record Accessed |            | PFACILITY |
| TOOHEYJ    | 10/1/2010 11:55:40 | Preop Manager      | Patient Record Accessed |            | PFACILITY |
| TOOHEYJ    | 10/1/2010 13:44:21 | Printout Loader    | Print Command Ordered   |            | PFACILITY |
| TOOHEYJ    | 10/1/2010 13:44:27 | Printout Loader    | Print Command Ordered   |            | PFACILITY |

Audit Trail by Patient From 10/1/2010 00:01:00 to 10/2/2010 23:59:00

Patient Name: MIKELL, CHARLES L

MRN: 001400764

Account Number: 270428782

| Audit User | Audit Datetime     | Application | Routine | Action                     | Facility |
|------------|--------------------|-------------|---------|----------------------------|----------|
| BACKGROUND | 10/1/2010 00:02:21 | SmarTrack   |         | Activated Booking          | COURT    |
| BACKGROUND | 10/1/2010 07:34:14 | SmarTrack   |         | Updating Booking/CR Data   | COURT    |
| BACKGROUND | 10/1/2010 07:34:30 | SmarTrack   |         | Updating Booking/CR Data   | COURT    |
| CR_FIELD   | 10/1/2010 07:35:21 | SmarTrack   |         | Executing Macro: IN_ROOM   | COURT    |
| CR_FIELD   | 10/1/2010 08:37:32 | SmarTrack   |         | Executing Macro: OUT_OF_OR | COURT    |
| CR_FIELD   | 10/1/2010 09:13:40 | SmarTrack   |         | Executing Macro: PACU_TM   | COURT    |
| CR_FIELD   | 10/1/2010 13:41:07 | SmarTrack   |         | Executing Macro: OUT_AREA  | COURT    |
| CR_FIELD   | 10/1/2010 15:07:58 | SmarTrack   |         | Executing Macro: WTG_BED   | COURT    |
| CR_FIELD   | 10/1/2010 17:26:44 | SmarTrack   |         | Executing Macro: PROC_PROG | COURT    |
| CR_FIELD   | 10/1/2010 17:26:54 | SmarTrack   |         | Executing Macro: INC_STOP  | COURT    |



THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY  
In the Court of Common Pleas for the Ninth Circuit

J.C. Nicholson, Jr., Circuit Court Judge

Appellate Case No. 2016-002326

Shon Turner, as Personal Representative of the Estate of Charles  
Mikell, Deceased.....Appellant/Respondent

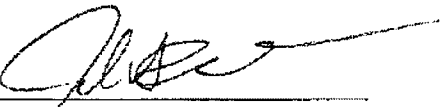
v.

The Medical University of South Carolina.....Respondent/Appellant

CERTIFICATE OF COMPLIANCE

The undersigned certifies that this Record on Appeal contains all materials proposed by  
the parties to be included in the Record on Appeal and does not include any other materials.

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HELMS, LLC

By: 

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**RECEIVED**

JUN 28 2017

SC Court of Appeals