

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

WCC File No. 1302588
Appellate Case No. 2017-001732

RECEIVED
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SC Court of Appeals

Timothy Causey Appellant,

v.

Horry County, Self-Insured Employer
through the S.C. Counties Workers'
Compensation Trust Respondents.

RECORD ON APPEAL - VOLUME II

Blake A. Hewitt # 73674
BLUESTEIN THOMPSON SULLIVAN, LLC
P.O. Box 7965
Columbia, SC 29202
(803) 779-7599

Francis A. Humphries, Jr. # 12921
William H. Monckton, VI # 65167
MONCKTON HEMBREE & HUMPHRIES
1300 Professional Dr., Ste. 102
Myrtle Beach, SC 29577
(843) 946-6556

Attorneys for Appellant

Roy A. Howell, III # 11888
Kirsten L. Barr # 15525
TRASK & HOWELL, LLC
PO Box 2167
Mt. Pleasant, SC 29465-2167
(843) 881-2236

Attorneys for Respondents

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BEFORE THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
WCC FILE NO. 1302588

TIMOTHY CAUSEY,) DEPOSITION OF:
Employee/Claimant,) Charlton Strange, III, MD
vs.)
HORRY COUNTY,)
Self-Insured Employer)
Through)
S.C. COUNTIES WORKERS')
COMPENSATION TRUST,)
Defendants.)



DATE: Monday, December 23, 2013

TIME: 1:56 p.m.

REPORTER: Holly Hiott O'Quinn, RPR

LOCATION: Medical University of South Carolina
96 Jonathan Lucas Street, Suite 812
Clinical Sciences Building
Charleston, SC 29401

HOLLY HIOTT O'QUINN, RPR
Independent Contractor working in association with

Milligan Court Reporting
Telephone (843) 971-5867 Fax (843) 971-6509
Email: Milligansc@comcast.net

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8 A P P E A R A N C E S

9 For Plaintiff: Monckton, Hembree, Mureddu & Humphries
10 By: Francis A. Humphries, Jr., Esquire
11 1300 Professional Drive, Suite 102
12 Myrtle Beach, SC 29577
13 (843) 946-6556

14 For Defendant: Trask & Howell, LLC
15 By: Roy A. Howell, III, Esquire
16 763 Johnnie Dodds Boulevard
17 Post Office Box 2167
18 Mount Pleasant, SC 29465-2167
19 (843) 881-4228
20
21
22
23
24
25

I N D E XWITNESSPAGE

CHARLTON STRANGE, III, MD

By Mr. Howell: 4

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By Mr. Howell: 22

By Mr. Humphries: 23

(None were proffered.)

P R O C E E D I N G S

Thereupon, Charlton Strange, III, M.D., the Witness, was called for examination by Counsel for the Defendant.

CHARLTON STRANGE, III, MD,
being first duly sworn, testified as follows:

EXAMINATION

BY MR. HOWELL:

Q Dr. Strange, if you could state your full name for the record, please.

A My full name is Charlton Bill Strange, The Third.

Q Dr. Strange, my name is Roy Howell and I represent Horry County and the South Carolina Association of Counties and I'm here today to ask you some questions regarding your treatment of Timothy Causey for some pulmonary issues that he had last summer, last spring and summer.

Before we get into the questions regarding your treatment, if you could give us a little bit of background in terms of your medical training, board certifications and those kinds of things, please.

A I went to medical school at the Medical College of Virginia in Richmond, came to MUSC in 1982 for my internship in internal medicine, completed

1 internship and medical residency here at MUSC followed
2 by a pulmonary fellowship, and I have been on the
3 faculty since 1987 for 31 years total.

4 Q When did you finish all of your residency?

5 A The pulmonary fellowship was the last of my
6 formal training and that finished in 1987.

7 Q Okay. And you are board certified?

8 A I'm board certified in pulmonary medicine,
9 critical care medicine and in internal medicine.

10 Q And you have been at MUSC the entire length
11 of your practice?

12 A I have.

13 Q Let me turn your attention to March 28,
14 2013, or thereabouts. Did you have the occasion to see
15 Timothy Causey as a patient at that time?

16 A I did.

17 Q Okay. And what were the circumstances under
18 which you first saw him?

19 A I was the admitting physician for his
20 transfer from McLeod Hospital to MUSC. I received, I
21 think, a page or a phone call from Mark Barnard or his
22 associate -- I don't remember who -- requesting
23 transfer because of his severe ARDS and realized that
24 he was a pretty sick guy and authorized the helicopter
25 to go up and pick him up and bring him down here to our

1 intensive care unit.

2 Q Okay. And by ARDS, you're referring to what?

3 A It's the Acute Respiratory Distress Syndrome.

4 Q And in laymen's terms, what does that mean?

5 A This means that he has a lung that has been
6 injured; it's injured diffusely. And this syndrome,
7 because it's often difficult to tell what caused the
8 ARDS, is characterized by low oxygen levels and the
9 lack of heart disease is the cause of the lung injury.

10 Q And when you say that a lung has been
11 injured, is it one lung, two lungs, or does it -- and
12 I'm talking about in general terms now, and then we
13 will talk specifically about him.

14 A Diffusely means all parts of both lungs are
15 injured in this process.

16 Q And when you say injured, what do you mean?

17 A There are -- if you think about this in
18 laymen's terms, this would be that there is a leaky red
19 raw lining of all parts of the lung. And in more
20 scientific terms, it means that this lung has responded
21 to an injury with lots of inflammation. And sometimes
22 in that syndrome, you will find infections and
23 sometimes you won't. There are many other causes
24 besides infections of lung injury.

25 Q In this particular case, once he was admitted

1 to the hospital, did you order a series of tests?

2 A We did.

3 Q Okay. And I assume that included the normal
4 blood work that would be associated with this type of
5 condition?

6 A It was. Whenever McLeod had had Mr. Causey
7 in their ICU, they had done a lot of the basic blood
8 work to look for the likelihood of an infection or a
9 bacterial pneumonia. At the time you come down for
10 tertiary care for your ARDS, we want to make sure that
11 we've covered all the possibilities of what your lung
12 injury might be due to. So we typically order virus
13 panels and look for some of these connective tissues
14 diseases, pancreatitis secondary to blood transfusions
15 that can injure the lung that are not infections. So
16 we try and capture that with a large array of different
17 blood tests.

18 Q And were all of those blood tests done on
19 Mr. Causey when he was admitted?

20 A You use all rather loosely. We probably have
21 5,000 blood tests that we could pull out.

22 Q Right.

23 A But we did a battery of tests to try and
24 figure out what the cause of his ARDS was.

25 Q Okay. And do you know or did you know at the

1 time of his admission from your conversations with
2 Dr. Barnard or through review of records whether or not
3 he had bacterial pneumonia when he was admitted?

4 A The impression of the McLeod physicians was
5 that this was smoke inhalation, but they had also given
6 him antibiotics for the possibility that there was a
7 bacterial infection that was also present.

8 Q Okay. Based upon the testing that was done,
9 was there any indication that he had a bacterial
10 infection?

11 A You're talking about in McLeod or here?

12 Q At McLeod?

13 A I don't recall all their cultures that had
14 been done.

15 Q All right. Once he arrived here and the
16 battery of tests were done, what tests were positive
17 that led you to an ultimate diagnosis?

18 A The tests we use to check for whether an
19 infection is part of this is a test called a
20 Procalcitonin. This test returned in an indeterminate
21 range. It was elevated. It's said to be a good marker
22 for a bacterial infection. At low levels, it would be
23 normal. His was a level of 0.2. At a level of
24 about 30, we're absolutely convinced that this test has
25 bacterial infection. And a level less than .06,

1 there's definitely not a bacterial infection, so that
2 didn't lead us one way or another to know whether there
3 was infection there or not.

4 The other test that we did, in addition to
5 cultures of his blood and of the secretions coming from
6 his lungs, was a relatively new test for us here at
7 MUSC which is a polymerase chain reaction test for
8 respiratory viruses in a lung panel that returned
9 showing this H1N1 Influenza A virus.

10 Q And is that considered the gold standard test
11 for diagnosing H1N1 Influenza?

12 A Gold standard is a little bit awkward,
13 because if you really want 100 percent diagnosis, we
14 would put a virus and culture it inside of an egg and
15 watch the virus particles proliferate from a human
16 specimen inside of an egg culture, but that's not done
17 very much. And so this test is used much more commonly
18 and is accurate.

19 Q Okay. It's the next best thing to what you
20 just described?

21 A It is.

22 Q Okay. Is it much more accurate than the
23 normal swabs that are done in most emergency rooms?

24 A Most emergency rooms, they do swabs for this
25 same test. This is a swab test which is looking for

1 the viral genome and the sequence of the H1N1 virus, so
2 it's a pretty complicated test. It's not the same as
3 your throat culture that you got when you went to the
4 pediatrician when you were a boy where they were
5 looking for strep or other things that would be
6 cultured.

7 Q So it's a specific test for H1N1, then?

8 A It is.

9 Q Okay. And what made you concerned that he
10 might have H1N1?

11 A Well, this test is done these days in a
12 panel, so we also tested him for a battery of 15 other
13 viruses at the same time. So he got tested for
14 Rhinoviruses, the cause of common cold; Coronaviruses,
15 which is one of our other respiratory pathogens;
16 Influenza B and a large number of other viruses. And
17 the H1NI test was positive; the others were negative
18 and that leads us to our diagnosis of what respiratory
19 virus anybody has when they come into the intensive
20 care unit.

21 Q What was the significance of the positive
22 finding of H1N1 virus with Mr. Causey?

23 A As I'm sure you know from all of your reading
24 about H1N1, this is a very bad virus. It was the
25 source of the world-wide pandemic that began in 2009,

1 so-called swine flu, pandemic declared by the World
2 Health Organization and signed on to by the United
3 States.

4 This virus is a very deadly virus. It's
5 responsible for more than 18,000 deaths in that first
6 swathe around the globe before the pandemic was
7 declared over. And since that time, we have put the
8 H1N1 vaccine into the yearly flu shots, and it was
9 repeated as a separate flu shot that same year as the
10 pandemic attacked. The H1N1, since that time, has just
11 shown up as a sporadic but very severe cause of
12 influenza and pneumonia.

13 I just mention parenthetically that we have
14 five cases of H1N1 on ventilators in our ICU today.

15 Q Okay. So it would not -- it's not uncommon
16 for someone who gets the H1N1 flu to get put on a
17 ventilator and be really bad, I guess?

18 A Well, if 200 million people catch H1N1,
19 probably only one-one hundredth of them will end up on
20 a ventilator, and I put percentages on it. But if you
21 end up on a ventilator, you're obviously in pretty bad
22 shape.

23 Q All right. But it happens?

24 A It happens.

25 Q Okay. Do you have an opinion with -- well,

1 H1N1 is it a cause of Acute Respiratory Distress
2 Syndrome?

3 A It is.

4 Q All right. Do you have an opinion within a
5 reasonable degree of medical certainty as to whether or
6 not Mr. Causey's Acute Respiratory Distress Syndrome
7 was caused by his H1N1 virus?

8 A I do believe it was caused by his H1N1 virus.

9 Q Okay. And, again, is that your opinion to a
10 reasonable degree of medical certainty?

11 A It is my opinion to a reasonable degree of
12 medical certainty.

13 Q All right. Now, there have -- once he was
14 hospitalized, obviously, he was put on therapy to try
15 to help his condition, correct?

16 A That's correct. The therapy for H1N1 is
17 Tamiflu. It's an antiviral that's given for a short
18 course and inactivates the virus where the damage to
19 the lung is often done by the time that the antiviral
20 has started. And particularly in Mr. Causey's case,
21 that was a few days after he had become ill.

22 Q Okay. And did he have complications during
23 his hospital stay?

24 A He did. He was one of our memorial patients
25 with H1N1 Influenza.

1 Q And I apologize I don't have his actual date
2 of death, but ultimately he passed away?

3 A He did.

4 Q And do you have an opinion within and
5 reasonable degree of medical certainty as to the
6 ultimate cause of his death?

7 A I believe that he died to a reasonable degree
8 of medical certainty of H1N1 Influenza associated ARDS.

9 Q Now, as you are probably aware, there were
10 some history that he had had some smoke inhalation
11 concurrent with him also developing these symptoms that
12 were ultimately diagnosed as H1N1. The symptoms that
13 he reported to the hospital and to McLeod, looking back
14 and following all the testing, were those symptoms most
15 consistent with H1N1 or with smoke inhalation?

16 A I believe they were most consistent with H1N1
17 in that there was a delay between the worst of his
18 smoke exposure and the onset of his symptoms.

19 Q Okay. And that's consistent with what
20 happens when you have influenza?

21 A Almost universally your symptoms of smoke
22 inhalation are going to show themselves within 24 hours
23 of the onset of your smoke inhalation, and his were a
24 little bit delayed from that. Or as I heard the
25 story -- and it's all secondhand -- the worst of his

1 smoke inhalation happened on the first day of his few
2 day stint there with security and then his presentation
3 at McLeod would then be three or four days after the
4 worst of his smoke inhalation with the fire.

5 Q Okay. The fact that ultimately he sort of
6 rapidly developed -- his chest x-ray showed these
7 bilateral infiltrates is that also consistent with
8 H1N1?

9 A It is, and also with smoke inhalation so that
10 the presentation of ARDS doesn't help us in this
11 demonstration. It's all timing and laboratory testing.

12 Q I gotcha, all right. And so in your opinion
13 to a reasonable degree of medical certainty was the
14 H1N1 basically the sole cause of his ARDS and
15 ultimately his death?

16 A That's a hard one. There's pretty big
17 literature out there that shows that cigarette smokers
18 have more H1N1 than people that don't smoke and that
19 the H1N1 that they do acquire is more serious than
20 people that are nonsmokers. And because Mr. Causey was
21 a nonsmoker, we could speculate but not prove that the
22 smoke inhalation that he did have made his presentation
23 of H1N1 worse than it otherwise would have been.

24 Q And you used the word speculate; why did you
25 use the word speculate?

1 A Well, because that one is impossible to
2 define.

3 Q All right.

4 A And it's just based upon our medical
5 literature and what we know about smoking and the H1N1
6 acquisition.

7 Q Okay. So there is no way to say within a
8 reasonable degree of medical certainty and most
9 probably that it played any role?

10 A I knew that question was going to come and I
11 don't know how to answer it except to say that there is
12 a possibility but not rising to the level of medical
13 probability that the smoke inhalation contributed in a
14 meaningful way to his ultimate outcome.

15 Q Okay. Have all the opinions you have given
16 today been rendered to a reasonable degree of medical
17 certainty?

18 A They have.

19 Q Let me look at one thing real quick and I
20 think I'm finished.

21 Now, you indicated that in your opinion he
22 was a nonsmoker. That was the history that you
23 received?

24 A Obviously, I never spoke to this man because
25 he had endotracheal tubes down --

1 Q Right.

2 A -- and I could be wrong about that one.

3 MR. HOWELL: Okay. Those are all the
4 questions I have. Please answer any questions
5 counsel may have.

6 EXAMINATION

7 BY MR. HUMPHRIES:

8 Q Let's begin. You had some benefit of the
9 reports or at least the information generated by McLeod
10 when you received him as a patient; is that fair?

11 A It is fair to say we received a full set of
12 records from them on his transfer.

13 Q Okay. And regarding the history, and
14 specifically the delay that you mentioned, when he
15 presented to McLeod, he denied -- with the exception of
16 the difficulty breathing -- such things as aches, body
17 aches, did report congestion. Are body aches -- would
18 that be something that you would expect to find in a
19 case of H1N1?

20 A We will usually see the full manifestations
21 of Influenza A which include fever, body aches due to
22 muscles called myalgias, nausea, vomiting. But every
23 now and again, we will see a patient with a purely
24 pulmonary presentation without any of the other signs
25 and symptoms of Influenza A. And I think we see enough

1 hydrogenating presentation that it wouldn't change the
2 medical opinion I had offered before.

3 Q Help me out with this, if you will. They
4 indicate, particularly in the discharge summary and the
5 accompanying medical records, that there was a screen
6 at McLeod for influenza. Are those not just -- maybe
7 you can help me out with that. We talked about the
8 screens and what you would expect of the swab and the
9 panel. Do you know if McLeod performed something
10 similar with Mr. Causey?

11 A Yeah, at the time, they did not have a PCR
12 panel. And I remember particularly the day after our
13 swab had been done and showed H1N1 that I actually
14 called Mark Barnard and told him about the H1N1
15 positive result and told him about this panel that had
16 really changed the flavor of what we do in the
17 intensive care units down here at MUSC and suggested
18 that they actually start incorporating one into their
19 IC algorithm --

20 Q Sure.

21 A -- at McLeod. And I think that happened
22 subsequent to that. But it's one of those
23 conversations you don't forget.

24 Q Sure.

25 A And we had that. So this was unique and

1 different and had not been done up at McLeod.

2 Q And that was my question, thanks.

3 When we talk about the sole cause, clearly,
4 H1N1 is a deadly virus, a bad virus. You talked a bit
5 about the testing that had been done regarding smokers
6 and the studies that had been done, but there is not or
7 does not exist in the medical literature, to your
8 knowledge, any studies where -- I imagine it would be
9 very difficult to replicate, but smoke inhalation
10 versus -- for that same kind of study?

11 A There is none that I'm aware of.

12 Q Okay, fair enough. I wouldn't imagine.

13 And I think the records reflect he was a
14 nonsmoker out of the discharge summary from McLeod.
15 But would you consider that the effects of smoking
16 would be akin to the same effects you might have from
17 smoke inhalation in terms of their impact on the lungs
18 and their ability to reduce someone's ability to fight
19 through an H1N1 virus?

20 A So what we know about smoke inhalation is
21 that the cell that cleans up the alveoli, the air sacs
22 in the lung, is the alveolar macrophage and it's
23 responsible for engulfing viruses and bacteria and it
24 is impaired when it is influenced by cigarette smoke.

25 A lot of these studies were done in smoking

1 mice, smoking rats of different flavors.

2 Q Sure.

3 A And the point is is that particularly
4 clearance of infections is impaired due to smoke in a
5 pretty short interval of time. So it is speculation,
6 but it's within the possibility that cigarette smoke
7 impaired his immune system enough to let a contact with
8 someone that transmitted H1N1 to him have a more severe
9 course than it otherwise would have.

10 Q And of course no one can say for sure, but if
11 he presented, as he did, with smoke inhalation, is
12 there any way medically to tell whether his contact
13 with H1N1 occurred prior to his admission or after his
14 admission at McLeod?

15 A The average time between transmission of the
16 virus and clinical symptoms is five days, and I don't
17 think anybody can know exactly when he had his H1N1
18 contact.

19 It's been real hard to define that it's
20 actually human-to-human transmission up until the time
21 of this pandemic that we're pretty convinced, convinced
22 the world that it is human-to-human rather than
23 swine-to-human transmission. But I think even that
24 part is not real well known and documented about this
25 virus.

1 Q Okay. And referring to your -- well,
2 actually this is not yours; this is Dr. Barnard's. Did
3 you get an opportunity to review -- never mind. Let's
4 go back to yours, the hospital death summary and I
5 believe this -- let me make sure it indicates
6 Dr. Largen and Dr. Whelan.

7 Did you get -- and I want to be fair to you.
8 Did you get a chance -- have you seen the hospital
9 death summary from MUSC?

10 A I have a copy of it in front of me.

11 Q Okay, good, good. And referring to what's
12 essentially the last paragraph, the last section
13 talking about cause of death from Dr. Largen -- I
14 believe I'm pronouncing that right; It may be Largen,
15 I'm not sure -- indicated that the cause of death is
16 thought to be hypovolemic shock secondary to diffuse
17 alveolar hemorrhage, secondary to ventilator-associated
18 pneumonia, secondary to prolonged intubation, and
19 secondary to smoke inhalation injury with H1N1
20 Influenza. Is that an opinion based on your connection
21 with this case and your treatment that you would adopt
22 to a reasonable degree of medical certainty?

23 A Yeah, I think the problem with giving a
24 specific cause of death here is that it's all happening
25 after a month of a lot of medical intervention here and

1 to know which components of that actually caused that
2 terminal event, in my opinion, would have been the
3 bleeding in his lung probably due to a secondary
4 infection.

5 And, obviously, if you go back in the
6 causation backwards, you are going to come up with lots
7 of other things that are in that list. And my
8 impression is Dr. Largen was just trying to be complete
9 in all the things that had contributed in some small
10 way to his death.

11 Q Well, and I guess my question, then, is his
12 notation that it was secondary -- and I understand that
13 there are no degrees of secondary. But his opinion
14 that it's secondary to smoke inhalation injury with
15 H1N1 Influenza is that observation an opinion which you
16 can adopt to a reasonable degree of medical certainty,
17 understanding that secondary we don't have a percentage
18 but that it contributed?

19 A I don't believe that the smoke inhalation
20 contributed to the death. I think it is really the
21 H1N1 that set up all the subsequent events.

22 Q Sure. Is it your opinion that the smoke
23 inhalation, if in fact that was an issue, could have
24 depressed his ability to survive H1N1?

25 A It could have increased his chance of

1 acquiring clinical H1N1 and made his clinical course
2 more severe.

3 Q Okay. In any case where you have the
4 presentation of H1N1 virus, smoke inhalation, even if
5 it was the presenting issue, would -- and it's minor,
6 but it would be certainly less significant than the
7 presentation of the H1N1; is that fair to say?

8 A That's fair to say.

9 MR. HUMPHRIES: Okay. I don't believe I
10 have any other questions at this time.

11 MR. HOWELL: Just a couple in follow up.

12 EXAMINATION

13 BY MR. HOWELL:

14 Q With regard to any impact the smoke
15 inhalation had, if I understood your testimony both on
16 direct and cross-examination, while it's a possibility
17 that it may have had some small contribution, you can't
18 say that it did most probably to a reasonable degree of
19 medical certainty; is that correct?

20 A That is correct.

21 Q All right. And with regards to -- is
22 Dr. Largen a resident?

23 A Dr. Largen is one of our -- I think he was an
24 intern at that time; he's a resident now.

25 MR. HOWELL: Okay, thank you. That's all I

1 have.

2 EXAMINATION

3 BY MR. HUMPHRIES:

4 Q I know you find yourself in a position of
5 trying to educate while you are also testifying, but
6 let me ask you this. Is there a situation -- and maybe
7 I've asked this, again, and if I'm repeating myself,
8 excuse me. But is there a situation where H1N1 is
9 present, as it is here, that smoke inhalation or, quite
10 frankly, anything else is going to be viewed as
11 contributing other than in a minor fashion when H1N1 is
12 present? Does that question make sense? When you've
13 got H1N1, once that virus is present, anything else,
14 including smoke inhalation, at that time is going to be
15 minor?

16 A I think what you're trying to ask --

17 MR. HOWELL: Let me pose an objection.
18 That has been asked and answered. That was the last
19 question you asked before we changed hands. But
20 anyway, go ahead.

21 THE WITNESS: H1N1 is such a potent and
22 fatal virus that it is hard to imagine, then, in a
23 clinical syndrome associated with ARDS that anything
24 else other than H1N1 would be responsible for the
25 cause of symptoms.

1 Smoke inhalation lung injury does occur and
2 it occurs in our smoke-overwhelmed public defenders
3 in these situations where there's thick smoke, toxic
4 fumes and almost always nearly immediate symptomology
5 and is almost never delayed. That was the reason
6 that I was suspicious of the smoke inhalation injury
7 called an ARDS when Mr. Causey arrived at MUSC and
8 went looking for another cause.

9 MR. HUMPHRIES: Thank you.

10 MR. HOWELL: Is that it?

11 MR. HUMPHRIES: Uh-huh.

12 MR. HOWELL: Okay. Thank you so much for
13 your time.

14 (WHEREUPON, the deposition concluded at
15 2:32 p.m., and the deponent waived signature.)

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BEFORE THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
WCC FILE NO. 1302588

TIMOTHY CAUSEY,) DEPOSITION OF:
Employee/Claimant,) Dr. Timothy Whelan
vs.)
HORRY COUNTY,)
Self-Insured Employer,)
-through-)
S.C. COUNTIES WORKERS')
COMPENSATION TRUST,)
Defendants.)

(COPY)

DATE: Thursday, April 17, 2014

TIME: 10:02 a.m.

REPORTER: Holly Hiott O'Quinn, RPR

LOCATION: MUSC Ashley River Towers
7th Floor, Conference Room 7045
25 Courtenay Drive
Charleston, SC

HOLLY HIOTT O'QUINN, RPR
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8 A P P E A R A N C E S

9 For Plaintiff: Monckton, Hembree, Mureddu &
10 Humphries
11 By: Francis A. Humphries, Jr., Esquire
12 1300 Professional Drive, Suite 102
13 Myrtle Beach, SC 29577
14 (843) 946-6556

15 For Defendant: Trask & Howell, LLC
16 By: Roy A. Howell, III, Esquire
17 763 Johnnie Dodds Boulevard
18 Post Office Box 2167
19 Mount Pleasant, SC 29465-2167
20 (843) 881-4228
21
22
23
24
25

I N D E XWITNESSPAGE

DR. TIMOTHY WHELAN

By Mr. Howell: 4

By Mr. Humphries: 21

(No Exhibits were proffered.)

1 PROCEEDINGS

2 Thereupon, Dr. Timothy Whelan, the Witness, was
3 called for examination by Counsel for the
4 Defendant.

5 DR. TIMOTHY WHELAN,
6 being first duly sworn, testified as follows:

7 EXAMINATION

8 BY MR. HOWELL:

9 Q Please state your full name for the record,
10 please.

11 A Timothy Patrick Matthew Whelan.

12 Q Dr. Whelan, my name is Roy Howell and I
13 represent Horry County and the South Carolina
14 Association of Counties in a workers' compensation
15 claim that's been filed by Timothy Causey's widow.

16 Before we get into questions regarding your
17 involvement in Mr. Causey's treatment, if you could
18 give us a little bit of background in terms of your
19 medical training, board certification and that sort of
20 thing, please, sir.

21 A Sure. So I graduated from State University
22 of New York at Buffalo in '95. I did an internal
23 medicine training from '95 to '98 at the University of
24 Colorado. And from '98 to 2000, I worked in a level
25 one trauma center covering critical care units and also

1 internal medicine wards.

2 And then 2000 to 2003, I did a pulmonary
3 critical care fellowship at the University at
4 Washington with particular interest in lung transplants
5 and interstitial lung diseases. And from there I went
6 to the University of Minnesota for about six and half
7 years, a little over six and a half years. There I ran
8 the interstitial lung disease program, the clinical
9 side of the interstitial lung disease program, lung
10 transplants and ICUs.

11 So lung transplant and critical care
12 medicine, they tend to go hand-in-hand. So throughout
13 that entire time, I have been an active attending
14 working in ICUs.

15 And then in 2010, I was recruited here to
16 restart the lung transplant program at MUSC. And part
17 of my duties here, as well, is interstitial lung
18 research and ICU. So I think that gives me a
19 cumulative experience of 11 plus two years in that '98
20 to 2000, so 13 or so years.

21 Q And are you board certified?

22 A I am board certified in pulmonary and
23 critical care medicine right now.

24 Q And have been on staff at MUSC since 2010?

25 A March 1st, 2010.

1 Q Okay. Now, tell me what involvement, if any,
2 you had with Mr. Causey's care.

3 A So my involvement with Mr. Causey's care was
4 the last two days of his life,, or actually maybe even a
5 little bit less than that.

6 So with the ICU coverage, the attendings tend
7 to rotate the first half and the last half of the
8 month. And then one of the critical care attendants
9 will cover the ICUs over the weekend, and I happened to
10 be the person who was on on the weekend that Mr. Causey
11 died.

12 So my involvement really is at the very tail
13 end of his case. I knew who he was, and there had been
14 multiple discussions about him. But in terms of direct
15 management of his care, it was really the last two
16 days.

17 Q Okay. And explain to me a little bit how, as
18 this is a teaching hospital --

19 A Uh-huh.

20 Q -- and a research hospital, tell me how
21 interns or residents are used by attendings in the care
22 of patients.

23 A So interns and residents do direct management
24 of the patients under close supervision of a fellow,
25 which is a sub specialty training resident, someone who

1 has already completed their internal medicine
2 residency. And all of them, particularly when I am on,
3 are closely supervised by the attending.

4 Q In this particular case during the last day
5 or so that you were involved in Mr. Causey's care as
6 the attending physician, was there an intern by the
7 name of Dr. Largen or Largen involved?

8 A So, and she is the one that did the discharge
9 summary, I think, if I'm not mistaken.

10 Q Correct.

11 A So yes.

12 Q Okay.

13 A And then if you ask me who else, I can
14 definitely tell you I don't remember.

15 Q All right. Based upon your involvement, did
16 Doctor Largen have any additional involvement in
17 Mr. Causey's care other than that last day or so?

18 A So if I recall correctly he passed away on
19 the 19th of the month.

20 Q Correct.

21 A Which would mean that -- I believe what that
22 means is that that intern would have been involved in
23 his care for 19 days. They switch on the first of the
24 month.

25 Q I gotcha.

1 A So in terms of continuity, that individual
2 had more continuity than me.

3 Q All right. But I guess for lack of a better
4 word, during the last day or so, that weekend when you
5 were on call you were his supervisor as well as the
6 supervisor of the residents that were involved?

7 A Uh-huh, and very actively involved in his
8 direct management. He was quite ill.

9 Q And had been in the hospital for about two
10 months at that point in time?

11 A Correct.

12 Q All right.

13 A Correct.

14 Q I take it, based upon your testimony, that
15 you were not involved in his care at all when he was
16 admitted to the hospital?

17 A Correct.

18 Q Right. And you were not involved in his care
19 when the testing was done to make a determination as to
20 what his diagnosis was that was causing his acute
21 respiratory distress syndrome? Did I say that right?

22 A No, you did. So the initial cause of his
23 respiratory difficulties I was not the attending
24 physician of record.

25 Q Okay. Are you familiar with Dr. Strange?

1 A Absolutely.

2 Q How are you familiar with Dr. Strange?

3 A Dr. Strange is my partner and has been my
4 colleague here since 2010, and I have participated in
5 academic projects with him over the last ten years.

6 Q And what is his reputation in the community
7 of pulmonary specialists?

8 A He is an excellent, well regarded clinician
9 nationally, not just regionally but nationally.

10 Q And are you aware that he was the attending
11 physician who evaluated Mr. Causey when he was admitted
12 to the hospital in late March of 2013?

13 A Yes.

14 Q Have you had an opportunity to review his
15 records as well as his deposition testimony?

16 A Yes.

17 Q And you are aware of his opinions in the
18 case?

19 A Yeah.

20 Q Okay. One of the tests that was done when
21 Mr. Causey was admitted to the hospital was something
22 called -- and I'm sure I'm going to butcher the
23 pronunciation of this -- but polymerase chain reaction.
24 Did I pronounce that right?

25 A Uh-huh.

1 Q What is that test?

2 A So that's a -- so either a swab of the nares
3 or when we get respiratory secretions from the lower
4 respiratory tract, we then amplify the DNA that's in
5 that, and there are specific strands of DNA that are
6 particular to multiple different respiratory viruses in
7 that assay. And so that assay is what we use as our
8 screening tool for influenza as well as multiple other
9 respiratory viruses.

10 Q If a patient, for instance in this case
11 Mr. Causey, comes in the hospital and they are in acute
12 respiratory distress, as he was, is there a battery or
13 are there a battery of lung panels that you do to
14 determine, to help determine the cause of his symptoms?

15 A So yes, I would say that that -- particularly
16 since that was in the high part of the influenza
17 season, that absolutely would be a test that we would
18 do.

19 Q All right.

20 A And then we would also do respiratory
21 cultures, so bacterial fungal cultures.

22 Q Okay. And is one of those called a
23 procalcitonin?

24 A So I would not order a procalcitonin on
25 people.

1 Q But one was done in this case?

2 A But one was done in this case, that is
3 correct.

4 Q And blood cultures were done as well for
5 Mr. Causey?

6 A And blood cultures were done as well.

7 Q Okay. And it appears that the only thing
8 that came back positive was the PCR which was positive
9 for H1N1?

10 A Correct.

11 Q And is H1N1 a cause of -- and I'm going to
12 use the -- of acute respiratory distress syndrome?

13 A Absolutely.

14 Q And do you have an opinion in this case as to
15 whether or not Mr. Causey's acute respiratory distress
16 syndrome was caused by the H1N1 virus?

17 A I do. And I believe that his ARDS, the adult
18 respiratory distress syndrome, was caused by the H1N1.

19 Q All right. And H1N1 as a flu virus is a bad
20 virus, correct?

21 A So I -- all influenza viruses have the
22 propensity to do bad things. H1N1 is a virus that
23 definitely can be associated with the development of
24 ARDS in otherwise healthy individuals.

25 So from that standard point, yes, I would

1 consider H1N1 a bad virus particularly because it has a
2 predilection to affect individuals who may otherwise be
3 healthy, can present with severe ARDS.

4 Q And it can be a deadly virus?

5 A Absolutely.

6 Q And I believe when we took Dr. Strange's
7 deposition back in January, he said that y'all had five
8 people who were in ICU at that time with H1N1 virus.

9 A Uh-huh.

10 Q Is that correct?

11 A Yeah, at least that many. Over the influenza
12 season we are the major tertiary referral center, so we
13 have -- like Mr. Causey. We have the ECMO circuit. So
14 we have the ability to do very high-end technological
15 salvage of ARDS.

16 And so for a young individual who developed
17 ARDS with H1N1, we had a high likelihood of having him
18 come to our hospital which affects the numbers of
19 patients. So like in a community hospital, I don't
20 think that they had as many as we did.

21 Q Right. Okay. Was this, in comparison to
22 other years was this a high -- did y'all have more H1N1
23 cases, bad H1N1 cases than you had in say 2013?

24 A So compared to last year, yes. In 2009 which
25 was the H1N1 outbreak --

1 Q Right.

2 A -- that was the predominant influenza of that
3 year. That was the case I believe as of, you know, a
4 couple months ago. This year I haven't seen the most
5 recent data, but H1N1 was the predominant influenza
6 this season.

7 Q All right. So even though obviously they are
8 less than they were during the pandemic, it's still a
9 fairly prevalent virus?

10 A It's definitely a prevalent virus.

11 Q As indicated earlier, it can be deadly?

12 A Absolutely.

13 Q Now, in reviewing Mr. Causey's chart, it
14 appears that he was started on therapy. He was put in
15 ICU and I guess remained on a ventilator pretty much
16 the whole period of time that he was hospitalized?

17 A Uh-huh. Correct. Yes.

18 Q Is that -- in someone who has a bad case of
19 H1N1, which obviously he did, is that the normal course
20 of treatment?

21 A His course was unique in that he had such
22 severe ARDS that he ended up on Extra Corporeal
23 Membrane Oxygenation, ECMO. That is not a routine
24 run-of-the-mill therapy. That is solely given to
25 individuals who have the severest form of ARDS.

1 So I would say, you know, the spectrum of
2 disease with H1N1 is that there are people who will
3 have a little sniffle and they'll be totally fine, and
4 they may never even go to their doctor. And that's one
5 end of the spectrum. And I think the other end of the
6 spectrum is Mr. Causey with severe ARDS, multiple
7 complications with a prolonged ICU stay.

8 Q And what were the multiple complications that
9 he had?

10 A So he developed multiple infections. So in
11 my review of the chart -- so, again, I was not actively
12 involved in his management. He was diagnosed with
13 bacterial ventilator associated pneumonias. There was
14 concern that there was a fungal infection in him as
15 well.

16 And when I took care of him at the end of the
17 hospitalization, he had a documented very resistant
18 organism in his sputum, and he also had another
19 organism that is well known to cause pneumonia in his
20 sputum besides that one.

21 Q Okay. And why do bacterial infections happen
22 in people who are on ventilators and...

23 A So there are a few different reasons why they
24 likely occur in individuals in the intensive care unit.
25 One is that our ability to swallow our secretions down

1 normally are significantly affected when we have tubes
2 in, or in his case a tracheostomy tube that still
3 doesn't necessarily prevent you from swallowing your
4 oral secretions that have bacteria in them.

5 The other is that with a prolonged
6 hospitalization like this his immune system is
7 compromised. It's not clear what level of compromise
8 it is, but it is definitely compromised. And then he
9 was an individual who was not up and ambulating.

10 So, unfortunately, these folks are very high
11 risk of developing these infections.

12 Q Ultimately he died on May 19, 2013?

13 A Correct.

14 Q And do you have an opinion as to whether or
15 not the cause of his death was due to complications
16 from the H1N1 virus?

17 A Yes. I think that the cause of his death was
18 due to complications associated with ARDS secondary to
19 H1N1.

20 Q And is that your opinion to a reasonable
21 degree of medical certainty?

22 A Yes.

23 Q Now, as you are aware, there has been some
24 indication that about the same time that he came down
25 with symptoms of H1 -- that were ultimately diagnosed

1 as H1N1, that he had some smoke inhalation. It was
2 Dr. Strange's opinion that the smoke inhalation did not
3 cause the H1N1 or contribute to his death. What is
4 your opinion?

5 A I believe that Dr. Strange could be correct.
6 However, I also think it is very difficult to know,
7 based on the records that I reviewed, the extent of the
8 smoke inhalation itself and if there could have been
9 any contribution of smoke inhalation to susceptibility
10 to H1N1.

11 And the reason I say that again is that we're
12 talking about a spectrum of disease. So there are most
13 definitely individuals who get H1N1, and don't ever go
14 see a doctor, that do just fine. And then there is
15 definitely this other end of the spectrum of
16 individuals who can be this profoundly ill and have
17 absolutely no history of smoke inhalation.

18 In my review of the literature, I found
19 nothing to suggest that individuals who have smoke
20 inhalation are at increased risk of viral infection.
21 However, the predominance of the literature related to
22 smoke inhalation really is related to thermal injury
23 and smoke inhalation that results in an acute
24 pneumonitis.

25 And it's also very difficult for me to

1 comment on any of that because I have not seen any
2 records from or any images from his initial
3 hospitalization at the outside center.

4 The only references to that information is in
5 handwritten documents by physicians who are not board
6 certified in pulmonary and critical care medicine.

7 Q Okay. And what would you be looking for --
8 if you could see those images, what would you be
9 looking for to see whether or not they were more
10 consistent with H1N1 versus smoke inhalation?

11 A And I think that that's also a really tough
12 question. The time course, my understanding of the
13 time course -- because, again, the details in our
14 records I don't think are as complete as they could be.
15 But the smoke -- I do not believe that Mr. Causey had a
16 significant smoke inhalation that resulted in ARDS.
17 That is not the cause of the ARDS.

18 But the question of whether or not does
19 someone who has a significant smoke inhalation, does
20 that set them up to be at more risk for a lower
21 respiratory tract infection with H1N1, I think, is a
22 very difficult question to answer.

23 Q If I'm hearing you correctly, there is no way
24 to state within a reasonable degree of medical
25 certainty and most probably that the smoke inhalation

1 played any role in his death. It's possible, but in
2 terms of probability you can't say more likely than
3 not?

4 A So I agree with your interpretation.
5 However, I think if one asked the question in the
6 reverse, can you say to a reasonable degree of medical
7 certainty that a significant smoke inhalation exposure
8 around the time that one is infected with H1N1 has
9 absolutely no impact on the disease course, I would
10 also say I cannot say that to reasonable medical
11 certainty.

12 Q You can't answer the question either way?

13 A You got it.

14 Q Okay. And the reason for that is there is
15 just no scientific literature one way or the other on
16 that particular issue, correct?

17 A Correct. There is literature that
18 individuals who have -- and again, the issue that I
19 really struggle with in this particular case is that
20 the extent of the smoke inhalation is entirely not
21 clear to me. I don't have access to those records.

22 Q Okay.

23 A But there's -- and, again, I didn't review,
24 so I get very uncomfortable talking about what CAT
25 scans look like when I have not seen the CAT scans.

1 But the reports were that initial CAT scans had no
2 evidence of any parenchymal disease, which one would
3 expect to see. With a big smoke inhalation, you would
4 see that.

5 One would expect to see changes with bad
6 H1N1, but I think that he was early enough that it
7 wasn't quite so bad at that point. So it could look
8 normal.

9 And what is out there about smoke inhalation
10 and lung injury, it really has to do with the massive
11 exposure like a fireman who is in the building. They
12 inhale a lot. They get thermal injuries to their
13 nares, their posterior pharynx. They clearly have a
14 massive smoke inhalation, and individuals who have that
15 develop lung injury.

16 Q And at least as best you know in this case,
17 there is no evidence of any sort of thermal injury as
18 you've described?

19 A And there was no mention of that in the
20 chart, that there was any thermal injury.

21 Q The intermittent spiking of fever that was
22 reported in his medical records early on, that is
23 consistent with a viral infection; is that correct?

24 A Correct.

25 Q The blood work, the leukopenia and the

1 hypoxemia, is that consistent with a viral infection?

2 A It is consistent with the ARDS and a viral
3 infection, yes.

4 Q Bilateral pulmonary infiltrates with rapid
5 progression, is that also consistent with a viral
6 infection?

7 A Yes.

8 Q Obviously a positive PCR as he had in this
9 case is consistent with the diagnosis of H1N1; is that
10 correct?

11 A Correct.

12 Q And his low white blood cell count is also
13 consistent with a viral infection?

14 A Yes.

15 Q And generally speaking, if someone has
16 significant smoke inhalation and has an infection, it's
17 usually a bacterial-type infection as opposed to a
18 viral infection; is that correct?

19 A That would be correct.

20 Q All right. And in this case when you look at
21 the picture in its entirety, it's all consistent with
22 what the ultimate diagnosis is which was H1 -- acute
23 respiratory distress syndrome secondary to H1N1?

24 A Correct.

25 Q And what you can say within a reasonable

1 degree of medical certainty and most probably is that
2 his death was caused from complications from acute
3 respiratory distress syndrome secondary to H1N1 virus;
4 is that correct?

5 A Correct.

6 Q Okay. Thank you, sir. Please answer any
7 questions that counsel may have.

8 EXAMINATION

9 BY MR. HUMPHRIES:

10 Q I'm Fran Humphries. I represent the estate
11 of Tim Causey, and I appreciate you being here today.

12 Let's talk a bit about the process. I do
13 want to review some of the events leading up to his
14 initial admission at McLeod, and we'll see if that
15 impacts your opinion at all.

16 But let's talk a bit about the manner in
17 which the hospital death summary is constructed. In
18 compiling this summary is there a protocol that MUSC
19 uses to generate such a summary?

20 A No.

21 Q Let me ask it another way then. Typically
22 does more than one doctor or -- well, more than one
23 doctor participate in the generation of this summary?

24 A Yes. So the summaries are typically done by
25 one of the residents on the team. And the attending

1 physician, in this case me, signs that document.

2 I believe that one of the biggest challenges
3 of discharge summaries is in individuals who have
4 prolonged hospital courses. It is likely the norm that
5 there is information that is nuanced over that entire
6 hospitalization that is not conveyed that way at all in
7 the discharge summary.

8 Q Would you assist me in explaining that
9 further?

10 A Yeah, so I think that -- can I see the
11 last --

12 Q Of course.

13 A Because I think it's the last line: Cause of
14 death is thought to be hypovolemic shock, secondary to
15 diffuse alveolar hemorrhage, secondary to ventilator
16 associated pneumonia, secondary to prolonged
17 intubation, and secondary to smoke inhalation injury
18 with H1N1 influenza.

19 I believe that the challenge in this is smoke
20 inhalation injury. If injury was redacted from that
21 document it would be, I think, accurate.

22 Q Okay. So let's go back. If we redact -- let
23 me be clear. You're not talking about a complete
24 redacting of smoke inhalation injury, just the injury
25 portion?

1 A Just the injury portion.

2 Q Okay. All right.

3 A I believe -- well, as far as I know what is
4 written in the chart about this gentleman being exposed
5 to smoke is a truth.

6 Q Fair enough. I'm going to have to -- in that
7 I left my timeline at the office and had it scanned and
8 e-mailed to me, I'm going to have to look on my iPhone,
9 which I hate to do.

10 A Okay.

11 Q I want to talk a bit about the history and
12 how he presented prior to his first contact with the
13 first physician.

14 On March 16th, he was assigned to and did
15 perform law enforcement services for 12 hours at the
16 Carolina Forest fire, which was a major fire. He was
17 well, according to his wife and family, with no
18 symptoms whatsoever up until that time. When he
19 arrived home after the 12 hours, he felt sick,
20 difficulty breathing, coughing.

21 He, then, the next day was called out for a
22 second 12-hour shift where he returned home with a
23 stopped up nose, again difficulty breathing and a raw
24 throat and was weaker.

25 The following day, the 18th, another

1 12-hour shift. He was -- when he blew his nose, he
2 blew out blackened soot and continued to be stopped up,
3 difficulty breathing, raw throat and was weaker still.

4 He was off the 19th, and was scheduled to
5 go in on the 20th, which was Wednesday, and called in
6 sick because at that time there was a temperature. I'm
7 not sure if -- did you get a chance to meet his wife?

8 A I did.

9 Q I thought you did, yes.

10 A I did.

11 Q And you understand, of course, she is a nurse
12 by trade. He went to the Loris Family Health Center on
13 Thursday when he began to become disoriented and his
14 chest -- he had difficulty breathing and there were
15 pains in his chest.

16 At that time, they did a scan of his chest.
17 On Friday the results of the -- that's the 22nd. The
18 results of the test came back and as a result of those
19 tests he was admitted to the ER on Saturday, the 23rd
20 of March, at McLeod.

21 Again, labored breathing, disoriented to the
22 point that she had to help him dress to get him there.
23 He was placed on oxygen immediately.

24 He remained there in a deteriorating fashion
25 until the 28th, which is 12 days since his first

1 exposure to smoke. Went to MUSC and, of course, you
2 are very well aware of his course once he got to MUSC.

3 Were you -- was that history, assuming that
4 that is history that will be substantiated by
5 Mrs. Causey and other records, were you aware of that
6 history?

7 MR. HOWELL: Let me pose an objection. I
8 think, number one, counsel has testified; and number
9 two, assuming that was a hypothetical, I don't think
10 the facts support the hypothetical. But go ahead.

11 BY MR. HUMPHRIES:

12 Q You can still answer the question.

13 A So that history is both consistent with a
14 smoke exposure and consistent with symptoms associated
15 with H1N1. Every symptom, excluding the one that you
16 mentioned of blowing his nose with soot, every other
17 symptom that you stated is a well-known symptom of H1N1
18 including some neurologic changes, confusion.

19 Q Your testimony is that it is consistent both
20 with H1N1 and with smoke inhalation or smoke exposure?

21 A So, and smoke exposure because blowing black
22 soot out of your nose is consistent with that.

23 Q Sure. Okay. How is one -- how does one
24 contract H1N1?

25 A Essentially, you inhale it.

1 Q Okay. And it can come from a variety of
2 sources?

3 A Agreed.

4 Q From other infected persons?

5 A Absolutely.

6 Q Let me ask you how soon would you expect to
7 see the more severe symptoms of an H1 infection after
8 exposure?

9 A I believe that the time course that you
10 mentioned for the most severe forms of H1N1 associated
11 ARDS are all consistent with the way that Mr. Causey
12 presented to MUSC.

13 So in other words, a prodrome of symptoms
14 with stuffed up nose, sore throat, development of fever
15 and development of pneumonia symptoms, and then a week
16 later it's not unusual for individuals to develop a
17 secondary infection and to develop ARDS. And I believe
18 that that tracks right along with the time course that
19 you provided.

20 Q Okay. I don't believe this requires any
21 specialized training, but when one presents to a
22 medical facility such as Loris Family Health Center,
23 it's reasonable to believe that they may be exposing
24 themselves to any number of things including H1N1; is
25 that fair to say?

1 MR. HOWELL: Again, I think that calls for
2 speculation.

3 BY MR. HUMPHRIES:

4 Q You can still answer the question.

5 THE WITNESS: Still answer the question?

6 MR. HOWELL: You're asking him to interpret
7 something that goes on in another hospital.

8 MR. HUMPHRIES: I'm not -- well, I'm asking
9 him in general. We don't have to talk about Loris
10 Family Health Center.

11 BY MR. HUMPHRIES:

12 Q Any medical facility where you have patients
13 presenting for medical treatment as a, just as a
14 general facility, it's reasonable to expect that people
15 who present have medical issues; is that fair to say?

16 A That is fair to say, yes.

17 Q Okay. Let me take you back to your testimony
18 regarding multiple infections. Just for clarity sake,
19 you mentioned fungal infections?

20 A Uh-huh.

21 Q Could you help me out a little bit more with
22 some specificity regarding that?

23 A So I cannot recall the culture data that was
24 positive, but I do know that he was treated with
25 amphotericin during this hospitalization which is an

1 antifungal medicine. And I did not look at that again
2 in my rereview last night so I do not remember.

3 Q That's fine. We can look at it together.
4 How about that?

5 Referring to the hospital death summary from
6 MUSC, if I understand your testimony, to a reasonable
7 degree of medical certainty, more likely than not, your
8 testimony is that -- I will read it and you tell me if
9 it's correct: Cause of death is thought to be
10 hypovolemic shock, secondary to diffuse alveolar
11 hemorrhage, secondary to ventilator associated
12 pneumonia, secondary to prolonged intubation, secondary
13 to smoke inhalation with H1N1 influenza.

14 And first of all, is that correct?

15 MR. HOWELL: Object to form of the
16 question.

17 BY MR. HUMPHRIES:

18 Q Is that your opinion to a reasonable degree
19 of medical certainty, more likely than not?

20 A So, the problem with it is the medical
21 certainty. The medical certainty would be cause of
22 death is thought to be hypovolemic shock, secondary to
23 diffuse alveolar hemorrhage, secondary to ventilator
24 associated pneumonia, secondary to H1N1.

25 Q Okay. And, Doctor, is this hospital death

1 summary a summary which you reviewed and signed as the
2 attending?

3 A It is.

4 Q Okay. And is there a distinction between a
5 cause of death which is contained within a hospital
6 death summary and a cause of death to a reasonable
7 degree of medical certainty more likely than not?

8 A In an ideal world there should not be a
9 distinction between those two things. In this
10 particular case, I believe that there is a distinction.

11 Q And let me ask you in regard to Dr. Strange,
12 he has been your partner for the last ten years?

13 A Last four, four years.

14 Q Four years?

15 A Four years plus. I have known him for ten
16 years.

17 Q I gotcha. And in addition to reviewing the
18 records related to this case in preparation for your
19 deposition, you also reviewed Dr. Strange's deposition?

20 A I did.

21 MR. HUMPHRIES: That's all I have.

22 MR. HOWELL: I don't have any other
23 questions. Thank you, sir.

24 (WHEREUPON, the deposition concluded at
25 10:45 a.m., and the deponent waived signature.)

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION
W.C.C. FILE NO. 1302588

TIMOTHY CAUSEY,

Employee, Claimant

vs.

HORRY COUNTY,

Self-insured Employer,
Through

S.C. COUNTIES WORKERS' COMPENSATION TRUST

VIDEO
DEPOSITION OF: NICHOLAS J. PASTIS, JR., MD

DATE: AUGUST 21, 2014

TIME: 2:08 PM

LOCATION: MUSC, Clinical Science Building
96 Jonathan Lucas Street
Charleston, SC

TAKEN BY: Counsel for the Claimant

REPORTED BY: Laura J. Bash, RPR

A. WILLIAM ROBERTS, JR., & ASSOCIATES

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1 APPEARANCES OF COUNSEL:

2 ATTORNEYS FOR TIMOTHY CAUSEY:

3 MONCKTON, HEMBREE, MUREDDU & HUMPHRIES
4 BY: FRANCIS A. HUMPHRIES, JR.
5 1300 Professional Drive, Suite 102
6 Myrtle Beach, SC 29577
(843) 946-6556
franhumphries@aol.com

7 ATTORNEYS FOR Horry COUNTY and S.C. COUNTIES
8 WORKERS' COMPENSATION TRUST:

9 TRASK & HOWELL
10 BY: ROY A. HOWELL, III
11 763 Johnnie Dodds Boulevard
12 #2
Mt. Pleasant, SC 29464
(843) 881-4228
rhowell@trask-howell.com

13 ALSO PRESENT:

14 Douglas Browne, videographer

15
16
17
18 (INDEX AT REAR OF TRANSCRIPT)

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1 THE VIDEOGRAPHER: We are now on the
2 record. Today's date is August 21st, 2014. The
3 time is approximately 2:08 p.m. This is the video
4 deposition of Dr. Nicholas Pastis, taken by counsel
5 for the plaintiff.

6 The location today is 96 Jonathan Lucas
7 Street in Charleston, South Carolina. My name is
8 Douglas Browne, legal videographer, representing
9 A. William Roberts, Jr. & Associates.

10 This deposition is taken in the matter
11 of Timothy Causey versus Horry County, et al.
12 Case number -- or File Number 1302588.

13 Counsel present, please introduce
14 yourselves for the record.

15 MR. HUMPHRIES: My name is
16 Fran Humphries, I represent the Estate of
17 Timothy Causey.

18 MR. HOWELL: My name is Roy Howell and
19 I represent Horry County and the South Carolina
20 Association of Counties Workers' Compensation
21 Trust.

22 THE VIDEOGRAPHER: Will the court
23 reporter please swear in the witness so we may
24 begin.

25 NICHOLAS J. PASTIS, JR., MD,

1 being first duly sworn, and responding, "I swear,"
2 testified as follows:

3 EXAMINATION

4 BY MR. HUMPHRIES:

5 Q. Good afternoon, Doctor. I very much
6 appreciate you carving some time out of your
7 schedule today.

8 Just a few brief preliminary
9 instructions. All of your answers need to be
10 answered audibly. You will get an opportunity at
11 the end of your deposition to elect to sign it
12 after review or to waive signing. And I'm sure the
13 court reporter will discuss that with you.

14 And we'll begin, if that's okay.

15 A. That's fine.

16 Q. Doctor, will you give us the benefit of
17 your education and employment experience as relates
18 to your duties as a physician?

19 A. I'm a graduate of medical school in
20 1999, receiving an MD degree. I subsequently did
21 three years of internal medicine training.
22 Following that I did an additional three years in
23 pulmonary and critical care training. I
24 subsequently worked in the Roper St. Francis system
25 for approximately five years, performing duties

1 involving pulmonary critical care, inpatient and
2 outpatient consultation, interventional
3 pulmonology. And then proceeded to move over to
4 the Medical University in 2009, where I have been a
5 faculty member in the division of pulmonary
6 critical care, performing duties in the intensive
7 care unit, and interventional bronchoscopy in an
8 outpatient setting.

9 Q. Very good. And have you ever had the
10 occasion to be offered as expert in a court of law?

11 A. I have been.

12 Q. And were you accepted at that time?

13 A. Yes.

14 Q. Thank you.

15 Let's talk specifically about your
16 duties in connection with the Medical University
17 and ICU. Again, you've been working in that
18 position for how long?

19 A. I've been a board-certified,
20 independently practicing critical care physician
21 since 2005, but I performed those duties for three
22 years during fellowship also.

23 Q. Very good. Did you have the occasion
24 to attend to Timothy Causey, the subject of this
25 action?

1 A. I did.

2 Q. Will you give me an overview of the
3 type of contact you had with him, the frequency,
4 and those duties that you performed for Mr. Causey?

5 A. There is a core group of critical care
6 physicians in our division that rotate in two-week
7 blocks in the intensive care unit. And during his
8 approximately two-month stay at the Medical
9 University, I was there for a full two-week block.
10 In addition, I did at least one weekend call, where
11 I saw him.

12 Those contacts were day-to-day rounds,
13 subsequent follow-ups, and family updates in the
14 afternoon, and various procedures on Mr. Causey.

15 Q. Okay. Can you tell us -- or can
16 you -- can you tell me -- understanding they're
17 two-week blocks, do you recall how early in his
18 two-month stay was your first two-week block?

19 A. I wasn't the first physician. I think
20 I was the second one. And then I saw him later
21 in -- in weekend coverage.

22 Q. Okay.

23 A. So sort of middle and a little bit
24 toward the end.

25 Q. Okay. So as part of your practice, do

1 you review other medical records related to your
2 treatment to Mr. Causey, both from admitting
3 hospitals and from those attending him while at
4 MUSC?

5 A. We do. We review the discharge summary
6 from other hospitals, and laboratory reports and
7 such. And some of the other charting that is made
8 available to us.

9 Q. And did you do that in this case?

10 A. I did. Not recently, but at the time.

11 Q. Sure. Yeah. Well, let me ask you, in
12 preparation for today's deposition, did you have an
13 occasion to review any medical records related to
14 Mr. Causey?

15 A. I did. I reviewed his discharge,
16 slash, death summary, during his time at the
17 Medical University.

18 Q. Very good. And did you review any
19 other documents, any other depositions related
20 to --

21 A. I did not.

22 Q. Tell me if -- if you're able, what
23 other attending physicians did Mr. Causey have
24 during his stay?

25 A. He had several. He had

1 Dr. Alice Boylan; he had Dr. Timothy Whelan; he had
2 Dr. Dee Ford; and I believe Dr. Charlie Strange.
3 At one point or another, we have all rotated and
4 cared for him.

5 Q. And again, what is your relationship
6 with -- not your personal relationship, but your
7 professional relationship with these other doctors?

8 A. We're partners.

9 Q. Okay. Can you very briefly give me the
10 benefit of Mr. Causey's treatment while here and
11 how he either progressed or deteriorated?

12 A. Well, he came here in a state of severe
13 respiratory failure. He -- we were unable -- or he
14 was unable to be oxygenated adequately with
15 conventional modes of ventilation that ICUs have
16 available. Being a tertiary care center, we have
17 access to ECMO, which can bypass the lungs. It can
18 also bypass the heart, if need be. But in his case
19 it bypassed the lungs, allowing a machine to
20 perform the duties of oxygenation. And allowed him
21 to heal slightly, so that he could then be treated
22 with conventional modes of ventilation.

23 So he did improve, in the sense that we
24 were able to get him on conventional modes. And he
25 maintained -- remained ventilator dependent. He

1 received a tracheostomy. And then he was treated
2 for various pneumonias while he was here, and some
3 bleeding issues from gastritis, as well as some
4 blood clots.

5 Q. How did he present when he was
6 admitted?

7 A. He presented with a picture of
8 the -- acute respiratory distress syndrome, with
9 air space disease filling both lungs. That wasn't
10 due to his heart failing, but due to a lung
11 problem. He was needing a ventilator, and he was
12 having a very low oxygen level despite high levels
13 of support, meaning high oxygen concentration and
14 high levels of pressure.

15 Q. Do you recall -- again, you said you
16 had the opportunity at that time to review the
17 discharge summary from the hospital that sent him,
18 McLeod.

19 A. Right.

20 Q. Do you recall anything about that
21 discharge summary?

22 A. Well, I recall that he was on a
23 noninvasive mode of ventilation for several days
24 and sort of continued to deteriorate prior to
25 coming here, and had not been initially placed on a

1 mechanical ventilator with an endotracheal tube.
2 They were using a bilevel, non-invasive device.
3 That was the feature that stood out.

4 Q. Do you recall how he presented to
5 McLeod, that is, what was he complaining of?

6 A. He couldn't breathe.

7 Q. Okay. And was there a causation that
8 was identified or at least -- well, identified as a
9 possible reason for that?

10 A. Right. Well, he had been helping out
11 in a fire scene and had some smoke inhalation, and
12 that was identified as a possible cause or
13 contributor to his problem.

14 Q. Let me ask you. You've had, again, the
15 opportunity to review the hospital death summary?

16 A. Uh-huh.

17 Q. And you've done that fairly recently?

18 A. I did.

19 Q. Very good. The history is typically
20 provided by whom? From what source is the history
21 gathered?

22 A. Physician, taking -- taking the record.

23 Q. I guess my question is, does it come
24 from hospital records, from relative or patient
25 information, or?

1 A. It's a combination, in his case,
2 because he couldn't give it himself. So it was a
3 combination of hospital records and family, wife,
4 et cetera.

5 Q. Let's talk a bit about H1N1 in
6 connection with Mr. Causey.

7 Is that a diagnosis that was reached
8 fairly early on in his stay, here at MUSC?

9 A. I don't believe it was immediate, so
10 his initial presentation, I don't think it was
11 realized. But once he came and had the testing
12 done, it showed positive.

13 Q. And in your experience or, in
14 particular, this case, could you identify, to a
15 reasonable degree of medical certainty, the time
16 when he would have contracted that disease?

17 A. He would have contracted it, most
18 likely, within the week prior to his presentation.

19 Q. And when you talk about presentation,
20 you're talking about to MUSC?

21 A. To MUSC, correct.

22 Q. Very good. And I promised you I would
23 be brief.

24 Referring to the hospital death
25 summary, there is a cause of death which is set

1 out. Do you recall that cause of death?

2 A. Well, I think he had bleeding from his
3 lungs, and it was reported as alveolar hemorrhage
4 syndrome related to his ARDS and the damage done to
5 his lungs.

6 Q. Okay. Do you recall the secondary
7 causes outlined by the hospital death summary?

8 A. I believe there was H1N1, acute
9 respiratory distress syndrome, possible inhalation
10 injury. As I recall.

11 Q. And let me do this. Of course,
12 Mr. Howell has this as well. I believe it's been
13 made an exhibit at some point, if not, we can.

14 Let me read this cause of death to you.

15 A. Okay.

16 Q. "Cause of death is thought to be
17 hypovolemic shock, secondary to diffuse alveolar
18 hemorrhage, secondary to ventilation-associated
19 pneumonia, secondary to prolonged intubation, and
20 secondary smoke inhalation injury with H1N1
21 influenza."

22 Based on your treatment of Mr. Causey,
23 is that a cause of death to which you would
24 ascribe?

25 A. I do.

1 Q. Okay. And to a reasonable degree of
2 medical certainty, is that a cause of death to
3 which you ascribe?

4 A. Yes, it is.

5 MR. HUMPHRIES: Dr. Pastis, that's all
6 I have at this time.

7 EXAMINATION

8 BY MR. HOWELL:

9 Q. Dr. Pastis, I have identified myself
10 earlier, my name is Roy Howell and I represent
11 Horry County.

12 You did not see Mr. Causey when he was
13 admitted to the hospital here at MUSC; is that
14 correct?

15 A. Not when he first came, that's correct.

16 Q. Dr. Strange was the admitting
17 physician?

18 A. That's correct.

19 Q. And you testified earlier that you
20 believed that the diagnosis of H1N1 was not made
21 immediately, but it was made the same day that he
22 arrived, correct?

23 A. Correct.

24 Q. All right. And how they arrived at
25 that is that they did a test that they had not done

1 at McLeod, correct? I think it's the -- I think
2 the initials are PCR?

3 A. There's a nasal PCR, they test for it.
4 PCR testing.

5 Q. All right. And it is a relatively new
6 test to specifically test for the H1N1 virus,
7 correct?

8 A. Correct.

9 Q. And they didn't have that test at
10 McLeod, correct?

11 A. I don't know.

12 Q. Okay.

13 A. I don't know whether they do or not.

14 Q. Doctor, I will tell you that
15 Dr. Strange, when we took his deposition, testified
16 that he actually spoke to Dr. Bernard --

17 A. Okay.

18 Q. -- and was told that they didn't have
19 that particular testing there. Okay.

20 That test identified that, without
21 certainty, that he had H1N1, correct?

22 A. Correct.

23 Q. All right. And the H1N1 is the cause
24 of his acute respiratory distress syndrome, is that
25 right?

1 A. It -- it is a cause.

2 Q. Okay. And you mentioned earlier that
3 he had -- when he arrived, and again, I'm assuming
4 you're basing this on the review of records, that
5 he had air space disease filling both lungs?

6 A. Correct.

7 Q. All right. That is consistent with
8 symptoms you have from H1N1, correct?

9 A. It is. Sort of, in the most severe
10 form.

11 Q. And he had a very severe form?

12 A. Correct.

13 Q. You also mention -- mentioned that he
14 had problems with his oxygen. Is that called
15 hypoxemia?

16 A. That is.

17 Q. That is also consistent with H1N1,
18 correct?

19 A. It can be. Not in all cases, but it
20 can be.

21 Q. But it's consistent with the diagnosis
22 that was made in this case, correct?

23 A. Yes.

24 Q. Dr. Strange and Dr. Whelan both
25 testified that the year 2013 -- you were here then,

1 correct, Doctor?

2 A. Correct.

3 Q. -- was a bad year, statistically
4 speaking, for H1N1 virus. Y'all treated a lot of
5 people here.

6 A. That's correct.

7 Q. H1N1 virus is a deadly virus, correct?

8 A. It can be.

9 Q. In fact, it was responsible for over
10 18,000 deaths during the pandemic in 2009, correct?

11 A. Correct.

12 Q. And even -- and obviously, they found a
13 vaccine for it. But even with the vaccine, it is
14 still seen sporadically in this country, correct?

15 A. Correct.

16 Q. And again, in 2013, it was seen more
17 that year than it had been in the previous few
18 years, correct?

19 A. That's correct.

20 Q. All right. And if you get a bad case
21 of H1N1, unfortunately, it can kill you, correct?

22 A. It can.

23 Q. All right. And that's what happened to
24 Mr. Causey; isn't that right?

25 A. That's correct.

1 Q. His hospital course, putting him on a
2 ventilator and so forth, that is the -- well, he
3 started on Tamiflu, obviously, as -- for --
4 specifically to treat the virus itself.

5 But as far as the cause of his lung
6 issues, he was placed on a ventilator, correct?

7 A. Uh-huh.

8 Q. And that is the treatment that you
9 would use for someone with bad H1N1, correct?

10 A. Correct.

11 Q. All right. And in this case, he just
12 didn't get any better.

13 A. Correct.

14 Q. And he had complications that,
15 unfortunately, you see in patients who have bad
16 H1N1, correct?

17 A. You can see it. Do you want to know in
18 a majority or in a -- there's a spectrum where
19 anywhere --

20 Q. Well, in a percentage of cases, you see
21 it?

22 A. Correct.

23 Q. And he was likely not the only patient
24 that was treated here in 2013 that died of H1N1,
25 correct?

1 A. He was in a minority that did.

2 Q. Right. Now, Counsel mentioned the
3 issue of smoke inhalation.

4 Number one, do you have any details
5 regarding smoke inhalation?

6 A. I know he was -- he's not a fireman,
7 he's a policeman, but he was helping people out of
8 a fire, was my understanding.

9 Q. It was your understanding that he was
10 right in the middle of the fire, helping people?

11 A. Not right in the middle, but around
12 smoke. That's all I know.

13 Q. To be fair, do you have any of the
14 details regarding the significance of his smoke
15 inhalation?

16 A. I don't have the details right now, no.

17 Q. How long he was exposed, degree of
18 exposure, anything like that?

19 A. Just second-hand, from his wife.

20 Q. Okay. And there is no scientific
21 literature available that connects H1N1 to smoke
22 inhalation, is there?

23 A. It is not caused by -- necessarily by
24 smoke inhalation.

25 Q. And in fact, there's no specific

1 literature that indicates that exposure to smoke,
2 smoke inhalation on a transient patient like this
3 was, either increases the risk of H1N1 or makes the
4 symptoms worse; isn't that correct?

5 A. There's literature that it can make
6 symptoms of an infection or secondary infection
7 worse by damage to the airways.

8 Q. Secondary infection?

9 A. Not specifically H1N1. But in other
10 words, if you have a bad inhalation injury and you
11 get a pneumonia, it is reasonable that it may be
12 worse than somebody who didn't have the inhalation
13 injury.

14 Q. Okay. And there's no evidence here of
15 a secondary infection, is there?

16 A. Well, I just mean, any pulmonary
17 infection --

18 Q. Okay.

19 A. -- could be made worse if there is
20 airway damage from a smoke inhalation.

21 Q. Okay. Dr. Strange indicated that
22 research that has been done has to do with people
23 who smoke cigarettes; is that not true?

24 A. Is what not true?

25 Q. That the research, the literature on

1 the effects of smoking on H1N1, is done with
2 regards to smokers?

3 A. Correct. I see where you are going.
4 Yeah. I'm unaware of anything about smoke
5 inhalation, from a fire, in H1N1. But it is known
6 that a smoke inhalation and then a pneumonia could
7 be worse than just getting the pneumonia.

8 Q. Okay. I gotcha.

9 A. If I'm making sense.

10 Q. All right. And you mentioned
11 that -- that you -- that you read the death
12 summary. And it looks like Dr. Largent,
13 William Largent was the person who actually, I
14 guess, authored the death summary.

15 A. Right.

16 Q. Do you know Dr. Largent?

17 A. Largent. And I think he authored it
18 with approval and overview of Dr. Whelan, from what
19 I saw.

20 Q. And have you spoken to Dr. Whelan about
21 his opinions in this case?

22 A. I have not spoken with him since the
23 case occurred, but -- so it's been -- I have not
24 spoken recently with him. But I did at the time of
25 the death, and the time of his care in the ICU.

1 Q. All right. So are you aware that he
2 has modified the hospital death summary in his
3 deposition to say that he does not believe that the
4 smoke inhalation had anything to do with Mr. --

5 A. I was unaware that he made that
6 modification.

7 Q. And Dr. Largen, I believe, was a
8 resident at the time?

9 A. That's correct.

10 Q. So is there any way to state, within a
11 reasonable degree of medical certainty, that the
12 smoke inhalation that allegedly occurred in this
13 case had anything to do with his death?

14 A. I think that I can say with a
15 reasonably -- reasonable degree of certainty, that
16 it made his ability to fight off an infection
17 worse.

18 Q. Okay. And how do you arrive at that
19 opinion?

20 A. Physiology. That you have injury to
21 your defense cells and your ability to clear
22 secretions.

23 But not based on any H1N1 study, as we
24 said.

25 Q. Okay. Not based upon any H1N1 study

1 and not based on any scientific literature; is that
2 correct?

3 A. No, that's not -- not entirely correct.
4 There is scientific literature on burn injuries to
5 the airways.

6 Q. Do you have evidence that he had a burn
7 injury to the airways in this case?

8 A. That, I don't. I don't have a picture
9 of the airways.

10 Q. So in this case, you're speculating
11 that he had a burn injury to the airway.

12 A. Correct.

13 Q. Without any proof of that, you can't,
14 state, to a reasonable degree of medical certainty,
15 most probably, that the smoke inhalation had
16 anything to do with his death, can you?

17 A. I would be uncomfortable saying that it
18 had nothing to do with his death.

19 Q. And we can speculate that it might
20 have, but in terms of testifying, to a reasonable
21 degree of medical certainty, based upon evidence in
22 this case, you can't state that, can you?

23 A. Based on the evidence I have, it would
24 be speculation.

25 MR. HOWELL: Thank you, sir. Those are

1 all the questions I have.

2 FURTHER EXAMINATION

3 BY MR. HUMPHRIES:

4 Q. Let's go back just a minute. And I
5 promise we're winding up.

6 Mr. Howell has asked you -- he's
7 advised you of certain things regarding, in
8 particular, Dr. Whelan's position. And just to be
9 clear, we may -- we may disagree on this point.

10 Dr. Whelan, who did sign off on the
11 hospital death discharge summary, made a
12 distinction at the close of his deposition that
13 there was some difference between a cause of death
14 that appears in a hospital death discharge summary
15 and a cause of death to a reasonable degree of
16 medical certainty.

17 Is that common in the -- in the
18 practice of medicine, to draw a distinction between
19 an opinion related to cause of death in a hospital
20 discharge death summary?

21 A. That's not common.

22 MR. HOWELL: Let me object, because
23 that's not --

24 MR. HUMPHRIES: You can object.

25 MR. HOWELL: -- that's not his

1 testimony.

2 BY MR. HUMPHRIES:

3 Q. I'll be glad to read his testimony.

4 But in any event -- one thing, obviously -- and
5 again, you've told us that -- that the history is
6 provided by medical records and by witness'
7 accounts, and in this case, from his wife. And in
8 this particular case, she was deposed as well. And
9 in her deposition, prior to his first admission and
10 very soon -- well, after his -- just to be clear.

11 He was on site three days at the fire
12 and the aftermath. And he complained -- just one
13 moment -- his first night he complained that his
14 eyes were red, they were swollen, he was coughing,
15 his nose was pouring, and he thought that the smoke
16 and everything bothered his sinuses allergies.
17 That was his first night.

18 Second night: Nose kept pouring, he
19 kept telling me there was something
20 here -- indicating his chest -- like, when he took
21 a deep breath.

22 And then the third night: There was
23 something here -- again, indicating his chest. He
24 felt he couldn't take a deep breath. He blew his
25 nose a couple of times; it would be like

1 black-black stuff. His eyes were red and watering.

2 That was when he was taken first to the
3 outpatient, before McLeod. And when he went
4 to -- just one second. They took him to the Family
5 Health Center at Loris, and they noted that he was
6 having transient symptoms related to smoke
7 inhalation.

8 When we talk about -- and just
9 colloquially, she noted that -- about that same
10 time, that he was still having the issue with his
11 chest. That he couldn't drink his favorite drink,
12 which was a caffeinated drink, because he said his
13 throat, it just burned and he couldn't drink
14 anything -- couldn't drink anything but Gatorade.
15 And that was prior to his admission to McLeod.

16 Are those reports, or perhaps symptoms,
17 could they be consistent with a burn injury?

18 A. Yes.

19 Q. Okay.

20 MR. HUMPHRIES: Thank you. That's all
21 I have.

22 FURTHER EXAMINATION

23 BY MR. HOWELL:

24 Q. While they are consistent with a burn
25 injury, there is no pathological proof or x-ray

1 proof that he had burn injury to the lungs,
2 correct?

3 A. There's only historical -- there's only
4 a -- the timing of the symptoms right -- following
5 the exposure, that I -- that I would make the
6 presumptive diagnosis.

7 Q. Well, you can have symptoms from smoke
8 inhalation without having a burn injury to the
9 lungs, correct?

10 A. Without having a burn injury, correct.

11 Q. And what she reported was symptoms that
12 are consistent with smoke inhalation, correct?

13 A. Correct.

14 Q. They are not necessarily consistent
15 with burn injury?

16 A. I think he said smoke inhalation
17 injury, not burn injury.

18 Q. Okay. But your testimony earlier
19 was -- was that -- that there would have to be
20 evidence of a burn injury to the lungs in order to
21 make that leap that it somehow had an effect on his
22 ability to fight off infection and that sort of
23 thing, correct?

24 A. Well, to have absolute proof.

25 Q. And in this case, again, it's really

1 speculative to make a connection between the smoke
2 inhalation and his death, isn't it?

3 A. It's historical. The timing of it,
4 too, though.

5 Q. But it's speculative, isn't it?

6 A. It is. But, you know, a lot of
7 these -- we're somewhat limited in our ability to
8 make such diagnosis by how sick the patient is, so
9 sometimes all we have is history.

10 In other words, to do a biopsy of his
11 airway or do an airway examination with
12 bronchoscopy is probably too -- too difficult at
13 the time he came in. So it was historical.

14 Q. All right. But his -- his hospital
15 course and -- and his death can be directly
16 attributed to ARDS associated with H1N1, correct?

17 A. Correct.

18 Q. Okay. And in this case, just so the
19 record is clear, Counsel asked
20 Dr. Whelan -- basically did the same he did to you,
21 he read the hospital death summary. And he said:
22 Referring to the hospital death summary from MUSC,
23 if I understood your testimony, to a reasonable
24 degree of medical certainty, more likely than not,
25 your testimony is -- I will read it and you tell me

1 if it's correct: Cause of death is thought to be
2 hypovolemic shock, secondary to diff -- diffuse --
3 I'm going to butcher this -- alveolar --

4 A. Alveolar.

5 Q. -- hemorrhage, secondary to
6 ventilator-associated pneumonia, secondary to
7 prolonged intubation, secondary to smoke inhalation
8 with H1N1 influenza.

9 Dr. Whelan's answer was: The problem
10 is with the medical certainty. The medical
11 certainty would be cause of death is thought to be
12 hypovolemic shock, secondary to diffuse alveolar
13 hemorrhage, secondary to ventilator-associated
14 pneumonia, secondary to H1N1.

15 The point being is, is that he took out
16 the smoke inhalation as being a contributing
17 factor.

18 MR. HOWELL: Those are all the
19 questions I have, Doctor. Thank you.

20 FURTHER EXAMINATION

21 BY MR. HUMPHRIES:

22 Q. There was -- one of things that is
23 great about this hospital, and unfortunately my
24 father and brother have been treated here,
25 and -- is the communication between the doctors and

1 the family of the patient. And there was
2 significant contact between these attending
3 physicians, including yourself, with the family; is
4 that correct?

5 A. Correct.

6 Q. And one of the things noted by
7 Ms. Causey in her deposition was that one of the
8 doctors, and she was not able to identify him,
9 indicated to her that -- clearly that he had H1N1,
10 but that the smoke inhalation would have made it
11 difficult for him to fight it off, in his
12 circumstance.

13 Is that consistent with your
14 observations of Mr. Causey and his course of
15 treatment?

16 A. It is. While severe, most people don't
17 die of this disease. He certainly had a severe
18 case. Those happen without smoke inhalation.

19 But in his case, the timing of it made
20 me think that it exacerbated what was already a
21 severe problem and made it worse.

22 Q. Thank you.

23 FURTHER EXAMINATION

24 BY MR. HOWELL:

25 Q. It exacerbated what?

1 A. The respiratory infection and lung
2 injury.

3 Q. So it's your belief that the
4 respiratory infection and lung injury was present
5 before the smoke inhalation ever occurred?

6 A. It's a --

7 Q. Isn't that inconsistent with the way
8 that you have symptoms from H1N1?

9 A. Can you ask the question again?

10 Q. Well, you just said that -- you said,
11 it exacerbated it. And I said, exacerbated what?
12 And you said, his lung injury and infection.

13 So are you saying that the lung injury
14 and infection was there before he inhaled the
15 smoke?

16 A. Not necessarily. He could have already
17 had some airway inflammation and then developed the
18 pneumonia.

19 Q. He could have?

20 A. Uh-huh.

21 Q. But you can't state that to a
22 reasonable degree of medical certainty, can you?

23 A. Ah. I can't say -- I can't state that
24 because -- only because it's hard to say whether
25 this was just a very horribly severe case or

1 whether it contributed. There's no way to decipher
2 that out. Because the H1N1 can be this severe on
3 its own. But on the other hand, the timing of it
4 makes me think that it could have been made worse
5 by the smoke inhalation.

6 MR. HOWELL: Thank you, Doctor. That's
7 all I have.

8 FURTHER EXAMINATION

9 BY MR. HUMPHRIES:

10 Q. And let's -- let's be clear about this.
11 Diagnosis is not always done just with medical
12 testing. The history --

13 A. Right.

14 Q. -- is often significant to the
15 diagnosis; is that not correct?

16 A. Right. That's correct.

17 MR. HUMPHRIES: Thank you.

18 FURTHER EXAMINATION

19 BY MR. HOWELL:

20 Q. But what you can say, definitively,
21 there's -- there's no question about this, that the
22 H1N1 is what was the cause of his ARDS and
23 ultimately the cause of his death, correct?

24 A. Correct.

25 Q. Okay. There's no question about that.

1 A. That was the primary cause, exactly.

2 MR. HOWELL: Thank you. That's all I
3 have.

4 THE VIDEOGRAPHER: This concludes the
5 video deposition of Dr. Nicholas Pastis. The time
6 is approximately 2:47 p.m. We are now off the
7 record.

8 (The video deposition concluded at 2:42 p.m.)

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BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION
W.C.C. FILE NO. 1302588

TIMOTHY CAUSEY,

Employee, Claimant

vs.

HORRY COUNTY,

Self-insured Employer,
Through

S.C. COUNTIES WORKERS' COMPENSATION TRUST

Defendants.

VIDEO

DEPOSITION OF: DEE W. FORD, M.D.

DATE: JANUARY 22, 2015

TIME: 3:48 PM

LOCATION: MUSC, Clinical Sciences Building
96 Jonathan Lucas Street
Charleston, SC

TAKEN BY: Counsel for the Claimant

REPORTED BY: Laura J. Bash, RPR

A. WILLIAM ROBERTS, JR., & ASSOCIATES

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1 APPEARANCES OF COUNSEL:

2 ATTORNEYS FOR TIMOTHY CAUSEY:

3 MONCKTON, HEMBREE, MUREDDU & HUMPHRIES
4 BY: FRANCIS A. HUMPHRIES, JR.
5 1300 Professional Drive, Suite 102
6 Myrtle Beach, SC 29577
7 (843) 946-6556
8 franhumphries@aol.com

9 ATTORNEYS FOR HORRY COUNTY and S.C. COUNTIES
10 WORKERS' COMPENSATION TRUST:

11 TRASK & HOWELL
12 BY: ROY A. HOWELL, III
13 763 Johnnie Dodds Boulevard
14 #2
15 Mt. Pleasant, SC 29464
16 (843) 881-4228
17 rhowell@trask-howell.com

18 ALSO PRESENT:

19 Douglas Browne, videographer

20 (INDEX AT REAR OF TRANSCRIPT)

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1 THE VIDEOGRAPHER: We are now on the
2 record. Today's date is January 22nd, 2015. The
3 time is approximately 3:48 p.m.

4 This is the video deposition of
5 Dr. Dee Ford, taken by counsel for the plaintiff.
6 Location today is 96 Jonathan Lucas Street, in
7 Charleston, South Carolina.

8 My name is Douglas Browne, legal
9 videographer, representing A. William Roberts, Jr.
10 & Associates.

11 This deposition is taken in the matter
12 of Timothy Causey versus Horry County, et al.,
13 Case Number W.C.C. File Number 1302588.

14 Counsel present, please introduce
15 yourselves for the record.

16 MR. HUMPHRIES: My name is
17 Fran Humphries. I represent the Estate of Timothy
18 Causey.

19 MR. HOWELL: My name is Roy Howell and
20 I represent Horry County and South Carolina
21 Association of Counties Self-Insurers Trust Fund.

22 THE VIDEOGRAPHER: Would the court
23 reporter please swear in the witness, and we can
24 begin.

25 DEE W. FORD, M.D.,

1 being first duly sworn, and responding "I do,"
2 testified as follows:

3 EXAMINATION

4 BY MR. HUMPHRIES:

5 Q. Good afternoon, Doctor. I appreciate
6 you carving out a little bit of time for us today.
7 I don't believe this will take too awfully long.

8 If you will, at the beginning, give us
9 the benefit of your education and experience as it
10 relates to your medical practice.

11 A. Sure. I graduated from Johns Hopkins
12 Medical School in 1999. Completed my internal
13 medicine residency training at Johns Hopkins
14 Hospital, and completed that in 2002. Did my
15 pulmonary critical care fellowship training here at
16 the Medical University of South Carolina, completed
17 that in 2005. And I have been on faculty here at
18 MUSC since 2005.

19 Q. And let me ask you, from the onset,
20 have you ever been offered and accepted as an
21 expert in a court of record?

22 A. Once.

23 Q. Do you have any immediate recollection
24 of the treatment and care of Timothy Causey?

25 A. Yes.

1 Q. Okay.

2 A. You don't tend to forget.

3 Q. Yes. I appreciate that.

4 Tell me, if you will, how would
5 you -- how did -- how would you characterize your
6 responsibilities in regard to Timmy Causey's care,
7 and what position and for what period of time.

8 A. I was his attending physician in the
9 medical intensive care unit here at MUSC during
10 the, roughly, two-plus months that he was here at
11 MUSC. I was -- I actually went back and looked at
12 my clinical schedule, and was his attending
13 physician for an approximate two-week block in the
14 last half of April 2013.

15 Q. Okay. Let me ask you, in preparation
16 for today's deposition, did you have the
17 opportunity to review any records, any depositions
18 from other doctors involved in Mr. Causey's care?

19 A. I did. I reviewed the medical records
20 that were provided via mail to me and also that are
21 in our electronic medical record here at MUSC. I
22 also reviewed the depositions of Drs. Strange,
23 Whelan and Pastis.

24 Q. Tell me, if you will, your first
25 contact with Tim -- Timothy Causey, and what

1 condition did you find him. And tell us a bit
2 about when you attended his treatment and care
3 under your attending.

4 A. So he had been at MUSC since
5 the -- late March of 2013. I became his attending
6 of record, it was actually a weekend that I was
7 taking care of him, and then -- which was roughly
8 April 13th or 14th. And at that time, he had
9 previously been on ECMO for ARDS, the respiratory
10 condition that he had.

11 He had -- that had been able to be
12 discontinued, but he was in -- remained in very
13 profound respiratory failure, heavily dependent on
14 mechanical ventilation, and also on inhaled
15 medications we sometimes use in patients with his
16 condition. Was intermittently in shock during the
17 time I took care of him. Was delirious, as well,
18 during the time I took care of him.

19 So he was -- we take care of many very
20 sick people, and he was, in that spectrum, one of
21 the sickest patients that we take care of.

22 Q. Do you know how he presented to MUSC?
23 Were you able to review the records regarding how
24 he presented upon his admission?

25 A. I did. I was able to review one note

1 from a physician at McLeod, and then the admission
2 history and physical from when he first presented
3 to MUSC. So yes.

4 Q. And in regard to the notes from McLeod,
5 you're aware, of course, there was admission there
6 prior to admission to MUSC.

7 What, if anything, do you recall about
8 his admission at McLeod, how he presented there and
9 what his complaints were?

10 A. He presented -- this is sort of
11 secondhand. But from looking --

12 Q. Sure.

13 A. -- at the interpretation our physicians
14 had of the record from McLeod, he presented with
15 shortness of breath, fever, cough, some confusion
16 was in there; was found to have a low oxygen level;
17 was hospitalized, got sicker, and transfer was
18 requested because his -- particularly his pulmonary
19 status was worsening and they were concerned he
20 would exceed some of the resources that they have
21 at McLeod.

22 Q. And were you provided a history
23 regarding how he came to be admitted to McLeod?

24 A. I did not have the history and physical
25 exam from McLeod.

1 Q. Okay. Did you ultimately have occasion
2 to gain a history regarding -- either from family
3 or other medical staff, while here?

4 A. I, personally, did not. I did have the
5 opportunity to review the history obtained by the
6 people who admitted him to our hospital.

7 Q. Okay. All right. You were -- your
8 block of two weeks would have been in relation to
9 his death, his passing.

10 How -- in what proximity were your
11 two-weeks attending to his ultimate passing?

12 A. About two weeks prior to his death.

13 Q. Okay. And you've mentioned
14 that -- it's a rotating shift, I suppose, with
15 two-week blocks, and there are other doctors
16 involved?

17 A. Yes.

18 Q. And you're familiar with these other
19 doctors. I think you've read depositions of a
20 number of those doctors; is that correct?

21 A. Yes.

22 Q. Okay. Have you had the occasion to
23 review the hospital death summary, from MUSC,
24 related to his death?

25 A. Yes.

1 Q. Okay. And let me ask you, having
2 reviewed that -- first of all, were you consulted
3 in the -- in the composition of this summary?

4 A. No.

5 Q. Okay. You've reviewed it. Do you
6 believe it's complete and accurate, to the best of
7 your knowledge?

8 MR. HOWELL: Objection to the form of
9 the question.

10 THE WITNESS: I think it's reasonable.

11 BY MR. HUMPHRIES:

12 Q. Okay.

13 A. To the best of my knowledge.

14 Q. And as to -- and as to the cause of
15 death listed in the MUSC Medical Center Hospital
16 death summary, are you familiar with the cause of
17 death opined in that document?

18 A. Yes.

19 Q. Okay. And let me read it for you.
20 This has been made an exhibit previously and I'll
21 be glad to show it to you.

22 A. That's okay.

23 Q. It notes the cause of death is thought
24 to be hypovolemic shock, secondary to diffuse
25 alveolar hemorrhage, secondary to

1 ventilator-associated pneumonia, secondary to
2 prolonged intubation, and secondary to smoke
3 inhalation injury with H1N1 influenza.

4 Is that a cause of death on which you
5 agree?

6 A. I think it's reasonable.

7 Q. Okay. To a reasonable degree of
8 medical certainty?

9 A. Uh-huh. Yes.

10 Q. Okay.

11 MR. HUMPHRIES: That's all I have at
12 this time, thank you.

13 EXAMINATION

14 BY MR. HOWELL:

15 Q. Dr. Ford, again, my name is Roy Howell,
16 and I represent Horry County and the South Carolina
17 Association of Counties, which is a workers'
18 compensation trust fund.

19 And I assume you know the reason we're
20 here today is because Mr. Causey's family has filed
21 a lawsuit or claim against Horry County, seeking
22 money, because they believe his death was somehow
23 caused by some brief exposure to smoke over a
24 couple of days.

25 Do you understand that's why we're

1 here?

2 A. Yes.

3 Q. Okay. And you also, having testified
4 before in a court of law and, I assume, in
5 depositions, that there is a standard of proof that
6 the claimant has to bear in order to -- to
7 establish a causal connection in this case?

8 A. I haven't testified in a court of law,
9 but, yes, I understand the concept.

10 Q. Okay. Which is, they have to provide
11 proof of medical causation, within a reasonable
12 degree of medical certainty, and most probably.

13 Do you understand that?

14 A. Yes.

15 Q. And you do understand that the reason
16 they do that is because they don't want a judge, or
17 a commissioner, in this case, to have to speculate
18 about whether there's a cause-and-effect
19 relationship, particularly in a complicated
20 situation like this.

21 Do you understand that?

22 A. Yes.

23 Q. Okay. Now the things, going back to
24 the history, again, Dr. Strange was the admitting
25 pulmonologist. Correct?

1 A. Yes.

2 Q. And you would agree that he, of all the
3 doctors that treated him, was in the best position
4 to have the most information at that time about
5 what the history was and what the cause of
6 Mr. Causey's symptoms were.

7 Would you agree with that?

8 A. Yes.

9 Q. Okay. And of course, in reading his
10 deposition, you know that that, in fact,
11 Dr. Bernard, who is the doctor at McLeod, actually
12 called Dr. Strange and said we have this patient
13 here who's in acute respiratory distress and we
14 would like for him to come to MUSC. And they had a
15 conversation about that.

16 A. Yes.

17 Q. And you also know that -- that after
18 the testing was done, they discovered it was H1N1
19 and not something else; that Dr. Strange actually
20 called Dr. Bernard and said, hey, this guy has got
21 H1N1, y'all need to know.

22 A. Yes.

23 Q. Okay. There were certain tests that
24 were done at McLeod before he came to MUSC. And
25 what they were looking for, of course, was a

1 bacterial infection for pneumonia, and they
2 actually thought that he might have infections, so
3 they put him on antibiotics. Correct?

4 A. I didn't review -- I didn't have access
5 to those records, but that would be a reasonable
6 sequence of events.

7 Q. Okay. And obviously, if you have a
8 virus, which H1N1 is, antibiotics don't do any good
9 for that. Correct?

10 A. They do not.

11 Q. Okay. And if he had a bacterial
12 infection, that's something that would show up on a
13 CT scan. Correct?

14 A. Most likely, yes.

15 Q. Okay. And McLeod did not have the
16 ability, at least according to Dr. Strange and the
17 records we have, to do the PCR test, which was done
18 here, to make the definitive diagnosis of H1N1
19 virus. Correct?

20 A. I don't know what they had, per se, at
21 McLeod, but I did see that in Dr. Strange's
22 testimony, though.

23 Q. It is a relatively new test, even to
24 MUSC. Correct?

25 A. In 2013 it was a relatively new test,

1 yes.

2 Q. In addition to the PCR test they did
3 here, they also did a battery of about 15
4 other -- looking for other viruses and other causes
5 of Mr. Causey's acute respiratory distress
6 syndrome. Correct?

7 A. Yes.

8 Q. Okay. And the only test that came back
9 positive was the H1N1 virus. Correct?

10 A. That's correct.

11 Q. So one thing we don't have to speculate
12 about in this case is that he did have H1N1.
13 Correct?

14 A. There's no speculation that -- he had
15 H1N1.

16 Q. And we know -- we don't have to
17 speculate that he had acute respiratory distress
18 syndrome, secondary to H1N1 virus. Correct?

19 A. That's correct.

20 Q. And what the H1N1 virus does,
21 particularly -- and you would agree it's a bad
22 virus?

23 A. It's a very bad virus.

24 Q. There was a pandemic, over 18,000
25 people died during that time. And although there

1 is a vaccine for it now, people still get it?

2 A. People still get it.

3 Q. And there -- and it comes in -- just
4 like any other flu, it comes in various degrees,
5 some people have minor cases, and some people,
6 unfortunately, like Mr. Causey, have it bad and
7 have to be put on a respirator and ultimately can
8 die. Correct?

9 A. It can be -- yes, it can be lethal.

10 Q. And again, in this case, again, we
11 don't have to speculate about the fact that he had
12 H1N1, which caused his acute respiratory distress
13 syndrome. Correct?

14 A. I don't speculate about that, I think
15 that's true.

16 Q. Okay. That is your opinion, to a
17 reasonable degree of medical certainty?

18 A. Yes.

19 Q. Yes. And ultimately, that's why he
20 died. Correct?

21 A. Yes.

22 Q. Okay. Now, would you agree there's no
23 scientific literature that supports the theory that
24 smoke inhalation increases the risk of developing
25 H1N1?

1 A. There's no literature, to my knowledge.

2 Q. Okay. And would you agree that there's
3 no scientific literature that supports the theory
4 that smoke inhalation can make presentation of
5 symptoms worse?

6 A. For H1N1, specifically?

7 Q. For H1N1, specifically.

8 A. There's no specific literature on that
9 question.

10 Q. Okay. So in terms of whether or
11 not -- and this is sort of the crux of this
12 case -- in terms of whether or not the smoke
13 exposure that he had had anything to do with his
14 death, we can speculate about whether or not it
15 contributed, but there's no way to prove it.
16 Correct?

17 A. There's no way to prove it.

18 Q. Okay. So what we can prove, and what
19 was proven in this case was that he has H1N1 and he
20 has ARDS. Correct?

21 A. Correct.

22 Q. And you don't have to speculate that,
23 that's your opinion, to a reasonable degree of
24 medical certainty.

25 A. Yes.

1 Q. And what we don't have to speculate
2 about is, that's ultimately what caused his death.
3 Correct?

4 A. It was the preceding event. The final
5 cause of death was the series of complications that
6 ensued, but yes.

7 Q. Right. Which are, again, outlined --

8 MR. HOWELL: Can I see that a minute?

9 MR. HUMPHRIES: Sure.

10 BY MR. HOWELL:

11 Q. -- outlined in the death summary, the
12 things -- where's the ultimate --

13 MR. HUMPHRIES: Last paragraph.

14 BY MR. HOWELL:

15 Q. -- for instance, hypovolemic shock,
16 secondary to diffuse -- and I'm going to butcher
17 this -- alveolar --

18 A. Alveolar.

19 Q. -- alveolar hemorrhage. We know that
20 that happened.

21 A. Yes.

22 Q. Okay. I mean, it was -- it was
23 witnessed, it was identified, you don't have to
24 speculate about that.

25 A. No.

1 Q. He was on a ventilator for a long
2 period of time and developed bacterial infections
3 and as a result of that, developed pneumonia.

4 A. Right.

5 Q. That's an objective medical fact?

6 A. Yes.

7 Q. He was intubated for a long period of
8 time. Correct?

9 A. Yes.

10 Q. Now we do know that he did have some
11 smoke inhalation. What we don't know is whether
12 there was a smoke inhalation injury. Correct?

13 A. We don't know.

14 Q. And there's no way to establish that,
15 within a reasonable degree of medical certainty.
16 Correct?

17 A. There isn't.

18 Q. Okay. And what we -- what we don't
19 know is whether the smoke inhalation had any impact
20 on the severity of his respiratory problems.

21 A. We don't know that.

22 Q. Okay. So there's really no way to say,
23 within a reasonable degree of medical certainty,
24 that the smoke exposure had anything to do with his
25 death. Correct?

1 A. Correct.

2 Q. All right. And looking back, you said
3 you had looked at Dr. Strange's deposition and one
4 of the things that -- this was in response to one
5 of Mr. Humphries' questions about the smoke
6 issue -- and one of the things he said is "H1N1 is
7 such a potent and fatal virus that it is hard to
8 imagine, then, in a clinical syndrome associated
9 with ARDS, that anything else other than H1N1 would
10 be responsible for the cause of his symptoms."

11 Would you agree with that?

12 A. I would agree with that.

13 Q. And would that be your opinion, to a
14 reasonable degree of medical certainty?

15 A. Yes.

16 Q. And that would be true as to his death
17 as well. Correct?

18 A. Yes.

19 Q. And is that your opinion, to a
20 reasonable degree of medical certainty?

21 A. Yes.

22 MR. HOWELL: Thank you, ma'am. That's
23 all I have.

24 FURTHER EXAMINATION

25 BY MR. HUMPHRIES:

1 Q. Is there a way, scientifically, to
2 establish whether or not, one, there was a smoke
3 inhalation injury; and number two, whether or not
4 it contributed?

5 Under the facts of this case, is there
6 a scientific means by which you could determine
7 that?

8 A. A theoretically way that it could be
9 determined? Or specific to the information we have
10 available?

11 Q. Is there -- theoretically, is there a
12 way to determine that?

13 A. Theoretically, there are ways to
14 determine if people have smoke inhalation injuries,
15 yes.

16 Q. How would you do that?

17 A. You would need a more detailed
18 occupational exposure history, at least than what I
19 have, that would typically include substantial and
20 extensive onsite exposure to smoke. By which I
21 mean, firefighters, who go into burning buildings.
22 Something very profound would need to be obtained
23 in the occupational history. That would be, sort
24 of, step one.

25 Q. Uh-huh.

1 A. Subsequently, as a physician, you would
2 conduct an examination and would look for external
3 signs of smoke injury to the nose, to the eyes, to
4 the hair. If the lungs are injured by a smoke
5 inhalation, other parts of the airway are often
6 injured as well.

7 Additionally you can, depending on the
8 nature of what caused the smoke, you can get
9 inhalational injury to the lungs. So you can have
10 thermo injury, just from the heat. You can have
11 inhalational injury from particulate substances
12 being inhaled, that can trigger inflammatory
13 responses. So on a chest x-ray, you can see
14 evidence of fluid and things in the lungs.

15 You can obtain things on exam related
16 to fluid being in the lungs. That kind of
17 composite would lead me, at least, to believe that
18 the smoke exposure had contributed to a patient's
19 respiratory condition.

20 Q. Okay. And in the case of
21 Timothy Causey, his situation, once he arrived at
22 MUSC, and once the presence of H1N1 was determined,
23 would that have been -- would that -- those steps,
24 understanding his condition and the presence of
25 H1N1, is that something that would have been done?

1 Or because H1N1 was present, would that
2 have taken sort of the colloquial backseat to what
3 was, at that time, more immediate?

4 A. Yes. Once H1N1 were identified in a
5 patient with Mr. Causey's constellation of signs
6 and symptoms, his illness would be attributed to
7 H1N1.

8 We have patients, routinely, who are
9 just as sick as Mr. Causey, here at MUSC, and the
10 only exposure they have is H1N1. And so other
11 things would take a backseat to that.

12 Q. Sure. And the fact -- understanding
13 that, and I think we all understand that. That
14 is -- that being said, that is not to say that
15 smoke inhalation -- and you've already testified
16 that you don't have an in-depth history as relates
17 to Mr. Causey, particularly as relates to the smoke
18 inhalation, so we'll leave that to other witnesses.

19 But without those steps having been
20 taken, there's -- there's no way to say that the
21 smoke inhalation did not secondarily contribute, as
22 was noted in the death summary.

23 Is that fair to say?

24 A. That's fair.

25 Q. Okay. How -- how important is history

1 in making -- in arriving at an opinion, in this
2 case, as to cause of death?

3 A. History --

4 Q. Let me rephrase it another way. That
5 was not a great question.

6 Is the taking of a history, does
7 it -- can it lead to, at least in some way,
8 opinions, in general, about someone's medical
9 state?

10 Is that a traditional and accepted
11 medical practice, to consider histories in arriving
12 at a medical opinion regarding someone's medical
13 state?

14 A. Yes. A history is a cornerstone to a
15 medical evaluation.

16 MR. HUMPHRIES: Thank you.

17 FURTHER EXAMINATION

18 BY MR. HOWELL:

19 Q. In this particular case, you've not
20 seen any medical records, diagnostic studies, CT
21 scans or anything that indicates any sort of
22 thermal injury or any significant injury to the
23 lungs from smoke inhalation, have you?

24 A. No.

25 Q. Okay.

1 MR. HOWELL: Thank you. That's all I
2 have.

3 MR. HUMPHRIES: That's it. Thanks.

4 MR. HOWELL: Thank you very much.

5 THE WITNESS: You're welcome.

6 THE VIDEOGRAPHER: This concludes the
7 video deposition of Dr. Dee Ford. The time is
8 approximately 4:13 p.m. We are now off the record.

9 (The video deposition concluded at
10 4:13 p.m.)

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**BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION
W.C.C. FILE NO. 1302588**

Timothy Causey (dec.),	)	
	)	
Employee,	)	
Claimant,	)	
	)	
vs.	)	
	)	
Horry County,	)	
	)	
Self-Insured Employer,	)	
	)	
through	)	
	)	
SC Counties Workers'	)	
Compensation Trust,	)	
	)	
Defendants.	)	

**THE DEPOSITION OF
CORONER ROBERT L. EDGE, JR.**

Wednesday, September 2, 2015
3:17 p.m. – 3:36 p.m.

The deposition of CORONER ROBERT L. EDGE, JR., taken on behalf of the Defendants, was taken before Sharon B. Brock at the offices of Horry County Coroner, located at 2560 North Main Street, Conway, South Carolina, on Wednesday, September 2, 2015.

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APPEARANCES:

FOR THE EMPLOYEE/CLAIMANT:

Francis A. Humphries, Jr., Esquire
MONCKTON, HEMBREE & HUMPHRIES
1300 Professional Drive, Suite 102
Myrtle Beach, South Carolina 29577

FOR THE EMPLOYER/CARRIER:

Roy A. Howell, III, Esquire
TRASK & HOWELL, LLC
763 Johnnie Dodds Boulevard
Post Office Box 2167
Mount Pleasant, South Carolina 29465

COURT REPORTER:

Sharon B. Brock

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STIPULATIONS

Pursuant to the Notice and/or consent of the parties, the deposition herein captioned was conducted at the time and place mentioned before Sharon B. Brock, a Notary Public and Verbatim Court Reporter in and for the State of South Carolina.

The deposition was taken for use in accordance to the South Carolina Rules of Civil Procedure unless herein stipulated and agreed to by the parties.

The reading and signing of the deposition by the deponent was waived by the deponent.

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1 CORONER ROBERT L. EDGE, JR., HAVING BEEN DULY
2 SWORN, WAS DEPOSED AS FOLLOWS:

3 DIRECT EXAMINATION

4 BY MR. HOWELL:

5 Q: If you will state your full name for me
6 please, sir.

7 A: Robert L. Edge, Jr.

8 Q: Okay. Mr. Edge, my name is Roy Howell,
9 and I represent Horry County and the
10 South Carolina Association of Counties in
11 a Workers' Compensation Claim that's been
12 filed on behalf of Timothy Causey.

13 Before we get into, sort of, your work in
14 this case, can you give me some brief
15 information regarding your educational
16 background and training and so forth?

17 A: Yes, sir. I have an associate's degree
18 from Tech, which I got forty some years
19 ago, and after that, I went to mortuary
20 science school in Louisville, Kentucky,
21 and I've been the coroner for roughly 26,
22 27 years, and on-the-job training, too.

23 Q: Okay. What was your degree from -- Horry
24 Georgetown Tech?

25 A: Yes, sir.

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1 Q: What was that in?
2 A: Associate in Business.
3 Q: Okay. And then there's some sort of
4 mortuary training?
5 A: Mortuary science degree, yes, sir.
6 Q: And that's something that was done in
7 Kentucky?
8 A: Louisville, Kentucky.
9 Q: All right. And the coroner's office is
10 an elected position; is that correct?
11 A: Yes, sir.
12 Q: All right. And you're serving which
13 term? I guess, 26 years, what are they
14 four year terms?
15 A: About four, yeah, four year terms, six, I
16 think, or seven.
17 Q: Okay.
18 A: I wasn't very good in math.
19 Q: Okay. Kind of tell me, obviously
20 coroners don't get involved in every
21 single death that occurs; is that
22 correct?
23 A: That's correct.
24 Q: All right. What, generally, what kinds
25 of cases do you generally get involved

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1 in?

2 A: Well, we, we work all kinds. There are
3 five different manners of death,
4 undetermined, natural, accidental,
5 homicide -- did I forget one? Suicide, I
6 -- we usually don't like to think about
7 those, suicide. If, if these deaths
8 occur outside of a medical facility, with
9 the exception of emergency room, we go to
10 the emergency rooms then we go to all
11 calls outside of a medical facility.
12 And, and over, over the years we work at
13 just about -- well, each kind of death
14 I've, I just described to you, give you a
15 name of.

16 Q: Okay. How did you become involved in Mr.
17 Causey's case?

18 A: I, of course, knew about it, and I knew
19 ---

20 Q: You knew about what?

21 A: About him being in the hospital and I
22 knew that he had been at the fire. And
23 when he expired, I contacted the Sheriff
24 and I asked him about the death
25 certificate, if they had gotten it yet,

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1 and asked him how was it filled out. And
2 I believe, if my memory is right, I
3 called the funeral home and I think they
4 faxed me a copy of it, but I -- don't
5 hold me to that. And the reason I did
6 that, I knew that -- I, I wanted to see
7 what the cause of death was going to be,
8 and when I looked at it, the, the last
9 line he had, "Due to smoke inhalation,"
10 or an "injury", and I guess from, from
11 training and on-the-job work, that is not
12 a natural death, and I looked to see what
13 the doctor checked off as the manner of
14 death and he checked natural.

15 Well, if that certificate had gone
16 on to DHEC they would have sent it back
17 to me to correct, so, I, I went ahead and
18 did an amendment to it, and sent it in
19 when they sent theirs in to have the, the
20 certified copies done.

21 Q: All right. So, ---

22 A: And, and the reason I did that is not
23 because he's -- well, I didn't, really
24 didn't know him, to tell you the truth,
25 but, if you don't correct them in the

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1 beginning stages, it's kind -- it's an
2 act of Congress to get them corrected
3 sometimes. It's a lot of paperwork.
4 Q: All right. So if I'm hearing you
5 correctly, this was something that you
6 did on your own?
7 A: Yes, sir.
8 Q: Okay. So the hospital didn't call you,
9 and say, "We need the coroners ---
10 A: No, sir.
11 Q: --- involved in this case"? Did Mrs.
12 Causey call you ---
13 A: No, sir.
14 Q: --- and ask you to get involved? And how
15 did you -- when you say you found out
16 that he died, how did you find out that
17 he had died?
18 A: I guess, probably on the TV. You've
19 asked me something I can't positively
20 answer for you.
21 Q: Okay. Somebody called the Sherriff's
22 Department?
23 A: It was, it was on the news.
24 Q: Okay. Now, you said you knew he had been
25 in the hospital?

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1 A: Yes, sir, I ---
2 Q: What is your understanding, first, of why
3 he was in the hospital?
4 A: It was my understanding, he was down
5 there for complications of ingesting that
6 smoke.
7 Q: Okay. And where did you get that
8 information?
9 A: Here again, probably from social media,
10 TV.
11 Q: Okay. So hearsay?
12 A: Yes, sir.
13 Q: Okay. Is it fair to say that during the
14 time that he was hospitalized, you didn't
15 have any contact with Mrs. Causey?
16 A: Never, no contact with her.
17 Q: Did you have any contact with any of the
18 doctors there?
19 A: No, sir.
20 Q: Did you see any of the medical records to
21 see what his admitting diagnosis was?
22 A: No, sir. I, I ---
23 Q: And if somebody dies in the hospital,
24 say, as a result of complications from
25 pneumonia or the flu or something, that

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1 generally is not something the coroner
2 would get involved in, correct?

3 A: As long as it's nothing that's of an
4 unnatural state.

5 Q: Okay. Now, are you familiar with the
6 H1N1 Swine Flu?

7 A: Yes, sir.

8 Q: Okay. What do you understand that to be?

9 A: To be real honest with you, I don't know
10 a whole lot about it other than the fact
11 that it, it can kill you.

12 Q: Okay. You remember, it's probably been
13 four or five, maybe even six years ago,
14 there was a worldwide pandemic involving
15 the H1N1 Swine Flu.

16 A: Yes, sir.

17 Q: Is that correct? And almost 20,000
18 people worldwide died. Are you aware of
19 that?

20 A: Yeah, I remember that.

21 Q: Okay. So it's a bad disease, correct?
22 Would you agree with that?

23 A: Yes, sir.

24 Q: Okay. Are you aware that that's why he
25 was admitted to the hospital?

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1 A: I've been made aware of it, but what I
2 was going on is this death certificate
3 that the doctor filled out.

4 Q: Okay.

5 A: And it doesn't have H1N1 written on it
6 anywhere.

7 Q: Okay. Well, that was my question, do you
8 know why H1N1 wasn't put on there?

9 A: No, sir..

10 Q: Whose handwriting is that on the ---

11 A: I assume it's that doctor that signed it,
12 where your thumb is.

13 Q: Do you know that?

14 A: I said I assume. I mean, it's, it's
15 certified, so it should be his signature.

16 Q: Okay. I'm just going to read to you,
17 this is Dr. Strange who is a pulmonary
18 specialist, who is the doctor that
19 admitted him ---

20 A: Yes, sir.

21 Q: --- to the hospital on March the 28th of
22 2000 -- is that '13 now? Is that '13 or
23 '14?

24 MR. HUMPHRIES: '13.

25 Q: '13. "Mr. Causey has ARDS, which is

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1 Acute Respiratory Distress Syndrome from
2 H1N1 Swine Flu Influenza an occasionally
3 fatal respiratory virus. Stopping
4 antibiotic, beginning TAMIFLU. I have
5 informed Dr. Bernard at McLeod of the
6 diagnosis." Is today the first time you
7 are aware that that was the admitted
8 diagnosis?
9 A: Yes, sir.
10 Q: Are you aware that the treating
11 physicians in this case have testified
12 under oath that the cause of Mr. Causey's
13 death was complications of the H1N1 Swine
14 Flu?
15 A: I, I've been told that ---
16 MR. HUMPHRIES: OBJECT TO THE FORM.
17 JUST FOR THE RECORD,
18 LET ME OBJECT TO THE
19 FORM OF THE QUESTION.
20 Q: He can object.
21 A: I ---
22 MR. HUMPHRIES: YOU STILL HAVE TO
23 ANSWER IT.
24 A: Yeah, I, I'm -- I've, I've been told
25 that, yes, sir.

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1 Q: You've been aware of that now? Okay.
2 Would that, obviously, change the death
3 certificate?
4 A: Well, to ---
5 Q: I mean, if that's true, if that's what
6 the doctor's testimony is?
7 A: --- to change it, he would have to go
8 back and do a supplemental and it'd have
9 to be sent to DHEC and they'd have to
10 change it, but ---
11 Q: But does that happen from time to time,
12 where maybe the manner of death is
13 accidental and then it's later determined
14 to be natural?
15 A: Yes, sir.
16 Q: And you have to go back and, and ---
17 A: For some reason or another, the doctors
18 don't know how to sign certificates
19 sometimes.
20 Q: Okay. And there was one other thing in
21 your, in your records that I wanted to
22 ask you about.
23 A: Okay.
24 Q: It's a handwritten note. Is that your
25 handwriting, or whose handwriting is

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1 that?

2 A: Yes, sir, that's mine.

3 Q: And was this completed on May the 19th?

4 That was completed on the date of Mr.
5 Causey's death, or was that completed
6 later on?

7 A: What date -- What day was that on? Let
8 me ask you that, like Monday, Tuesday?

9 Q: I don't know, but it was May the ---

10 A: Well, it was probably not done that date,
11 and the reason I say that, he was in the,
12 the medical college when he died ---

13 Q: Right.

14 A: --- and usually it takes, sometimes, a
15 day or so for them to fax me some
16 information, and I probably did not do
17 that for a day or so afterwards.

18 Q: Okay. On here, there's a narrative down
19 here, it says, "Victim, while at work,
20 encountered heavy smoke from woods and
21 building burning. Victim apparently
22 inhaled too much smoke and toxins."

23 A: Yes, sir.

24 Q: My question is, where did you get that
25 information?

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1 A: Again, part, partially from social media.
2 I mean, it was all over the TV where
3 these apartment complexes were burning
4 down and they're all covered with vinyl
5 siding, and wood has chemicals, I'm
6 assuming, in it. Some of them do. But
7 that's where I would have gotten that
8 from.

9 Q: Okay. So it didn't come from ---

10 A: Not from my own assumption.

11 Q: Okay. So it didn't come directly from
12 any source?

13 A: No, no, sir.

14 Q: Okay. It's just something that you got
15 second or third hand from some source
16 that you can't even remember now; is that
17 correct?

18 A: That's, that's right.

19 Q: Okay. All right, sir. Those are all the
20 questions I have. Thank you.

21 A: Okay.

22 **CROSS EXAMINATION**

23 **BY MR. HUMPHRIES:**

24 Q: Let me mark -- First of all, let me ask
25 if you can identify that document?

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1 That's the original -- do you have that
2 copy, the report?

3 A: Yes, sir. I have a copy of it here.

4 MR. HOWELL: I DO.

5 Q: Okay. If you'll hand it down.

6 **PLAINTIFF'S EXHIBIT NUMBER 1**
7 **MARKED FOR IDENTIFICATION**

8 Q: I'm showing you Plaintiff's Exhibit 1.
9 Tell me if you can identify that
10 document.

11 A: Yes, sir. This is a photocopy of the
12 certificate that I requested from the
13 funeral home.

14 Q: All right. Is this the original?

15 A: No. Well, let me back up. This is the
16 original, but this part is not filled in,
17 and the funeral home would have filled
18 this in and then mailed it to Columbia --
19 I mean, to Charleston ---

20 Q: Okay.

21 A: --- for -- to ---

22 MR. HOWELL: CAN WE GET HIM TO SAY
23 WHEN HE'S TALKING
24 ABOUT, "THIS IS NOT
25 FILLED IN."

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1 Q: Yeah, when you -- Talk about that. Let
2 me refer you to the top portion, and
3 specifically on Plaintiff's 1. It's his
4 legal name, his age, his sex, his Social
5 Security number, it's basically his
6 biographical information, and then the
7 facility information. Is that,
8 essentially, what we're talking about?

9 A: Yes, sir.

10 Q: Okay.

11 A: Items one through 23c.

12 Q: Okay. And that actually is in what
13 appears to be a block; is that correct?
14 Identifying ---

15 A: Yes, sir.

16 Q: Okay. Let's refer to that as the first
17 block.

18 MR. HUMPHRIES: IS THAT GOOD FOR YOU
19 ROY?

20 MR. HOWELL: THAT'S FINE.

21 Q: Okay! Let's go to the second block.

22 A: Okay.

23 Q: What is contained within -- What
24 information is contained within that
25 second block and who appears to be the

1 author of the information in the second
2 block?

3 A: That section is completed by the
4 physician who certifies the death, his
5 three causes of death with, due as the
6 consequences, smoke inhalation, injury,
7 and the gentleman who signed this, Dr.,
8 Dr. William Largen, 164 Ashley Avenue,
9 Charleston.

10 Q: Okay. And there appears to be a
11 signature, and there's a block that is
12 X'd above the signature, what is that
13 block, that indicated block say?

14 A: "Pronouncing and Certifying physician- To
15 the best of my knowledge, death occurred
16 at the time, date, and place, and due to
17 the cause(s) and manner slated --
18 stated."

19 Q: Okay. And that's certified and signed by
20 Dr. Largen, to the best of your
21 knowledge?

22 A: Yes, sir, and that was done on July 1st.

23 Q: Okay.

24 A: Of two thousand ---

25 Q: Okay. Now, let me ask you, in block 37

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1 regarding manner of death, what block is
2 indicated by Dr. Largen?

3 A: He, he has checked natural.

4 Q: Okay. Now, let me ask you, in regard to
5 the information provided by the doctor
6 regarding cause of death, in number -- or
7 letter 'd', that is what?

8 A: Smoke inhalation injury.

9 Q: Okay. Now, let's talk a bit about what
10 your responsibilities are in regard to
11 DHEC regulations regarding -- when you
12 see a smoke inhalation injury as a part
13 of the cause of death, what are you
14 directed to do by virtue of the DHEC
15 regulations?

16 A: Well, an accidental death is from an
17 unusual event that was unanticipated by
18 everybody involved according to the
19 dictionary, Mr. Webster. So, when, when
20 I see that, that tells me that I have to,
21 that it should be an accidental death.
22 And, normally, when the doctors don't
23 check the right box, they send it back
24 to, to the coroner's office to make a
25 clarification and a correction.

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1 Q: Okay. In this case, did you make a
2 correction?
3 A: Yes, sir, I did it before it went to
4 DHEC, but I did do it.
5 Q: And tell me, again, why you did it prior
6 to it going to DHEC?
7 A: Well, there are a couple of reasons. If
8 it had gone there they would have sent it
9 back.
10 Q: And who would they have sent it back to?
11 A: They would have sent it back to my
12 office.
13 Q: Okay. And for what purpose?
14 A: For a correction.
15 Q: Okay. And what correction would that
16 have been?
17 A: To change the manner of death and add the
18 time and the location of the injury and
19 how it occurred.
20 Q: Okay. And did you later then -- or did
21 you submit an amended death certificate
22 consistent with what you just described?
23 A: Yes, sir.
24 Q: Okay.
25 A: And one other reason, it's probably not a

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1 lot to y'all, but when these things
2 happen and they have to turn around and
3 pay for certificates the second time, and
4 I just don't think they ought to be put
5 through stuff like that if I can correct
6 it ahead of time.

7 Q: Certainly, certainly. Let me ask you,
8 did you ever receive any indication, any
9 request, any inquiry from the Medical
10 University or Dr. Largen specifically
11 about the amended death certificate?

12 A: No, sir.

13 Q: Okay. Was there ever any request to
14 adjust it back or change it back to
15 natural?

16 A: No, sir.

17 Q: Okay. And is everything that you did in
18 connection with drafting and submitting
19 the amended death certificate consistent
20 with and required pursuant to the
21 regulations that you work under as the
22 coroner?

23 A: Yes, sir.

24 Q: Okay. That's all.

25 RE-DIRECT EXAMINATION

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1 BY MR. HOWELL:

2 Q: All right, so let me make sure I
3 understand, the doctor put on there the
4 manner of death was natural, correct?

5 A: Yes, sir.

6 Q: All right. And after that you took it
7 upon yourself to change that yourself to
8 accidental, is that correct?

9 A: Yes, sir.

10 Q: All right. You didn't call the doctor
11 and say, "Doctor, you're wrong, I'm
12 changing it to accidental," is that
13 correct?

14 A: That's right.

15 Q: Okay. You just did it yourself?

16 A: (Indicates affirmatively).

17 Q: Okay. Is that correct?

18 A: Yes, sir.

19 Q: All right. And didn't consult with the
20 doctor?

21 A: (Indicates negatively).

22 Q: Is that right?

23 A: No, sir.

24 Q: All right. And had you consulted with
25 the doctor, you may have found out that

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1 it, instead, he was actually ---

2 MR. HUMPHRIES: I'M GOING TO OBJECT TO
3 THE FORM OF THE
4 QUESTION.

5 MR. HOWELL: I HAVEN'T FINISHED MY
6 QUESTION.

7 MR. HUMPHRIES: WELL I -- OKAY. FINISH
8 IT, I'LL OBJECT TO IT.

9 Q: If you had talked to the doctor, you
10 might have found out that the real reason
11 he was in the hospital was because he had
12 H1N1; is that right?

13 MR. HUMPHRIES: AND I WOULD OBJECT
14 BASED ON SPECULATION.

15 A: That could be a possibility. He might
16 not have talked to me too. I have some
17 who didn't want to talk to.

18 Q: Right. Okay. And, in fact, counsel
19 asked you whether or not the doctor had
20 ever inquired about the change to the
21 death certificate. He probably doesn't
22 even know it occurred, correct?

23 A: He might not.

24 Q: Because you didn't share it with him?

25 A: No, sir.

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1 Q: Okay. And, again, the hospital did not
2 call and request your involvement in the
3 case, ---

4 A: That's right.

5 Q: This is something you took upon yourself;
6 is that correct?

7 A: Yes.

8 Q: And in terms of the cause of death, you
9 would clearly defer to the experts, the
10 doctors, as to what the actual cause of
11 death was, wouldn't you?

12 A: My only concern is the manner of death,
13 and when he put smoke inhalation on that
14 last end, then I felt like that made it
15 a, an accidental death, and that's the
16 only concern I have.

17 Q: Okay. But you would clearly defer to the
18 experts, the doctors, in terms of what
19 the true cause of death is, correct?

20 A: Yes, sir.

21 Q: All right. Thank you, sir. That's all I
22 have.

23 **RE-CROSS EXAMINATION**

24 **BY MR. HUMPHRIES:**

25 Q: And just very briefly, is this -- what

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1 occurred in this case, is that unique in
2 your experience, or have you done that
3 any number of times, when you've seen
4 these kinds of ---

5 A: I've had numerous certificates that I've,
6 that I have amended like that, and a
7 prime example would be Uncle Joe's at
8 home and he falls in the shower. He goes
9 to the hospital and he stays there two
10 weeks and he develops pneumonia and he
11 dies. Well, if the -- when the doctor
12 signs the certificate he says, if he says
13 on the very last line, "Due to a fall,"
14 then I have to go back and amend it.

15 Q: And have you done that in the past?

16 A: I've done lots of them, and that's just a
17 typical example.

18 Q: All right. And the reason you do that on
19 your own, as opposed to waiting for DHEC
20 to send it back, is indifference and in
21 compassion to the family of the deceased?

22 A: Yes, sir, and I know that I'm going to
23 have to correct it anyway.

24 Q: Very good.

25 RE-DIRECT EXAMINATION

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1 BY MR. HOWELL:

2 Q: But in cases that go into litigation and
3 medical experts are involved and that
4 sort of thing, as to cause of death, you
5 defer to the experts, correct?

6 A: Yes, sir.

7 Q: Okay. Thank you, sir. That's all, I
8 think.

9 A: Okay. All right.

10 (THE DEPOSITION CONCLUDED AT 3:26 P.M.)
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STATE OF SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

TIMOTHY CAUSEY,
Employee,

vs.

WCC NO. 1302588

HORRY COUNTY,
Self-Insured Employer,

-through-

S.C. COUNTIES WORKERS' COMPENSATION TRUST,
Insurer.

VIDEOTAPED

DEPOSITION OF: KIMBERLY A. COLLINS, M.D.

DATE: February 11, 2016

TIME: 11:06 AM

LOCATION: A. William Roberts, Jr. &
Associates
234 Seven Farms Drive, Suite 210
Charleston, SC

TAKEN BY: Counsel for the Insurer

REPORTED BY: JANE MESSINEO, Registered
Professional Reporter, CSR-NJ

A. WILLIAM ROBERTS, JR., & ASSOCIATES

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A. WILLIAM ROBERTS, JR., & ASSOCIATES (800) 743-DEPO
scheduledepo.com

1 APPEARANCES OF COUNSEL:

2 ATTORNEYS FOR TIMOTHY CAUSEY:

3 MONCKTON HEMBREE & HUMPHRIES
4 BY: FRANCIS A. HUMPHRIES, JR.
5 1300 Professional Drive, Suite 102
6 Myrtle Beach, SC 29577
7 (843) 946-6556
8 fhumphries@myrtlebeachlawfirm.net

9 ATTORNEYS FOR HORRY COUNTY and S.C. COUNTIES
10 WORKERS' COMPENSATION TRUST:

11 TRASK & HOWELL, LLC
12 BY: ROY A. HOWELL, III
13 763 Johnnie Dodds Boulevard, #2
14 Mount Pleasant, SC 29464
15 (843) 881-4228
16 rhowell@trask-howell.com

17 ALSO PRESENT:

18 Douglas Browne, Videographer

19 (INDEX AT REAR OF TRANSCRIPT)

1 THE VIDEOGRAPHER: Good morning. We
2 are now on the record. Today's date is February
3 11, 2016 and the time is approximately 11:06 a.m.

4 This is the video deposition of Dr.
5 Kimberly Collins taken by counsel for the
6 defendant. The location today is 234 Seven Farms
7 Drive, Daniel Island, South Carolina.

8 My name Douglas Browne, legal
9 videographer representing A. William Roberts, Jr. &
10 Associates. This deposition is taken in the
11 matter of Timothy Causey verse Horry County, et
12 al., Case No. WCC 1302588.

13 Counsel present, please introduce
14 yourselves for the record.

15 MR. HUMPHRIES: Fran Humphries, counsel
16 for the plaintiff.

17 MR. HOWELL: Roy Howell, counsel for
18 the defendants.

19 THE VIDEOGRAPHER: Would the court
20 reporter please swear in the witness and we may
21 begin.

22 KIMBERLY A. COLLINS, M.D.
23 being first duly sworn, testified as follows:

24 EXAMINATION

25 BY MR. HOWELL:

1 Q. Dr. Collins, if you will please state
2 your full name for the record, please?

3 A. It's Kimberly Ann Collins,
4 C-O-L-L-I-N-S.

5 Q. Dr. Collins, my name is Roy Howell and
6 I represent Horry County and the South Carolina
7 Association Counties which is their self-insurance
8 fund and I am here today to ask you some questions
9 regarding a report that you authored dated October
10 7, 2015.

11 I -- from looking at your report and
12 your credentials, I assume you have testified in
13 depositions many times; is that --

14 A. Yes, I have.

15 Q. Okay. Nevertheless, I want to kind of
16 go over the ground rules. Obviously, I am going
17 to be asking you a number of questions for the next
18 little bit. Make sure you listen to my questions
19 carefully before you give me an answer.

20 A. Okay.

21 Q. You do give me an answer make sure you
22 speak to me. The court reporter has to take down
23 all the questions I ask and all the answers you
24 give and if you give a nod of the head or shake of
25 the head, she can't transcribe that, so if you will

1 answer verbally, please.

2 A. Yes.

3 Q. If you -- if I ask you any questions
4 you don't understand for any reason, please stop me
5 and ask me to repeat the question. I will be
6 happy to do that for you.

7 A. Okay.

8 Q. You are a board-certified anatomic
9 pathologist, clinical pathologist, and forensic
10 pathologist; is that correct?

11 A. Yes.

12 Q. All right. And in looking at your
13 report it looks like most of your practice has been
14 involved in forensic pathology; is that correct?

15 A. That's correct, yes.

16 Q. All right. And briefly tell me what
17 forensic pathology is.

18 A. Okay. Well, pathology itself is the
19 study of diseases and using the laboratories to not
20 only diagnose diseases but also treat patients
21 through the various labs, chemistry, hematology,
22 microbiology and of course the autopsy laboratory.

23 Forensic pathology is a subset of
24 pathology that studies, using those same
25 laboratories, studies unnatural death, trauma,

1 injuries to an individual trying to understand the
2 cause of the injury, the epidemiology, the risk
3 factors of the injury. And we use a lot of
4 medical records because we create what's called a
5 clinical pathologic correlation to correlate the
6 pathology or the injuries on a living or deceased
7 individual with the medical records or the scene
8 investigation, the events that led up to the injury
9 or the death.

10 Q. Okay. In this particular case there
11 was no autopsy done; correct?

12 A. Correct.

13 Q. And obviously there weren't any tissue
14 samples to review.

15 A. That's correct.

16 Q. The only records you had available to
17 you are what Mr. Humphries provided you and I think
18 my office may have provided you with some reports
19 as well --

20 A. Yes --

21 Q. Is that correct? Is that correct?

22 A. Yes.

23 Q. All right. Never examined the body?

24 A. No, I did not.

25 Q. Okay. And -- and you didn't conduct

1 any independent studies yourself?

2 A. No.

3 Q. Okay. And you are not obviously an
4 expert in pulmonary and critical care medicine; is
5 that correct?

6 A. Not in treating patients, that's
7 correct.

8 Q. Okay. I see that you have testified
9 many times and have been qualified as an expert in
10 forensic pathology. Have you ever been qualified
11 as an expert in pulmonary medicine or critical care
12 medicine?

13 A. No.

14 Q. Okay. Now, you indicated that you had
15 reviewed a number of records in the case including
16 the records and deposition testimony of Dr. Ford,
17 Dr. Strange, Dr. Whelan and Dr. Pastis. Are you
18 familiar with these doctors because of your
19 relationship with MUSC?

20 A. I knew Dr. Strange or knew of Dr.
21 Strange while I was at MUSC. I know Dr. Whelan
22 because we both work with LifePoint organ and
23 tissue transplant services. And I am not familiar
24 with Dr. Pastis.

25 Q. Okay. But having reviewed their

1 deposition transcripts and records, you would agree
2 that they are all experts in the field of pulmonary
3 and critical care medicine?

4 A. I know that's where they practice. I
5 don't know really much about their historical
6 practice.

7 Q. Okay. So you are not familiar with Dr.
8 Strange's reputation in the community?

9 A. That's correct.

10 Q. Okay. And you also reviewed opinion
11 letters from Dr. Mitchell, Dr. Cauthen and Dr.
12 Galphin. Do you know them?

13 A. No, I do not.

14 Q. Dr. Mitchell is from Charleston. Do
15 you know Dr. Mitchell?

16 A. No, sir.

17 Q. Or his expertise?

18 A. No.

19 Q. Okay. Now what I'd like to do now is
20 kind of go through and see if we can -- let's talk
21 about some things that maybe hopefully we can agree
22 upon. Then we'll talk about some things that
23 maybe we don't necessarily agree upon.

24 A. Okay.

25 Q. In reviewing the records, obviously

1 Mr. Causey was seen by his family physician March
2 the 21st of 2013; is that correct?

3 A. Yes.

4 Q. All right. And his symptoms at that
5 time were that he had a high fever; correct?

6 A. Yes.

7 Q. He had chest congestion; correct?

8 A. I believe that's correct, yes.

9 Q. He had a sore throat and a cough;
10 correct?

11 A. Yes.

12 Q. Is that correct?

13 A. Yes.

14 Q. And you would agree that all of those
15 symptoms are consistent with a viral infection;
16 correct?

17 A. It could be. They are nonspecific.

18 Q. Okay. But they are consistent with a
19 viral infection.

20 A. They are consistent with, yes.

21 Q. Okay. At that time, I can't remember
22 whether there were any x-rays done at that time, I
23 think it was a chest x-ray done at that time which
24 was normal; correct?

25 A. Yes. I know there is an x-ray done

1 either the 21st or the 23rd. I have to look back,
2 but yes, the x-ray was negative, was normal.

3 Q. All right. Were you provided a copy
4 of a nurse's note dated March 22, 2013 in which the
5 nurse calls the Causey residence to find out how
6 Mr. Causey was doing?

7 A. I don't recall that, but this would
8 have been from Loris Community Hospital nurse.

9 Q. This is from Loris --

10 A. I'm sorry, Family Medical Clinic?

11 Q. Yes.

12 And I'll just -- and these are all in
13 the APAs. So I am not going to mark them, Fran.
14 I am just going to show them.

15 A. No, I was not provided that.

16 Q. Okay.

17 A. I don't believe -- oh, this is from
18 McLeod now?

19 Q. Those were in Loris Family Medical
20 records.

21 A. Okay. Okay.

22 Q. Okay. And what do those -- what does
23 that indicate to you?

24 A. Indicates that the -- this is on the
25 22nd. So after the visit the previous day, she

1 called in and that the patient still had a fever
2 and a cough and was feeling bad so --

3 Q. And the fever was what, according to
4 that?

5 A. 102.

6 Q. Okay, which is a high fever; correct?

7 A. Yes.

8 Q. All right. And feeling bad, there's
9 no description there, but all of those symptoms are
10 consistent with symptoms from a viral infection;
11 correct?

12 A. Or any type of infection, yes.

13 Q. Okay. Now, Mr. Causey was then
14 hospitalized at McLeod, where he went back to
15 McLeod and was admitted on March the 23rd; correct?

16 A. Yes.

17 Q. And at this point in time they were
18 treating him as if he had a bacterial infection;
19 correct?

20 A. Just a generalized infection, yes.

21 Q. Okay. They gave him an antibiotic?

22 A. Yes.

23 Q. Antibiotics aren't any good for a viral
24 infection, are they?

25 A. That's correct.

1 Q. So he didn't get any better. Correct?

2 A. Right.

3 Q. All right. He was in the hospital for
4 the next five days, progressively got worse;
5 correct?

6 A. Yes.

7 Q. All right. He then because he had
8 gotten so bad, he was transferred to MUSC for
9 further care; correct?

10 A. Yes, on the 28th.

11 Q. All right. While he was at McLeod,
12 they did a panel, a lab study that include --
13 included tests for influenza A and B; correct?

14 A. Yes, I believe it was at McLeod or
15 MUSC, yes.

16 Q. And those were not positive; correct?

17 A. Correct.

18 Q. They did not do a PCR panel at McLeod;
19 correct?

20 A. Correct.

21 Q. And the PCR panel is significant for
22 being able to identify specifically H1N1; is that
23 correct?

24 A. Well, the PCR panel amplifies whatever
25 DNA or RNA is there. And so if it's not found on

1 a routine test for any virus or any organism, you
2 do the PCR panel to -- it's kind of like putting a
3 microscope on the agent and so they were able to
4 discover that there was H1N1 influenza A when the
5 PCR panel was performed at MUSC.

6 Q. Okay, but they didn't have that test at
7 McLeod and didn't run that test; correct?

8 A. That's my understanding. That's
9 correct.

10 Q. Okay. So they didn't make the right
11 diagnosis; correct?

12 A. Well, they didn't detect the H1N1,
13 whether or not it was there at the time.

14 Q. Okay. He was then evaluated in the
15 emergency room at MUSC; correct?

16 A. Yes.

17 Q. All right. And Dr. Strange was the
18 admitting pulmonologist; correct?

19 A. I believe that's right, yes.

20 Q. All right. Let me show you, and
21 again, this is in the APA, I am not going to mark
22 it as an exhibit. I am assuming you were provided
23 this by counsel, but let me know if you have seen
24 that document before.

25 A. This is just part of his admit note?

1 Q. Yes.

2 A. Okay. I have it.

3 Q. Okay. And what is Dr. -- well, it
4 tells you that testing they did which included the
5 PCR panel; correct?

6 A. Yes.

7 Q. All right. What was Dr. Strange's
8 impression after reviewing the records and
9 examining the patient?

10 A. The PCR was positive for H1N1. He had
11 chest x-ray with bilateral pulmonary edema and
12 ARDS. Let's see. He's beginning Tamiflu.
13 Okay, so he's diagnosed with H1N1, quote, swine
14 influenza.

15 Q. And it also says -- well, it says
16 Mr. Causey has ARDS from H1N1, swine influenza, an
17 occasional fatal respiratory virus; correct?

18 A. Yes.

19 Q. They stopped the antibiotic?

20 A. Yes.

21 Q. All right. The reason they did that is
22 because antibiotic doesn't work on a virus;
23 correct?

24 A. Right. At the current time he didn't
25 have a secondary bacterial infection so they

1 stopped the antibiotics --

2 Q. Okay.

3 A. -- began the Tamiflu.

4 Q. Which is what you do for people with
5 the flu; correct?

6 A. Yes.

7 Q. All right. And he also indicates --
8 it indicates I have informed Dr. Bernard who was
9 the pulmonologist at McLeod of the diagnosis to
10 allow infection control to tell healthcare workers
11 of the exposure; is that correct?

12 A. Yes.

13 Q. All right. And you don't disagree
14 with that diagnosis, do you?

15 A. The H1N1?

16 Q. Yes.

17 A. No.

18 Q. Okay. And you don't -- you don't
19 disagree with Dr. Strange's opinion that he had
20 ARDS secondary to H1N1; do you?

21 A. No.

22 Q. Okay. Now, from there, Mr. Causey's
23 condition rapidly sort of digressed; correct?

24 A. Yes.

25 Q. He was placed on a ventilator, and then

1 I guess in May, had some complications from being
2 on the ventilator, had some bleeding and ultimately
3 that's what led to his death; correct?

4 A. He acquired the ventilator acquired
5 pneumonia which is common with viral infections.

6 Q. Okay. And so all of these
7 complications were secondary to the treatment for
8 ARDS which was due to the H1N1; correct?

9 A. Yes, secondary to the complications and
10 secondary to the virus itself.

11 Q. Okay. Now, again, you have indicated
12 that you reviewed all of the deposition transcripts
13 of the doctors and as well as the records review
14 reports from the other three pulmonary experts.
15 So you are aware that it is their opinion that
16 Mr. Causey died as a result of complications of
17 H1N1; correct?

18 A. Yes.

19 Q. Okay. And you agree with that opinion?

20 A. Yes.

21 Q. And that's your opinion to a reasonable
22 degree of medical certainty.

23 A. Yes.

24 Q. And you would probably agree, I hope,
25 that had they done the PCR panel at McLeod and made

1 the diagnosis of H1N1, say on the 23rd rather than
2 on the 28th, his course of treatment and recovery
3 may have been different; correct?

4 A. I don't know.

5 Q. Okay. Certainly if they had caught
6 that he had the flu on the 23rd rather than 28th
7 when he had -- when he had digressed so much, that
8 would have made a difference, don't you think?

9 A. It would depend on the individual as to
10 why his H1N1 was not self-limited, which most of
11 them are, as opposed to why his became so severe.

12 Q. Okay.

13 A. So catching it early in his case may
14 not have made a significant difference in the
15 outcome.

16 Q. All right. Now, going back to --
17 well, scratch that.

18 Would it be fair to say that if
19 Mr. Causey had not had H1N1, he would not have
20 died?

21 A. Yes.

22 Q. Okay. And that's your opinion to a
23 reasonable degree of medical certainty.

24 A. Yes.

25 Q. Now, in terms of the facts that you

1 relied on for your opinion, just kind of go through
2 your report a little bit, it says in 2013 he was
3 involved in fighting an apartment fire. Where did
4 you get that information?

5 A. In the medical records, different ones
6 said that it was four days before presentation and
7 it just varied into how long he had -- the day
8 before he presented on the 21st. But it was said
9 he was involved in an apartment fire over several
10 day shifts.

11 Q. All right. But your note says, your
12 report says he was involved in fighting an
13 apartment fire. Was it your impression that he
14 was involved in fighting the fire?

15 A. It was my impression that he was
16 present with the fire involved in the -- in what
17 was going on with the fire. He was present and
18 taking shifts. I don't know what his exact role
19 was.

20 Q. All right. So your statement that he
21 was fighting the apartment fire is not accurate
22 then; correct?

23 A. I don't know what his role was during
24 the fire. He might have been fighting the fire --
25 apartment fire or might have been assisting in

1 keeping the barriers. I am not sure.

2 Q. Wouldn't it be important to know?

3 A. Not necessarily. He was exposed to
4 the soot and to the fumes. It doesn't really
5 matter what he was doing at the time.

6 Q. Well, you would agree that people who
7 were actually in the apartment building fighting
8 the fire would have been at greater risk of smoke
9 inhalation injury than perhaps security personnel
10 that were on the perimeter of the fire?

11 A. Not necessarily because security
12 personnel may not have the proper respiratory
13 equipment.

14 Q. Okay. But again, you don't have any
15 facts that he was fighting the fire.

16 A. I just know that he was involved during
17 the fire for 12 shifts. What his exact role was I
18 don't know.

19 Q. Twelve shifts?

20 A. Twelve-hour shifts.

21 Q. Okay.

22 A. Three 12-hour shifts.

23 Q. All right. You said that he was
24 present and breathing in the smoke and fumes for
25 12-hour shifts over three days. Where did you get

1 that information?

2 A. From the medical records and from
3 depositions.

4 Q. Okay. What depositions indicated that
5 he was exposed to fumes over 12-hour shifts for
6 three days?

7 A. Well, it was Ms. Causey's deposition.

8 Q. Okay.

9 A. She's describing the days and the hours
10 when he'd get home.

11 Q. Okay. Do you -- are you aware that
12 Ms. Causey was not on the scene?

13 A. Of the fire?

14 Q. Right.

15 A. No, she was at home.

16 Q. All right. So her information,
17 whatever it is, would come -- is second or
18 thirdhand as far as you know?

19 A. It would be from her husband.

20 Q. Okay. Now, were you aware that on the
21 second night of the fire that Mr. Causey reported
22 that he was having some symptoms that he related to
23 be exposed -- being exposed to his daughter who had
24 flu-like symptoms at home?

25 A. I knew that his daughter had been ill.

1 Q. Okay. That's not in your report.

2 A. No.

3 Q. Is there any reason it's not in the
4 report?

5 A. No.

6 Q. And of course when he went to his
7 family doctor on the 21st, there's an indicate
8 there had been sick contact with his daughter;
9 correct?

10 A. Yes.

11 Q. All right. And I think we've already
12 discussed in going through your report that the
13 symptoms that he reported when he went to both his
14 family doctor and McLeod, those are all consistent
15 with the ultimate diagnosis that was made of a
16 viral infection; correct?

17 A. It could be a viral infection. It's
18 consistent with that and other diagnoses.

19 Q. Okay, but it was a viral infection. I
20 mean that was the ultimate diagnosis; correct?

21 A. When it was diagnosed at MUSC.

22 Q. Right. But the symptoms -- looking
23 back if you look at what the symptoms were, all of
24 those symptoms were consistent with that ultimate
25 diagnosis; correct?

1 A. The consistent of which -- which
2 symptoms, his fever?

3 Q. Well, the fever, the hypoxia, the
4 respiratory distress, all of those symptoms are
5 consistent with the ultimate diagnosis of ARDS
6 secondary to H1N1 virus?

7 A. Some of those could be consistent also
8 with the fumes and smoke and soot exposure.

9 Q. They could be, but we know that they
10 are consistent with the diagnosis of ARDS secondary
11 to H1N1 virus; correct?

12 A. And they are consistent with smoke and
13 fume exposure, too.

14 Q. Okay. Now, again, you indicated that
15 you -- you read the depositions of all the doctors
16 and looked at the reports and all of the doctors
17 consistently testified that there is no scientific
18 literature to support the theory that smoke
19 inhalation makes presentation of symptoms from H1N1
20 any worse; do you agree with that?

21 A. No. I know that any type of
22 immunocompromised state can make H1N1 worse.

23 Q. Okay. You didn't, in your report, you
24 didn't site any recognized treaties for your
25 opinions. Why is that?

1 A. I don't think I ever have in any of my
2 reports, but I can certainly provide --

3 Q. Okay.

4 A. -- scientific literature --

5 Q. -- so you disagree with -- with the
6 pulmonary experts that there -- that there are
7 specific scientific literature that I can go look
8 at and counsel can go look at that specifically
9 says that exposure to -- that inhalation of smoke
10 like Mr. Causey supposedly had can make
11 presentation of H1N1 or any virus worse?

12 A. I don't remember them saying that.
13 Where -- which part -- whose deposition?

14 Q. They all -- they all testified to that.

15 A. Well, I'll look at which one it is.
16 Because I don't recall them saying that.

17 Q. Well, assume -- I am asking you to
18 assume that they did. Are they wrong?

19 A. If they said that, I -- I -- I
20 disagree.

21 Q. Okay. So you can point to specific
22 scientific literature that supports that theory?

23 A. That any type of smoke inhalation and
24 the effects of smoke and fume inhalation decreases
25 your respiratory immunocompromised state and makes

1 you more susceptible to any type of viral or
2 bacterial infection, sure.

3 Q. Okay. Now, you make a number of
4 statements in your report that the smoke inhalation
5 can, you use the word can, damage the respiratory
6 system. Is there any objective medical evidence
7 that that happened in this case?

8 A. Objective medical evidence. As far
9 as any -- they did not do any bronchoscopy to look
10 or to look down his respiratory tree so we don't
11 have any medical records documenting that.

12 Q. Okay. So the answer is no. There is
13 no objective medical evidence to establish that
14 there was damage to the respiratory system from
15 smoke inhalation; correct?

16 A. We just know he inhaled the smoke.

17 Q. Okay. You make the comment that
18 inhalation of smoke can be deadly. Of course H1N1
19 can be very damaging and fatal as well as it was in
20 this case; correct?

21 A. It can be.

22 Q. And was in this case; correct?

23 A. Yes.

24 Q. Okay. On page 3 of your report you
25 say: As documented in the medical records,

1 Mr. Causey had complications of smoke inhalation.
2 These complications of smoke and toxic fume
3 inhalation includes damage to the respiratory
4 track, damage to the -- and I am going to butcher
5 this, alveolar -- how do you pronounce that?

6 A. Macrophages.

7 Q. Right. Is it alveolar, did I pronounce
8 that correct?

9 A. Yes.

10 Q. And dysfunction of the NK cells.
11 Again, where in the medical records does it
12 document that there was -- there were complications
13 -- that these complications were due to smoke
14 inhalation?

15 A. When he came in and he was assessed,
16 and they -- they -- in several places in the
17 medical records that he had -- his course was
18 secondary to smoke inhalation. And we know he had
19 the smoke and fume inhalation and we know that when
20 that occurs, that is the damage -- that I had
21 written down, that's the damage to the respiratory
22 track that occurs.

23 Q. Okay. Is there any medical test that
24 was done that documents that there was damage to
25 his respiratory track from smoke inhalation?

1 A. In this case, no.

2 Q. Okay. Was there any test that was done
3 which showed damage to the alveolar macrophages --
4 macrophages from smoke inhalation?

5 A. No.

6 Q. Okay. Was there any test that was done
7 that shows any dysfunction of the NK cell?

8 A. No.

9 Q. Other than what you said you read in
10 Ms. Causey's deposition, do you have any other
11 information regarding the level of smoke inhalation
12 in this case?

13 A. No.

14 Q. Okay. I told you we wouldn't be here
15 two hours. That's all the questions I have.

16 EXAMINATION

17 BY MR. HUMPHRIES:

18 Q. I have just a few.

19 A. Okay.

20 MR. HUMPHRIES: Do you have her CV,
21 Roy?

22 MR. HOWELL: I'm sorry?

23 MR. HUMPHRIES: You got her CV? I am
24 going to go ahead and mark it for the record.

25 THE REPORTER: Just Exhibit 1 would be

1 fine?

2 MR. HUMPHRIES: Exhibit 1 for the
3 plaintiff.

4 THE REPORTER: P-1. I'm sorry. I
5 didn't take out my stickers.

6 MR. HUMPHRIES: It's okay.

7 (PLF. EXH. 1, CV of Kimberly A.
8 Collins, was marked for identification.)

9 THE WITNESS: It's my opinion that's --
10 off the record. That's contained --

11 MR. HUMPHRIES: Do you want to go off
12 the record?

13 THE VIDEOGRAPHER: We are now off the
14 record. The time is approximately 11:35 p.m.

15 (There is a recess.)

16 THE VIDEOGRAPHER: We are now back on
17 the record. The time is approximately 11:36 a.m.

18 BY MR. HUMPHRIES:

19 Q. Dr. Collins, I have a very few
20 questions.

21 Mr. Howell asked you about had
22 Mr. Causey had a PCR done at McLeod, would that
23 have impacted the course and would the result have
24 been any different. Obviously you said I don't
25 know.

1 That -- that is assuming that H1N1 was
2 present at admission of -- to McLeod --

3 A. Yes.

4 Q. -- is that correct?

5 A. Yes.

6 Q. Let's talk just very briefly about the
7 timeline and the onset of H1N1. I think we can
8 agree that the three 12-hour shifts are encompassed
9 on the days of March 16, March 17, March 18.

10 A. Okay. Yes.

11 Q. Okay? And that he presented to Loris
12 Family Health Clinic on the 21st.

13 A. Yes.

14 Q. And that the PCR panel was done on the
15 28th.

16 A. Yes.

17 Q. Clearly, on March 28, it was positive
18 for H1N1.

19 A. Right.

20 Q. What is your understanding regarding
21 the time frame for onset of symptoms from H1N1?

22 MR. HOWELL: Objection. No foundation
23 has been laid for that testimony.

24 BY MR. HUMPHRIES:

25 Q. You can answer.

1 A. The usual incubation period for
2 influenza A or H1N1 is four to five days.

3 Q. Okay. And if we go back taking March
4 28 as the first time we know for certain that H1N1
5 is present, takes us back to a period of time in
6 which he was admitted to McLeod; is that correct?

7 A. Yes.

8 Q. Okay. Mr. Howell also made reference
9 to sick contact with his daughter. Were you aware
10 that the sickness with which his daughter was
11 struck was a UTI infection?

12 A. No, I was not aware of that.

13 Q. Okay. And would in the normal course a
14 UTI infection be passed on to the father?

15 A. No.

16 Q. Okay. There is no question that there
17 were no tests to determine damage related to smoke
18 inhalation, but let's talk about the time period in
19 which these tests would have naturally been
20 conducted while he was in MUSC. His condition at
21 MUSC, was he a suitable candidate for a
22 bronchoscopy?

23 A. At MUSC, looking for the smoke
24 inhalation, his condition had worsened so much that
25 he was intubated. I don't think -- unless they

1 were looking for a biopsy for a pathogen which they
2 had already determined was H1N1, they would not
3 have submitted him to a bronchoscopy.

4 Q. Was there at that time, given the --
5 given his -- his condition, was a bronchoscopy or
6 any other test related to the determination of
7 smoke inhalation damage medically advisable or
8 medically necessary at that time?

9 A. Not at that time, no.

10 Q. Okay. Just to be clear, referring to
11 your opinion letter of October 7, 2015, is it still
12 your opinion to a reasonable degree of medical and
13 scientific probability that the underlying cause of
14 death in this case was smoke inhalation?

15 A. Yes.

16 Q. And very briefly, give me your support
17 for that opinion.

18 A. Support for that was we have the
19 chronology of the three-day exposure to not only
20 smoke such as a wood smoke, but you've got
21 synthetic elements that are burning in a
22 condominium fire. So you've got a lot of cyanide,
23 polyvinyls, a lot of different fumes and toxins
24 that are liberated; and so you don't just have the
25 carbon monoxide and the soot carbon itself, but

1 you've got these other chemicals that damage your
2 upper respiratory tree, your bronco -- your trachea
3 as well as down in the lung tissue itself. And
4 what these chemicals are already known and
5 documented to do is to decrease the defensive
6 mechanism such as the cilia, the surfactant, the
7 barrier between the lung cells and the capillary.

8 It also can damage the lung tissue
9 itself. It also damages our protective immune
10 system, our macrophages, our natural killer cells,
11 our inflammatory cells.

12 So all this is already well-known,
13 scientifically that this is what happens with smoke
14 and these chemicals when they are inhaled. So
15 when these are inhaled and you have decreased your
16 immune system, you are a compromised individual.
17 And that's why H1N1 is usually a self-limited
18 nonfatal infection that affects the very elderly,
19 the very young with decreased immune systems, or
20 those with comorbidities such as extreme lung
21 disease, heart disease, or those that are
22 immunocompromised such as in this case or other
23 cases such as cancer patients, HIV, et cetera.
24 Those are the individuals you see with severe fatal
25 H1N1.

1 Q. Okay. All right, I have no further
2 questions.

3 A. Okay.

4 EXAMINATION

5 BY MR. HOWELL:

6 Q. You are familiar obviously the pandemic
7 when H1N1 is first discovered, if you will?

8 A. I think it was 2009, yes.

9 Q. Okay. And over the course of the next
10 year there are 18 to 20,000 people that died from
11 it?

12 A. Yes.

13 Q. Okay. So it is a fatal virus; correct?

14 A. Yes, and most of those were unhealthy
15 or immunocompromised, the very elderly or the very
16 young across the world.

17 Q. And even today, even though we have a
18 vaccine for it now, there's still people that die
19 from it; correct?

20 A. Yes.

21 Q. All right. And if you read Dr.
22 Strange's deposition, he testified, and I can't
23 remember whether it was at the time of the
24 deposition or the time Mr. Causey was hospitalized,
25 but in one of those two times which was in the same

1 year, there were five people in ICU on a ventilator
2 from H1N1. So it was still a very bad disease in
3 2013 and it's still a very bad disease today;
4 correct?

5 A. For certain compromised individuals,
6 yes, certain target populations it is.

7 Q. And again, going back to the testing
8 that wasn't done that would -- may have identified
9 some sort of injury to the lungs or smoke
10 inhalation, there was no need to do any sort of
11 testing like that because they knew the source of
12 his symptoms; correct?

13 A. His symptoms when?

14 Q. When --

15 A. At MUSC?

16 Q. At MUSC, they knew the source of his
17 symptoms which was H1N1; correct?

18 A. At MUSC his symptoms with the -- and
19 the secondary bacterial infection, etc was the
20 H1N1. His symptoms when he presented to Loris and
21 to McLeod were not necessarily H1N1 but were
22 secondary to fumes and chemical exposures and
23 inhalation.

24 Q. Okay. You are speculating about that,
25 aren't you?

1 A. No.

2 Q. Well, you are because we know that the
3 symptoms that ---

4 MR. HUMPHRIES: Objection,
5 argumentative.

6 BY MR. HOWELL:

7 Q. We know the symptoms that he had at
8 MUSC are all consistent, or excuse me, the symptoms
9 he reported to his doctor on March the 21st all
10 consistent with the ultimate diagnosis of an H1N1
11 virus; correct?

12 A. No. What we have discussed before was
13 the consistent -- the symptoms were consistent with
14 a virus and I said they are also consistent with
15 smoke inhalation.

16 Q. Okay. But and what we do know -- so
17 just make sure I understand, you are agreeing with
18 me that the symptoms he reported on March 21 when
19 he went to the doctor are consistent with the
20 ultimate diagnosis of H1N1 virus. He had a high
21 fever; correct?

22 A. Yes.

23 Q. Okay. He had a cough and sore throat;
24 correct?

25 A. Yes.

1 Q. He had body aches; correct?

2 A. Yes.

3 Q. He had chest congestion; correct?

4 A. Yes.

5 Q. Those are all consistent with the
6 ultimate diagnosis which was made of H1N1; correct?

7 A. But nonspecific, also consistent with
8 other entities.

9 Q. Okay. What you are saying is they
10 could also be consistent with smoke inhalation, but
11 what we do know is the ultimate diagnosis was H1N1;
12 correct?

13 A. But we also know there was smoke
14 inhalation.

15 Q. Okay. But we don't know that the
16 symptoms he had were from smoke inhalation, do we?
17 Because he was ultimately diagnosed with H1N1
18 virus; correct?

19 A. And diagnosed with smoke inhalation.

20 Q. But with the symptoms that he had, we
21 know that those were from H1N1, don't we? We don't
22 have to speculate.

23 A. The ones he had early, no.

24 Q. Early and late.

25 A. No. Early they could be smoke

1 inhalation.

2 Q. Okay.

3 A. Later with the ARDS and the secondary
4 bacterial infections, we know that those are
5 secondary to H1N1.

6 Q. Okay. So all of the symptoms that he
7 had in the hospital that ultimately led to his
8 death were from H1N1; correct?

9 A. MUSC hospital?

10 Q. Yes.

11 A. Yes.

12 Q. All right. And that -- and you
13 agree -- I believe you testified earlier, you agree
14 with Dr. Strange, Dr. Ford, Dr. Pastis, Dr. Whelan,
15 all those doctors, as well as the records review
16 report that the cause of his death being in the
17 hospital was H1N1 -- ARDS secondary to H1N1;
18 correct?

19 A. Yes.

20 Q. All right. That was the proximate
21 cause of his death; correct?

22 MR. HUMPHRIES: I am going to object.

23 THE WITNESS: Proximate?

24 BY MR. HOWELL:

25 Q. Yes.

1 A. Yes, proximate, not underlying.

2 Q. That's why he ultimately died; correct?

3 A. That's why he died on that day, was
4 because of the complications of H1N1.

5 Q. Okay. Now, and again, you already
6 agreed that had he not had H1N1, he would not have
7 died; correct?

8 A. Correct.

9 Q. And that's your opinion to a reasonable
10 degree of medical certainty?

11 A. Yes.

12 Q. Thank you, ma'am.

13 MR. HUMPHRIES: That's it.

14 THE VIDEOGRAPHER: This concludes the
15 video deposition of Dr. Kimberly Collins. The
16 time is approximately 11:48 a.m. We are now off
17 the record.

18 (The witness, after having been advised
19 of her right to read and sign this transcript, does
20 not waive that right.)

21 (The deposition was adjourned at 11:48
22 p.m.)

23

24

25

**BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION
W.C.C. FILE NO. 1302588**

Timothy Causey (*dec.*),

Employee/Claimant,

vs.

Horry County,

Self-insured Employer,
Through

SC Counties Workers' Compensation Trust,

Defendants.

COPY

**THE DEPOSITION OF
PHILLIP THOMPSON**

Tuesday, February 16, 2016
10:03 a.m. – 10:46 a.m.

The deposition of PHILLIP THOMPSON, taken on behalf of the Defendants, was taken before Sharon B. Brock at the Monckton Hembree Humphries, located at 1300 Professional Drive, Suite 102, Myrtle Beach, South Carolina, on Tuesday, February 16, 2016.

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Post Office Box 32157
Myrtle Beach, South Carolina 29588
(843) 685-7179

APPEARANCES:

FOR THE EMPLOYEE/CLAIMANT:

Francis A. Humphries, Esquire
MONCKTON HEMBREE HUMPHRIES
1300 Professional Drive, Suite 102
Myrtle Beach, South Carolina 29577

FOR THE DEFENDANTS:

Roy A. Howell, III, Esquire
TRASK & HOWELL, L.L.C.
763 Johnnie Dodds Boulevard
Post Office Box 2167
Mount Pleasant, South Carolina 29465

COURT REPORTER:

Sharon B. Brock

Sharon Brock Court Reporting

Post Office Box 32157
Myrtle Beach, South Carolina 29588
638 (843) 685-7179

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STIPULATIONS

Pursuant to the Notice and/or consent of the parties, the deposition herein captioned was conducted at the time and place mentioned before Sharon B. Brock, a Notary Public and Verbatim Court Reporter in and for the State of South Carolina.

The deposition was taken for use in accordance to the South Carolina Rules of Civil Procedure unless herein stipulated and agreed to by the parties.

The reading and signing of the deposition by the deponent was waived by the deponent.

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1 PHILLIP E. THOMPSON, HAVING BEEN DULY SWORN,
2 WAS DEPOSED AS FOLLOWS:

3 EXAMINATION

4 BY MR. HOWELL:

5 Q: If you'll state your full name for me,
6 please, sir.

7 A: Phillip Edward Thompson.

8 Q: Sheriff Thompson, my name is Roy Howell.
9 As you know, I represent Horry County in
10 this Workers' Compensation claim that was
11 filed by Ms. Causey. You and I have
12 actually spoke before about the matter.
13 Mr. Humphries has listed you as a witness
14 on his client's behalf and so I just
15 wanted to get some testimony on the
16 record today before we had a hearing. If
17 you could, just give us a little
18 background in terms of your time as
19 sheriff with Horry County.

20 A: Okay, been sheriff fifteen years. What
21 else you looking as far as ---

22 Q: Well, tell me what the Sheriff's
23 Department -- I know you have a Horry
24 County, and you and I talked about this
25 ---

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1 A: Yes, sir.

2 Q: --- a little bit when we met, you have
3 the Sheriff's Department and you have the
4 Horry County Police Department?

5 A: Police Department.

6 Q: Tell me what the distinction is there.
7 What is the Sheriff's Department's role,
8 what is Horry County Police Department's
9 role?

10 A: Okay. Sheriff's Department, we're in
11 charge of the, the, the court security,
12 you know, the security of the courthouse.
13 We're in charge of the civil process
14 service, Warrant Division, serving of,
15 of, of criminal warrants. We're in
16 charge of J., J. Reuben Long Detention
17 Center, the jail operation. We're in
18 charge of Sex Offender Registry for the
19 State of South Carolina, for Horry
20 County, and we report to the State,
21 extradition of prisoners back and forth.

22 The police department basically is
23 in charge of the calls for service, 911
24 calls, investigations, school resource
25 officers, and the Sheriff's Office does

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1 basically everything else in the county.

2 Q: Let me turn your attention to -- Well,
3 let me ask you this. Timothy Causey was
4 one of your deputies; is that correct?

5 A: That's correct.

6 Q: And how long was he a deputy with the
7 Horry County Sheriff's Department?

8 A: He transferred over from the police
9 department in July of 2012, and up until
10 this incident occurred, they transferred
11 all the warrant process and civil process
12 service that they did. We did some civil
13 process and warrant service, they did
14 some. They transferred all the
15 responsibilities of that over to the
16 Sheriff's Office in 2012, and he was
17 transferred over from the County P.D. to
18 our office at that time.

19 Q: And in March of 2013, how many deputy
20 sheriffs did you have working for you,
21 approximately?

22 A: Approximately, I'd say, fifty, sixty.

23 Q: And other than knowing that he was one of
24 your deputies, did you have any sort of
25 personal relationship with Mr. Causey?

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1 A: Nothing other than work. I had worked
2 with him when I was at the police
3 department. I was there before I ran for
4 sheriff, and he had worked there then. I
5 knew him as an employee then, and, and I,
6 I knew him, but not on a, on a personal
7 basis, but on, just on work, professional
8 basis.

9 Q: All right. And I gather that from time
10 to time with the police department, if
11 they needed help from the Sheriff's
12 Department, security details, that kind
13 of thing, would you help the police
14 department in those roles?

15 A: Yes, sir, we always do.

16 Q: And is that essentially what your role
17 was with regards to the apartment fire on
18 March 16, 2013?

19 A: The Sheriff's Office was assisting the
20 police department then.

21 Q: Correct. Now, as I understand from our
22 conversations, you were fishing with your
23 grandson ---

24 A: I was.

25 Q: --- that day when you got --- How were

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1 you notified that there was a fire?

2 A: Well, I saw the smoke, basically, from
3 where we were fishing at, and I could
4 tell it was not a normal burn or
5 something of that nature. I could see it
6 from my house or close proximity to my
7 house where we were, and I received a
8 phone call and -- from someone that told
9 me that -- I can't remember exactly who
10 it was that called. My son works with
11 the fire department and he happened to be
12 the on-scene supervisor, person in charge
13 of the fire. I remember talking to him.
14 I think I called him to find out exactly
15 what was going on, and he told me that
16 they had a fire over there and they had
17 several condos that was on fire and it
18 was very bad.

19 Q: There have been some discussion
20 throughout the medical records in this
21 case about this being a forest fire.
22 This wasn't a forest fire, this was an
23 apartment fire, correct?

24 A: That's correct.

25 Q: And it was at Windsor Green?

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1 A: Uh-huh (affirmative response).

2 Q: Is that right?

3 A: Yes, sir.

4 Q: And my understanding is that you arrived
5 at the scene of the fire about nine-
6 thirty that evening; is that about right?
7 It was dark?

8 A: It was dark, but I don't remember the
9 time.

10 Q: And how long did you actually stay on the
11 scene?

12 A: I was there several hours.

13 Q: And what was your purpose for being there
14 at that time?

15 A: Well, for assistance, have someone from
16 our office there to represent or see if
17 there's any help or assistance that may
18 have been needed. I basically stood
19 around the command center where the
20 command center was set up at that
21 particular time for help or assistance or
22 whatever. I coordinated with the fire
23 chief, I coordinated with -- the deputy
24 chief of the police department was there
25 at that particular time. I coordinated

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1 with them just to have any help or
2 assistance to get resources there.
3 Q: Did you have anybody that you placed in
4 charge or were there separate groups or
5 what?
6 A: No, I didn't. I was just there. I
7 didn't have -- I, I didn't place anybody
8 in charge at that particular time. I was
9 representing the Sheriff's Office.
10 Q: Okay. And it's my understanding that
11 some deputy sheriffs were asked to
12 provide security detail around the
13 perimeter of the fire; is that correct?
14 A: Deputy Chief Waites with the Horry County
15 Police Department approached me and asked
16 me if we could provide some personnel
17 that night to provide security to secure
18 the area, the main area of the burn.
19 Q: And is that what y'all did?
20 A: Yes, sir.
21 Q: And was Mr. Causey one of the officers
22 that was assigned to that detail that
23 night?
24 A: He was.
25 Q: Now, once you left that evening, did you

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1 return the following day?

2 A: Yes, sir, I, I did go out some time

3 during the day.

4 Q: Did you go back that night?

5 A: Don't think so, don't remember going back

6 that night.

7 Q: And how about on the third night of the

8 fire, did you go back that night?

9 A: No, sir.

10 Q: So the only time that you were there at

11 night when Mr. Causey was working

12 would've been the first night; is that

13 correct?

14 A: That's correct.

15 Q: And from reading newspaper articles and

16 from the testimony we've gotten so far,

17 the fire was essentially extinguished

18 after the first night; is that correct?

19 A: The fire, yes, sir.

20 Q: Why was security necessary after the fire

21 was extinguished?

22 A: Well, the scene was, was -- it was a bad

23 scene. We wanted to make sure no one got

24 in the scene. We wanted to make it

25 secure for, for investigation purposes

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1 and also for the safety of the people in
2 the area.

3 Q: Because even though the fire was out, it
4 was still a dangerous place for people
5 just to wander into, I guess?

6 A: Extremely dangerous and, I mean, it was
7 still smoldering, still had several hot
8 spots around. There was an apartment
9 complex directly beside it. In the event
10 you had wind or something that would come
11 up, it could maybe cause the smoldering
12 and the hot coals and things to, to move
13 over to it, a lot of pine straw and
14 things around the other area. So it was,
15 it was secured for safety purposes.

16 Q: Now, on the first night that you were out
17 there, did you have any conversations
18 with Mr. Causey?

19 A: Yes, I did.

20 Q: What was the conversation you had with
21 him that night?

22 A: When our folks got there, and they, they,
23 they gathered, you know, in a group to,
24 to get their assignment, so they were,
25 they were stationed, positioned in a

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1 certain spot before they got their
2 assignment. So when everyone got there,
3 I went to where they were and spoke to
4 them, thanked them for coming, and to
5 tell them that they would be getting
6 their assignments from the, from the
7 police department, someone who was
8 coordinating efforts, that would assign
9 them at different stations, but I spoke
10 to each and every one of them that was
11 there individually. When I say
12 individually, I went up to them and spoke
13 to them and thanked them for coming.
14 Q: Okay. Was there anymore depth to the
15 conversation than that?
16 A: Not really, I can't remember.
17 Q: And since you didn't go back the next two
18 nights, obviously you didn't have any
19 conversation with him on either of those
20 two nights?
21 A: I did not.
22 Q: When did you find out that he had been
23 hospitalized?
24 A: Several days later, I say several, a few
25 days, you know, I would get reports from

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1 the scene periodically throughout the
2 time that it was going on, 'cause we also
3 had people stationed there during the
4 daytime, and I would go out ---

5 Q: Was it a different group?

6 A: Different, yes.

7 Q: You had a dayshift and a nightshift,
8 essentially?

9 A: Yeah. I don't know that we had people --
10 I can't remember if we had people on post
11 during the day, but I know we had people
12 out to help and assist with traffic
13 direction and things of this nature,
14 because it created a lot of interest
15 throughout the community, cars riding
16 through and getting emergency vehicles in
17 and out and, and all, so. I had gone out
18 during the day periodically just to see
19 how things were going, and I learned that
20 -- once we had cleared, and I don't
21 remember how many days we stayed there on
22 scene, but once we cleared, I was told
23 that, and I think I was mentioned --
24 someone mentioned to me during the time
25 that he had gotten sick, but he came to

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1 work anyway, and then once the event was
2 over with, as far as our assignment was,
3 he had gone to the hospital.

4 Q: And then, as you're aware, he was
5 hospitalized at McLeod for four or five
6 days and then was transferred to MUSC?

7 A: My understanding was, he went to Loris
8 Hospital, initially, went home, and then
9 was taken to McLeod.

10 Q: And then from there to MUSC?

11 A: That's correct.

12 Q: All right. And during that period of
13 time, did you have any communication with
14 Mr. Causey directly or his family?

15 A: His wife.

16 Q: When did you have ---

17 A: I called her a couple of times to check
18 on him, see how he was doing. On the day
19 that he was transported to Charleston,
20 she called me and said that he had gotten
21 worse and that they were medevacing him
22 to MUSC.

23 Q: Did you go to MUSC?

24 A: Yes, I did. I had one of my deputies
25 pick Ms. Causey up, bring her to our

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1 office in Conway, and I took her with me
2 and we went to the Medical University.

3 Q: Are you aware that when he arrived at
4 MUSC and after testing that he was
5 diagnosed with the H1N1 Swine Flu?

6 A: That's what I was told after I arrived in
7 Charleston.

8 Q: So you knew that day that that was the
9 diagnosis when you got to MUSC?

10 A: Yes. After I got there, she went back,
11 which I, I sat out in the waiting room,
12 ---

13 Q: Right.

14 A: --- and she had gone back, and not only,
15 you know, I, I took her, but her other
16 family members, her mother -- his mother,
17 Timmy's mother, and Timmy's sister came
18 up and they had gone back and met in the
19 emergency or in the hospital room and
20 came back out to the waiting room and
21 informed me at that particular time that
22 he had been diagnosed with, with A1N1.

23 Q: So she knew it, you knew it, and the
24 whole family knew it the day he arrived
25 at MUSC, correct?

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1 A: When we arrived, that's what we found
2 out.

3 Q: All right, sir. Those are all the
4 questions I have.

5 **EXAMINATION**

6 **BY MR. HUMPHRIES:**

7 Q: Sheriff, just a few things. First of
8 all, let me ask ---

9 MR. HUMPHRIES: AND I BELIEVE THESE ARE
10 PART OF THE RECORD. I
11 WANT TO SHOW THEM TO
12 HIM. I DON'T KNOW IF
13 WE HAVE TO MARK THEM,
14 BUT I'LL LET YOU SEE
15 THEM.

16 Q: Let me show you this document and tell me
17 if you can identify it.

18 A: (Pause while reviewing document). Yes, I
19 can.

20 MR. HUMPHRIES: LET ME MARK IT AT THIS
21 TIME JUST FOR PURPOSES
22 OF THE DEPOSITION.

23 **PLAINTIFF'S EXHIBIT NUMBER 1**

24 **MARKED FOR IDENTIFICATION.**

25 Q: And referring to Plaintiff's 1, what is

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1 that document, first of all?

2 A: This is a letter that I wrote to
3 Florence-Darlington Technical College in
4 reference to the daughter of Timothy
5 Causey, Sommer Causey.

6 Q: And what is accomplished by this letter,
7 specifically what was your request?

8 A: Well, I requested that she be granted the
9 rights, benefits, and waivers afforded to
10 the children of law enforcement officers
11 who died in the line of duty pursuant to
12 Section 59-111-110 of the South Carolina
13 Code of Laws.

14 Q: And was it your opinion, based on the
15 information that you had provided to you,
16 that that was an appropriate request and
17 that he had died in the line of duty?

18 A: Yes, sir.

19 **PLAINTIFF'S EXHIBIT NUMBER 2**

20 **MARKED FOR IDENTIFICATION.**

21 Q: Showing you Plaintiff's 2, can you
22 identify that document?

23 A: (Pause while reviewing document). Yes.
24 This is a memo from Captain Steve Parker.

25 Q: And is he employed within the Horry

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1 County Sheriff's Office?

2 A: He's a captain with the Horry County
3 Police Department, that he had sent to
4 the Horry County Assessor's Office, that
5 while he was working at the Windsor Green
6 Condominium fires he became ill, was
7 diagnosed with smoke inhalation and
8 subsequently died from complications on
9 May the 19th, 2013. His death was a
10 result of line of duty injury.

11 Q: And do you ratify that -- Steve Parker
12 works for you, correct?

13 A: That's correct.

14 Q: Was this done at your direction?

15 A: Yes, it was.

16 Q: In addition, are you aware that Timothy
17 Causey, as a result of that finding, was
18 placed on the South Carolina Law
19 Enforcement Memorial for deaths in the
20 line of duty?

21 A: Yes, he was.

22 Q: In addition, are you aware that by
23 resolution of Horry County Government
24 that his name was also placed on the
25 Horry County Memorial for officers who

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1 died in the line of duty?

2 A: Yes, it was.

3 Q: Let me show you this document.

4 **PLAINTIFF'S EXHIBIT NUMBER 3**

5 **MARKED FOR IDENTIFICATION.**

6 Q: Again, showing you Plaintiff's 3
7 previously referred to as the Resolution
8 from Horry County Government and signed
9 by the chairman of the County Council,
10 what is accomplished by that resolution?

11 A: This is a Resolution that Council passed
12 and presented in reference to Deputy
13 Causey in his honor for dying in the line
14 of duty.

15 **PLAINTIFF'S EXHIBIT NUMBER 4**

16 **MARKED FOR IDENTIFICATION.**

17 Q: Showing you Plaintiff's 4, do you
18 recognize that document?

19 A: (Pause while reviewing document). Yes.
20 This is from the Department of Justice
21 confirming that Deputy Causey died in the
22 line of duty and that would be eligible
23 for the benefits from the police
24 officers, Public Safety Officers' Benefit
25 Fund.

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1 Q: And let me ask you specifically,
2 referring to the second paragraph
3 entitled, "Determination," will you read
4 into the record that section?

5 A: "Determination: Based on the information
6 in the record, including the report
7 submitted by the Horry County Sheriff's
8 Office, the Claims for Death Benefits
9 submitted by his wife, Donna Causey, his
10 children, Sommer Causey and Taylor
11 Causey, and a review by an independent
12 forensic pathologist, the Public Safety
13 Officers' Benefit has determined that the
14 claim -- the claimants have established
15 that the death of Deputy Timmy Causey is
16 covered under the Public Safety Officers'
17 Benefit Act, 42 U.S.C. 3796. Deputy
18 Causey died as a direct and proximate
19 result of an injury sustained in the line
20 of duty."

21 Q: And in that it makes direct reference to
22 a review by an independent forensic
23 pathologist in making that determination?

24 A: Yes, it does.

25 **PLAINTIFF'S EXHIBIT NUMBER 5**

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MARKED FOR IDENTIFICATION.

Q: I'm showing you Plaintiff's Exhibit 5.

Do you recognize that document?

A: (Pause while reviewing document). Yes, I do.

Q: And what is the document?

A: This document, this document is from the National Law Enforcement Officers Memorial Fund, and it is notifying us that Deputy Sheriff Timothy Causey has been approved for the issuance for the National Law Enforcement Officers Memorial in Washington, D.C.

Q: And let me ask you, was he, in fact, included and his name inscribed upon that national monument?

A: Yes, it was.

Q: Was there a ceremony in connection with that?

A: Yes, it was.

Q: And to your knowledge, who would've attended that on behalf of Mr. Causey?

A: His, his wife, his daughters, both his daughters, his sisters, his mother, myself, my chief deputy, Captain Parker,

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1 one of my captains, and two lieutenants
2 from our department.

3 Q: That's all I have at this time.

4 **RE-EXAMINATION**

5 **BY MR. HOWELL:**

6 Q: Just a few in response. Sheriff, you're
7 not a doctor, obviously, correct?

8 A: No, sir.

9 Q: You don't make determinations on medical
10 causation when an officer dies, correct?

11 A: No, sir.

12 Q: Let's go back through these exhibits.
13 The first one is dated February 24, 2014,
14 "To Whom It May Concern, Florence-
15 Darlington Tech." At whose request was
16 this letter written?

17 A: If I remember correctly, I think I do, it
18 would've been his mother, not his mother,
19 his wife.

20 Q: And, again, that's February of 2014, that
21 that letter was written, correct?

22 A: February 24th.

23 Q: And at that time, had Ms. Causey provided
24 you with all of the medical evidence
25 relevant to Mr. Causey's situation?

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1 A: I wouldn't think so.

2 Q: Were you aware, when you wrote that
3 letter, that the pulmonologist that
4 treated Mr. Causey at the hospital, at
5 MUSC, which you testified earlier you
6 were there when the diagnosis of H1N1 was
7 made, were you aware that his deposition
8 had been taken on December 23, 2013, two
9 months before that letter was written?

10 A: No.

11 Q: Ms. Causey did not provide you with that
12 information?

13 A: No.

14 Q: And I'm just going to read this to you
15 and then I'll ask you a question. This
16 is my question to Dr. Strange, and I will
17 tell you that I had not spoken to Dr.
18 Strange prior to this deposition, had no
19 clue what his opinion was going to be,
20 "Do you have an opinion, within a
21 reasonable degree of medical certainty,
22 as to whether or not Mr. Causey's acute
23 respiratory distress syndrome was caused
24 by his H1N1 virus?"

25 "I do believe it was caused by his

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1 H1N1 virus."

2 "And, again, is that your opinion
3 to a reasonable degree of medical
4 certainty?"

5 "It is my opinion to a reasonable
6 degree of medical certainty." On the
7 next page, it says, "I believe he died,
8 to a reasonable degree of certainty, of
9 H1N1 influenza associated ARDS." So at
10 the time you wrote this letter, had Ms.
11 Causey provided you with that
12 information?

13 A: I want to make sure I'm correct. The,
14 the way you read it, she wouldn't have
15 told me that. She would've possibly told
16 me he died ---

17 Q: And you would agree ---

18 A: She probably would've told me that she
19 died -- he died of H1N1.

20 Q: I'm sorry?

21 A: She might have told me that he died of
22 H1N1.

23 Q: Well, if he died of H1N1, why would there
24 be a letter written saying that he died
25 of smoke inhalation?

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1 A: Well, that was -- and I said, "might,"
2 when I told you that, because I don't
3 remember having a conversation with her.
4 I knew he came to work with us, he was
5 well, he went home sick, was diagnosed
6 with smoke inhalation and he died.

7 Q: But you also know that he was diagnosed
8 with H1N1 when he went to the hospital?

9 A: Well, I knew that when I got -- they,
10 they told us that when we went to the
11 hospital.

12 Q: Which was eight or nine months before
13 that letter was written, correct?

14 A: I guess it was, I mean ---

15 Q: And here, and presumably Ms. Causey was
16 aware of this. Also, Dr. Strange
17 testified in questions from Mr.
18 Humphries, "I don't believe that smoke
19 inhalation contributed to his death. I
20 think it is really the H1N1 that set up
21 all the subsequent events." So, again,
22 were you provided that information by Ms.
23 Causey prior to writing all these letters
24 that indicated ---

25 A: Not to, not to my knowledge.

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1 Q: And, obviously, if you had known that
2 information, you wouldn't have written
3 those letters, I assume, correct? I
4 mean, if there was a question about
5 whether or not this was due to smoke
6 inhalation or something else, obviously,
7 you wouldn't have written the letters,
8 correct?

9 A: I don't know. I'll have to look at this
10 thing and see. I was under the, the
11 opinion that he was getting the benefit,
12 the death benefit. The reason I wrote
13 the letter was he was getting the
14 benefit, so not ---

15 Q: Presumably, because his death was due to
16 smoke inhalation?

17 A: I didn't ask if it was smoke inhalation
18 or AlN1. I didn't ask. I just knew he
19 was getting the benefit, the Federal
20 benefit. They were approving it, if I'm
21 not mistaken. I haven't looked back at
22 the dates.

23 Q: Okay. Well, the first letter has to do
24 with, I guess, some benefits that would
25 allow his daughter to go to Florence-

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1 Darlington Tech.?
2 A: It's part of the Federal benefit.
3 Q: That's part of the Federal benefit?
4 A: Yes, sir.
5 Q: But obviously, it would've been important
6 for the people who were making decisions
7 about Federal benefits to know all of the
8 evidence, correct?
9 A: That's for them to find out. It's not
10 for me to investigate.
11 MR. HUMPHRIES: I OBJECT TO THE FORM OF
12 THE QUESTION. HE CAN'T
13 TESTIFY ABOUT WHAT
14 SOMEONE ELSE THINKS OR
15 SHOULD KNOW.
16 Q: That's common sense. If somebody is
17 going to provide a benefit, they should
18 have all the evidence before they provide
19 that benefit; wouldn't you agree?
20 A: But it's for them to determine if they're
21 going to issue it or not.
22 Q: Right. And, again, this letter from
23 Steven Parker, again, is August 1, 2014,
24 which is, I will tell you, after a number
25 of depositions have been taken in this

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1 case, and it says, "While working at
2 Windsor Green Condominiums, became ill,
3 was diagnosed with smoke inhalation and
4 subsequently died from complications on
5 May 19, 2013." Again, when he went to
6 the hospital in MUSC and they finally did
7 the proper tests, he was diagnosed with
8 H1N1, and according to the admitting
9 physician, he died as a result of
10 complications from that, correct?

11 A: I don't understand where you're going
12 here.

13 Q: Well, I'm going with, there's a letter
14 here from your office saying that he died
15 of smoke inhalation when the doctors have
16 said he died from H1N1.

17 MR. HUMPHRIES: I'M GOING TO OBJECT TO
18 THE FORM OF THE
19 QUESTION. THAT'S NOT
20 ACCURATE IN TERMS ---

21 Q: So, again, my question is, and I know
22 you're going on information that was
23 provided to you, correct?

24 A: Yeah.

25 Q: It's based upon the information you had

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1 at the time, correct?

2 A: That's exactly right.

3 Q: So if you had had different information,
4 i.e., that he died as a result of
5 complications of H1N1 rather than smoke
6 inhalation, this letter would've never
7 been written, correct?

8 A: If he hadn't had the smoke inhalation, he
9 might even accomplished A1N1, so what am
10 I to -- how am I to determine that?

11 Q: Well, exactly, but the medical experts
12 determine that, correct?

13 A: Yeah, and I'm not one, so I don't
14 understand where you're coming here.

15 Q: Well, I'm just saying that, is that if
16 you had information at the time you wrote
17 this letter and you didn't, I mean,
18 because you're telling me you didn't ---

19 A: I would've probably still written the
20 letter.

21 Q: Even if there was opinions from a doctor
22 that said he died of different causes?

23 A: How do I know that H1N1 to the smoke
24 inhalation didn't cause that?

25 Q: It caused him to get a virus?

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1 A: I don't know.

2 Q: And, again, all these letters, it looks
3 like, were produced some time in 2014,
4 correct?

5 A: I guess.

6 Q: One of the things in this letter, and I
7 know you didn't write it, but this is
8 dated September 12, 2014, but one of the
9 things that's not involved in this case
10 summary from the U.S. Department of
11 Justice, again, is that when he went to
12 the hospital that he was diagnosed with
13 H1N1. Don't you agree that that's a fact
14 that they should've known?

15 A: I don't know.

16 Q: And another thing in a statement that I
17 believe Sergeant Beatty drafted said that
18 Deputy Causey had a sore throat, began
19 coughing, and that he believed, this is
20 Mr. Causey told Officer Beatty, said that
21 he believed, Mr. Causey believed at this
22 point that the coughing and sore throat
23 was due to a family member having flu
24 symptoms." Were you aware of that
25 information?

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1 A: I've seen the report.

2 Q: And for whatever reason, that's not in
3 this Justice Department case number,
4 either.

5 A: (Indicates negatively).

6 Q: All right, sir. Thank you very much.

7 **RE-EXAMINATION**

8 **BY MR. HUMPHRIES:**

9 Q: Very briefly, were you aware when Timmy
10 passed that the University did a death
11 discharge summary; are you aware of that
12 and have you seen this document ---

13 MR. HOWELL: WHERE ARE WE?

14 Q: --- that opines the cause of death? It's
15 on the last page, last paragraph.

16 A: I have not seen this.

17 Q: Were you told or were you aware that at
18 the time of his discharge, both Dr.
19 Largen and Dr. Whelan, particularly Dr.
20 Largen, whose document this was,
21 indicated the cause of death is thought
22 to be hypovolemic shock secondary to
23 diffuse alveolar hemorrhage, secondary to
24 the ventilator and associated pneumonia,
25 secondary to prolonged intubation and

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1 secondary to smoke inhalation injury with
2 H1N1 influenza?

3 A: No, sir.

4 Q: But that's clearly what this document
5 says, and the date of this document was
6 May 19th, 2013, that's the cause of
7 death, and it was generated on the 21st
8 of May.

9 A: Okay.

10 Q: That's all.

11 **RE-EXAMINATION**

12 **BY MR. HOWELL:**

13 Q: Sheriff, just briefly in response to
14 that, there have been a number of
15 depositions taken in this case by medical
16 doctors who treated Mr. Causey for his
17 condition and provided opinions regarding
18 the cause of death. As a layperson,
19 obviously, you would defer to the experts
20 as to the cause of his death; would you
21 not?

22 A: Sure would.

23 Q: Thank you, sir. That's all I have.

24 MR. HUMPHRIES: THAT'S IT.

25 (The deposition concluded at 10:46 a.m.)

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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

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JUN 01 2018

SC Court of Appeals

WCC File No. 1302588
Appellate Case No. 2017-001732

Timothy Causey..... Appellant,

v.

Horry County, Self-Insured Employer
through the S.C. Counties Workers'
Compensation Trust..... Respondents.

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that this Record on Appeal contains all material
proposed to be included by any of the parties and not any other material.

Respectfully Submitted,

Blake A. Hewitt on behalf and with permission

Blake A. Hewitt # 73674
BLUESTEIN THOMPSON SULLIVAN, LLC
P.O. Box 7965
Columbia, SC 29202
(803) 779-7599

Attorney for Appellant

May 31, 2018